

**CITY of MODESTO**

**INITIAL STUDY AND FINDINGS  
MITIGATED NEGATIVE DECLARATION  
(EA/C&ED No. 2009-22)**

**DRAFT**

FOR A PROPOSED SUBSEQUENT PROJECT  
TO THE MASTER EIR

MANA-WAGNER DEVELOPMENT AGREEMENT

**June 2010**

# TABLE OF CONTENTS

<u>Chapter</u>	<u>Page</u>
I. Project Description.....	2
II. Findings/Determination.....	7
III. Environmental Analysis.....	8
IV. Mitigation Measures Applied to the Proposed Project.....	56

## APPENDICIES

A. Barnes, Jeffrey L. City Traffic Engineer, to David Wage, Planning Division, Modesto, CA  
February 11, 2010

## MANA-WAGNER DEVELOPMENT AGREEMENT

## PROJECT DESCRIPTION:

1. **Title:** Mana-Wagner Development Agreement
2. **Lead Agency:** City of Modesto, 1010 Tenth Street, Modesto, CA 95354/P. O. Box 642, Modesto, CA 95353
3. **Contact:** Project Manager: David Wage, Associate Planner  
Department: Community and Economic Development  
Phone Number: 209.577.5267  
E-mail address: dwage@modestogov.com
4. **Project Location:** Bounded by Bangs Avenue on the North, Pelandale Avenue on the South, the future Mana Parkway on the West and American Avenue on the East, Modesto, Stanislaus County, CA
5. **Applicant:** Mana Development and Hans Wagner  
305 Northwood Drive  
Modesto, CA 95350-3139
6. **Current General Plan Designation(s):** Business Park (*Kiernan Business Park Specific Plan*)
7. **Current Zoning Classification(s):** SP (*Specific Plan*)
8. **Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):**

In 2006, a Mitigated Negative Declaration was prepared for the 76 acre Kiernan Business Park South Area (KBPS). The project description included a Facilities Master Plan/Infrastructure Financing Plan which analyzed the infrastructure needed for the entire Kiernan Business Park South area.

The proposed project as analyzed in this document is a Development Agreement focusing on the development impacts of two parcels, totaling 28.5 acres of property, located within the Kiernan Business Park Specific Plan area, bounded by Bangs Avenue on the north, Pelandale Avenue on the south and American Avenue on the east. (see **Figure 1 – Area Map**).

The project site is currently zoned SP (Specific Plan) and is planned as Business Park under the 2003 Urban Area General Plan and the Kiernan Business Park Specific Plan. In accordance with the Modesto Municipal Code, development of properties within the SP zone district shall comply with the uses, standards and development review procedures of the adopted Specific Plan, including all implementation actions. Therefore, development of the properties shall be in accordance with the Kiernan Business Park Specific Plan South Area.

The Development Agreement will address the three phases of development in the project area. Development plans have not been submitted for any of phases at this

time. A Floor Area Ratio (FAR) of 0.30 was used to determine the future development potential for the project site. This is consistent with the assumption used in the 2008 Modesto Urban Area General Plan for Business Park land uses.

### **Phase I**

Phase I will include the development of 91,000 s.f. of Business Park uses on the northern seven acres of Parcel 1 (APN No. 078-018-027). Build-out of phase 1 is anticipated to occur by 2012.

### **Phase II**

Phase II will include the development of 89,000 s.f. of Business Park uses on the northern 7 acres of Parcel 2 (APN. No. 078-018-021 ) with build-out anticipated by 2016.

### **Phase III**

Phase 3 will include 97,000 s.f. of Business Parks uses on the southern portion of Parcel 1 (APN No. 078-018-027) with build-out anticipated by 2019.

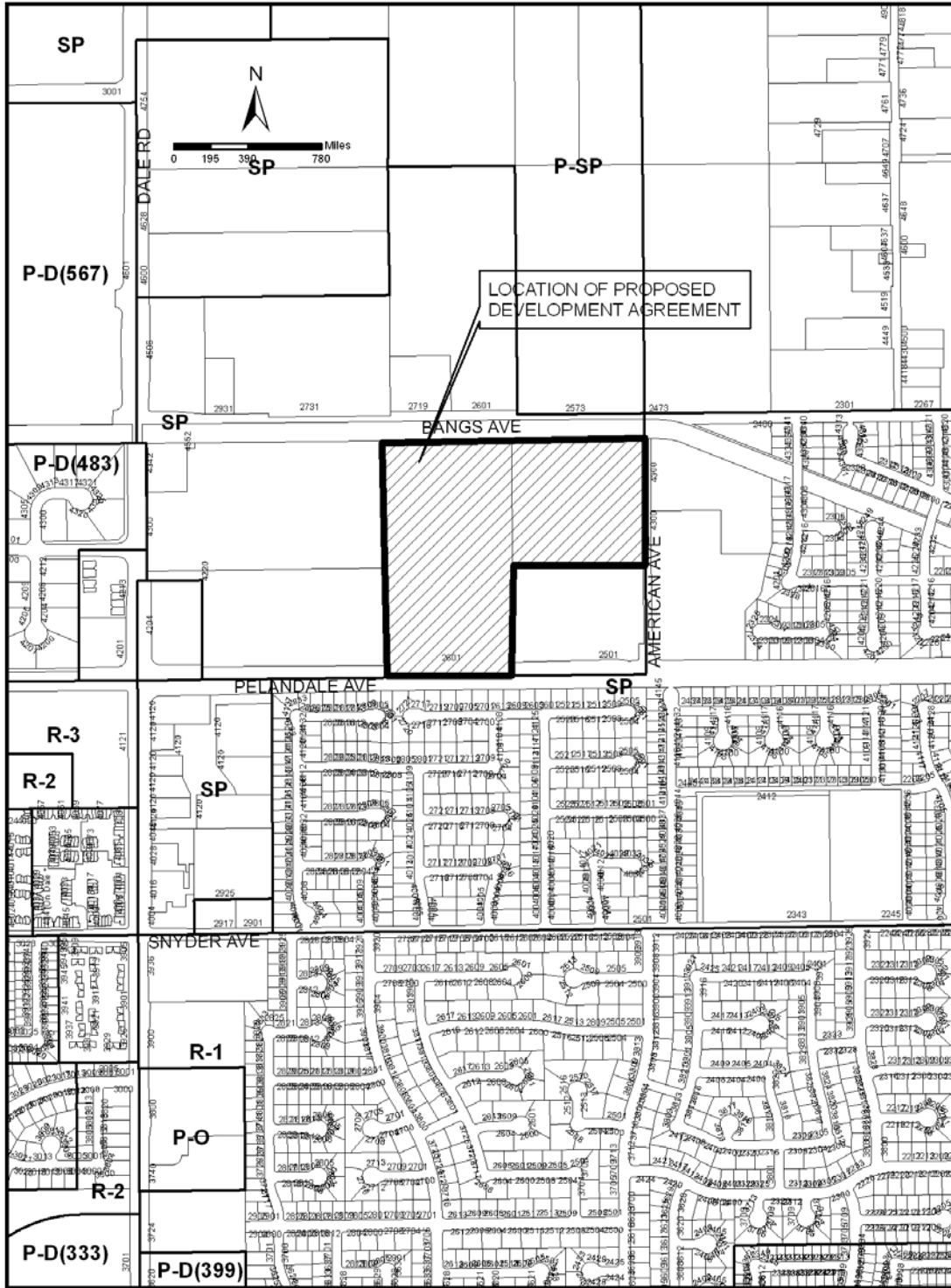


Figure 1



PROJECT PHASING FOR MANA-WAGNER  
DEVELOPMENT AGREEMENT  
DEV-09-001

Figure 2

**9. Surrounding Land Uses:**

	<b>Zone District</b>	<b>Planned Land Use</b>	<b>Existing Use</b>
<b>North</b>	SP <i>(Specific Plan)</i> , P-SP <i>(Prezone Specific Plan)</i>	Business Park (existing); Business Park, Mixed Used, Medium-High Density Residential (proposed under Kiernan Business Park East plan amendment)	Rural Residential, Agricultural
<b>South</b>	SP <i>(Specific Plan)</i>	Residential	Single-Family Residential
<b>East</b>	SP <i>(Specific Plan)</i>	Village Residential	Church
<b>West</b>	PD-576 <i>(Planned Development)</i> , SP <i>(Specific Plan)</i>	Business Park	Church, Bank

**10. Other Public Agency Approvals:**

None.

**ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:**

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

<input type="checkbox"/>	Aesthetics	<input type="checkbox"/>	Agriculture Resources	<input type="checkbox"/>	Air Quality
<input checked="" type="checkbox"/>	Biological Resources	<input type="checkbox"/>	Cultural Resources	<input type="checkbox"/>	Geology/Soils
<input type="checkbox"/>	Hazards & Hazardous Materials	<input type="checkbox"/>	Hydrology/Water Quality	<input type="checkbox"/>	Land Use/Planning
<input type="checkbox"/>	Mineral Resources	<input type="checkbox"/>	Noise	<input type="checkbox"/>	Population/Housing
<input type="checkbox"/>	Public Services	<input type="checkbox"/>	Recreation	<input checked="" type="checkbox"/>	Transportation/Traffic
<input type="checkbox"/>	Utilities/Service Systems	<input type="checkbox"/>	Mandatory Findings of Significance		
<input type="checkbox"/>	Climate Change				

**DETERMINATION:**

On the basis of this initial evaluation:

[ ]	I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
[ X ]	I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
[ ]	I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
[ ]	I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
[ ]	I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

David Wage  
Signature

6/25/10  
Date

David Wage  
Printed Name

Associate Planner  
Title

**EVALUATION OF ENVIRONMENTAL IMPACTS:**

**I. AESTHETICS**

The General Plan Master EIR was certified for the Modesto Urban Area General Plan. It did not specifically address aesthetic issues and no significant effects on aesthetics were identified.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>I. AESTHETICS – Would the project:</b>				
a) Have a substantial adverse effect on a scenic vista?	[ ]	[ ]	[ ]	[ X ]
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	[ ]	[ ]	[ ]	[ X ]
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	[ ]	[ ]	[ X ]	[ ]
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	[ ]	[ ]	[ X ]	[ ]

**Existing Mitigation Measures Applicable to the Project:**

None Applicable.

**Discussion:**

The project is located in the northern portion of the City of Modesto along the south side of Bangs Avenue, between Dale Road and American Avenue. The Project site is currently being used as agricultural land. The site is bordered to the south by Pelandale Road, with existing single-family residential development across Pelandale. To the east of the project site is an existing church, across American Avenue. The area west of the project site is partially developed with a church and bank. To the north is existing rural residential with agricultural uses, across Bangs Avenue. The Kiernan Business Park East project located north of the subject property to the north, which proposes a plan amendment for business park, mixed use and medium-high density residential land uses. The project site is planned in the Modesto Urban Area General Plan for business park development, and the proposed project is consistent with this land use designation.

- (a) **No Impact.** The proposed project will have no new impact on scenic vistas, if developed in accordance with existing City policies. There are no identified scenic vistas on or within the vicinity of the project site. Development of the project would have no impact on scenic views from public open spaces or other sites accessible to the general public.

- (b) **No Impact.** The nearest scenic resource to the site is the Stanislaus River, located over 2 miles to the north of the site. The Stanislaus River is not visible from the subject site, nor is the site visible from the river or its banks, and development on the subject site will not obstruct views of the Stanislaus River.
- (c) **Less Than Significant Impact.** The proposed project would occur on 28.5 acres of agricultural land which currently farmed with row crops. The existing visual character would change to that of a business park. This change in the existing visual character on the site is consistent with that expected from similar development in Modesto and anticipated by the Urban Area General Plan and the Master EIR.
- (d) **Less Than Significant Impact.** Light and glare expected to occur as a result of development on the subject site is consistent with that expected from similar business park development in Modesto and anticipated by development in conformance with the General Plan and Kiernan Business Park Specific Plan.

**New Mitigation Measures:**

No new mitigation measures are required.

**II. AGRICULTURAL RESOURCES**

Section V-4.B of the MEIR and section IV.F of the Kiernan Business Park and Carver-Bangs Specific Plans Focused EIR provide analysis of Agricultural Lands impacts of development of the General Plan and the Kiernan Business Park Specific Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR and Kiernan Business Park and Carver-Bangs FEIR.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>II. AGRICULTURAL RESOURCES:</b> In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	[ ]	[ ]	[ X ]	[ ]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	[ ]	[ ]	[ X ]	[ ]
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of farmland to non-agricultural use?	[ ]	[ ]	[ X ]	[ ]

**Existing Mitigation Measures Applicable to the Project:**

None Applicable.

**Discussion:**

The proposed project is located in an area designated by the General Plan and the Kiernan Business Park Specific Plan for urban development. Although the project site is designated Important Farmland by the California Department of Conservation, the area has long been committed to conversion from agricultural use, which has been addressed in the Urban Area General Plan and the Master EIR. The site is not subject to a Williamson Act contract.

- (a) **Less Than Significant Impact.** The project site is considered Important Farmland, as shown on Figure V-4-1 in the Urban Area General Plan Master EIR; however, the site has been annexed to the City since 1999 and development on the site was anticipated under the Modesto Urban Area General Plan MEIR. Therefore, the Statement of Overriding Considerations previously adopted under the MEIR for conversion of agricultural land has acknowledged development of the subject site with non-agricultural land uses and would be a significant, unavoidable impact. This impact is therefore not a new significant impact, but is an impact that was previously identified, and overridden, under the MEIR.
- (b) **Less Than Significant Impact.** The project site lies entirely within the 2008 Urban Area General Plan boundary on a site zoned SP (Specific Plan) and there are no Williamson Act contracts on the property. Conversion of farmland within the Modesto Urban Area General Plan was anticipated under the Master EIR.
- (c) **Less Than Significant Impact.** The changes expected to occur as a result of development of the subject site will tend to increase pressure to develop nearby agricultural land. However, these changes and development pressures are consistent with those normally expected as a result of development and were anticipated in the Master EIR.

**New Mitigation Measures:**

No new mitigation measures are required.

### III. AIR QUALITY

Section V-2.B of the MEIR and section IV.B of the Kiernan Business Park and Carver-Bangs Specific Plans Focused EIR provide analysis of Air Quality impacts of development of the General Plan and Kiernan Business Park Specific Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR and Kiernan Business Park and Carver-Bangs FEIR.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>III. AIR QUALITY</b> – Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Expose sensitive receptors to substantial pollutant concentrations?	[ ]	[ ]	[ X ]	[ ]
b) Produce more than 10 tons/year of ROG	[ ]	[ ]	[ X ]	[ ]
c) Produce more than 10 tons/year of NOx	[ ]	[ ]	[ X ]	[ ]
d) Exceed NAAQS or CAAQS for CO (9ppm 8-hour average; 20 ppm 1-hour average)?	[ ]	[ ]	[ X ]	[ ]
e) Not comply with the SJVAPCD's Regulation VIII regarding particulate matter emissions from construction activities?	[ ]	[ ]	[ X ]	[ ]

## **Existing Mitigation Measures Applicable to the Project:**

### MEIR AQ-20

To be consistent with the SJVAPCD's Air Quality Guidelines for General Plans, the City of Modesto should determine air quality impacts using analysis methods and significance thresholds recommended by the SJVAPCD. (General Plan Policy VII-H.2 [n])

### MEIR AQ-26

Review of new development shall be coordinated with SJVAPCD's staff to ensure all projects subject to the SJVAPCD rule 9510 (Indirect Source Review) comply fully with the rule. This rule fulfills the SJVAPCD's emission reduction commitments in the PM10 and Ozone Attainment Plans through design features and onsite approval for a development project, or any portion thereof, which upon full buildout will include any of the following:

- 50 residential units
- 2,000 square feet of commercial space
- 25,000 square feet of light industrial space
- 100,000 square feet of heavy industrial space
- 20,000 square feet of medical office space
- 39,000 square feet of general office space
- 9,000 square feet of educational space
- 10,000 square feet of government space
- 20,000 square feet of recreational space
- 9,000 square feet of space not identified above. (General Plan Policy VII-H.2[u])

### MEIR AQ-40

The City of Modesto shall require all access roads, driveways, and parking areas serving new commercial and industrial development are to be constructed with materials that minimize particulate emissions in accordance with the requirements of SJVAPCD Regulation VIII and are appropriate to the scale and intensity of the use.

SJVUAPCD Regulation VIII Control Measures for Construction Emissions of PM-10. The following controls are required to be implemented at all construction sites.

### MEIR AQ-42

All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

### MEIR AQ-43

All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.

### MEIR AQ-44

All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

### MEIR AQ-45

With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition.

MEIR AQ-46

When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

MEIR AQ-47

All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.)

MEIR AQ-48

Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

MEIR AQ-49

Within urban areas, track out shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

MEIR AQ-50

Any site with 150 or more vehicle trips per day shall prevent carryout and track out.

The following measures should be implemented at construction sites when required to mitigate significant PM10 impacts(note, these measures are to be implemented in addition to Regulation VIII requirements):

MEIR AQ-51

Limit traffic speeds on unpaved roads to 15 mph; and

MEIR AQ-52

Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%).

MEIR AQ-53

Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.

MEIR AQ-54

Install wind breaks at windward side(s) of construction areas.

MEIR AQ-55

Suspend excavation and grading activity when winds exceed 20 mph. Regardless of wind speed, an owner/operator must comply with Regulation VIII's 20 percent (20%) opacity limitation.

MEIR AQ-56

Limit the area subject to excavation, grading and other construction activity at any one time.

## Discussion:

A project such as this was anticipated in the General Plan Master EIR. The project site lays within the City's boundary at the time the Master EIR was updated in 2008, and is designated for Business Park development in the General Plan and the Kiernan Business Park Specific Plan. In accordance with MEIR Mitigation Measure MEIR AQ-26, the project will be referred to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) for comments.

### (a) *Less Than Significant Impact.*

Construction activities for the project could potentially include the application of architectural coatings and asphalt paving materials that could generate localized temporary odors. The use of diesel-powered construction equipment could also generate localized temporary odors. However, the project site is located in an area designated for primarily business park uses and is not directly adjacent to sensitive receptors. Further, uses permitted within the Business Park land use designation would not create objectionable odors that would affect a substantial number of people.

### (b-e) *Less Than Significant Impact.*

Future development on the subject property will include the removal of existing orchards and the development of business park uses on approximately 29 acres of land. The proposed project is consistent with the Business Park land use designation in the Modesto Urban Area General Plan and Kiernan Business Park Specific Plan. Existing residential land uses are located to the south of the project site, across Pelandale Avenue. Air pollution emissions associated with the proposed project would result from construction activities, increased traffic volumes and operating activities. The net increase in emissions generated by these activities and other secondary sources have been estimated and compared to thresholds of significance recommended by the San Joaquin Valley Air Pollution Control District.

## Short-Term Construction-Generated Emissions

Emissions produced during site preparation and construction is short-term because it occurs only during the construction phase. Dust generation is normally the primary concern during demolition and initial site preparation. Because such emissions are not amenable to collection and discharge through a controlled source, they are called fugitive emissions. Fugitive dust emissions typically include emissions from on-site grading and excavation activities and from off-site truck and passenger car travel on unpaved roadways. Fugitive dust emission rates are affected by a variety of factors, including amount and type of exposed soil, amount of soil moisture, wind speed, number of vehicles and pieces of equipment in operation at one time, depth of disturbance or excavation, and the number of vehicle miles traveled. Fugitive dust emissions are measured as PM10. In addition, emissions of reactive organic gases (ROG) and nitrogen oxides (NOx) are generated primarily by the operation of gasoline- and diesel-powered motor vehicles. Construction-generated emissions vary from day to day, depending on the specific activities being conducted, the type of equipment, duration or equipment use, and the number of transport trips for construction workers and material. Actual pollutant concentrations depend on various factors, including the location and type of activities performed, meteorological conditions, distances to nearby receptors, and the effectiveness of the mitigation measures employed.

As shown in **Table III-1** below, the short-term construction-generated emissions have been modeled based on the construction (demolition, grading, paving, construction, and architectural

Mana/Wagner Development Agreement

February 2010

EA/C&ED No. 2009-22

Page 14 of 59

coatings) of the new business park buildings and associated parking and site improvements for each phase. The model shows that NOx emissions during construction could reach a maximum of 9.18 tons per year (Phase I), while ROG emission could reach a maximum of 2.00 ton per year (Phase I). The SJVAPCD thresholds of 10 tons per year of ROG and NOx would not be violated during project construction. PM10 emissions could reach a maximum for 5.14 ton per year for construction in the year 2017 (Phase III). PM10 emissions would be below the District's threshold of 15 tons/year and would not pose a significant effect on sensitive receptors or contribute to air quality violations.

**Table III-1.  
Summary of Modeled Short-Term Construction-Generated Emissions**

Source	Emissions (tons/year) <sup>1</sup>		
	ROG	NOx	PM10
Phase I	2.00	9.18	4.56
Phase II	1.53	7.46	4.93
Phase III	1.40	5.41	5.14
<b>Total Unmitigated</b>	<b>4.93</b>	<b>22.05</b>	<b>14.66</b>
<i>SJVUAPCD Significance Threshold</i>	<i>10</i>	<i>10</i>	<i>15</i>

<sup>1</sup> Emissions (from demolition, site grading, and building) modeled using URBEMIS 2007 9.2.4 computer model and represent worst-case yearly conditions.

Compliance with SJVVUAPCD Rule 9510 and Regulation VIII, as required by law would result in a reduction in NOx emissions and visible emissions from heavy-duty diesel equipment, and would reduce fugitive dust emissions. Rule 9510, the Indirect Source Review, would require the project applicant to submit an Air Impact Assessment to provide information that enables the District to quantify construction, area, and operational PM10 and NOx emissions.

The project is required to comply with SJVVUAPCD Rule VIII (Fugitive Dust Rules) per MEIR Mitigation Measures AQ-42 and AQ-56, which identify control measures for PM10 emissions during the construction phase, as listed above under Existing Mitigation Measures Applicable to this Project. The controls are required to be implemented at all construction phases and have been incorporated into the project conditions.

Because the construction ROG, NOx and PM10 emissions would not exceed SJVAPCD thresholds, the construction impact would be considered less than significant.

Long-Term Increases in Emissions

No stationary source emissions are anticipated from operation of the business park buildings. Therefore, long-term increases in regional emission of criteria pollutants would be associated primarily with motor vehicle trips following completion of the additional business park buildings. Criteria pollutants are those pollutants, or their precursors, for which the U.S. Environmental Protection Agency (EPA) has established national ambient air quality standards, which are at least as stringent as the National Ambient Air Quality Standards (NAAQS). Although the

proposed project includes various elements designed to reduce mobile source emissions (e.g. located proximal to transit routes and adjacent to a Class I bike path, and incorporation of bus turn-outs), implementation of the proposed project would result in the generation of mobile source emissions, including ROG and NOx, which are both precursors to ozone.

The operational emissions of the project were modeled using URBEMIS 2007, version 9.2.4. Regional area and mobile source emissions were based on proposed land use types and sizes. As shown in **Table III-2** below, the long-term operational emissions for ROG, NOx and PM10 would be below the SJVUAPCD's established significance threshold for each phase of development. Therefore the long-term increases in emissions would be considered a less than significant impact.

**Table III-2.  
Summary of Modeled Net Increase in Long-Term Operational Emissions**

Source	Emissions (tons/year) <sup>1</sup>		
	ROG	NOx	PM10
<i>Area Source</i>			
Phase I	0.18	0.15	0.00
Phase II	0.18	0.15	0.00
Phase III	0.19	0.15	0.00
<i>Mobile Source</i>			
Phase I	0.57	1.17	0.49
Phase II	0.56	1.15	0.48
Phase III	0.61	1.24	0.52
<b>Total Unmitigated</b>	<b>2.29</b>	<b>4.01</b>	<b>1.49</b>
<i>SJVUAPCD Significance Threshold</i>	<i>10</i>	<i>10</i>	<i>15</i>

<sup>1</sup> Emissions (from demolition, site grading, and building) modeled using URBEMIS 2007 9.4.2 computer model and represent worst-case yearly conditions.

### CO Emissions

Carbon monoxide (CO) concentration is a direct function of vehicle idling times and, thus, traffic flow conditions. Under specific meteorological conditions, CO concentrations near congested roadways and/or intersections may reach unhealthy levels with respect to local sensitive land-uses as residential areas, schools, and hospitals. As a result, the SJVUAPCD recommends analysis of CO emissions at a local rather than regional level.

The Transportation Project-Level Carbon Monoxide Protocol (Garza et al. 1997) states that signalized intersections at level of service (LOS) E or F represent a potential for a CO violation, also known as a hot spot. Thus, modeling of CO concentrations is typically recommended for receptors located near signalized roadway intersections that are projected to operate at LOS E or F. The SJVUAPCD has established preliminary screening criteria to determine with fair certainty that if not violated, project-generated long-term operational local mobile-source

emissions of CO would not result in or substantially contribute to emissions concentrations that exceed the 1-hour ambient air quality standard of 20 parts per million (ppm) or the 8-hour standard of 9 ppm, respectively. SJVUAPCD's preliminary screening criteria include the following:

- 1) A traffic study for the project indicates that the LOS on one or more streets or at one or more intersections in the project vicinity will be reduced to LOS E or F; or
- 2) A traffic study for the project indicates that implementation would substantially worsen an already existing LOS F on one or more streets or at one or more intersections in the project vicinity.

According to the Traffic Impact Analysis (TIA) prepared for this project (*refer to Section XV, Traffic and Circulation*), the project would not cause any intersection to deteriorate from acceptable LOS (D or better) to unacceptable LOS (E or F) under build out of any project phase or cumulative analysis. Nor would the project contribute substantial traffic to intersections that are predicted to operate at LOS E or F without the project. Thus, based on the screening criteria above, project-generated long-term operational local mobile-source emission of CO would not result in or substantially contribute to emissions concentrations that exceed the 1-hour ambient air quality standard of 20 ppm or the 8-hour standard of 9ppm, respectively. As a result, this impact would be less than significant.

**New Mitigation Measures:**

No new mitigation measures are required.

#### IV. BIOLOGICAL RESOURCES/SENSITIVE WILDLIFE AND PLANT HABITAT

Section V-7.B of the MEIR and section IV-F of the Kiernan Business Park and Carver-Bangs Specific Plans Focused EIR provide analysis of Wildlife and Plant Habitat impacts of development of the General Plan and Kiernan Business Park; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR and FEIR.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>IV. BIOLOGICAL RESOURCES</b> – Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	[ ]	[ X ]	[ ]	[ ]
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	[ ]	[ ]	[ X ]	[ ]
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	[ ]	[ X ]	[ ]	[ ]
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	[ ]	[ X ]	[ ]	[ ]
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	[ ]	[ ]	[ X ]	[ ]
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	[ ]	[ ]	[ ]	[ X ]

## **Existing Mitigation Measures Applicable to the Project:**

### MEIR SWPH-9

- 3(a) For all lands within the Planned Urbanizing Area, site specific surveys shall be conducted by a qualified biologist to determine whether any sensitive natural communities or species are present within the proposed development area. These studies shall particularly focus on proposed development within any lands included within a potential biological resource study area as delineated on Figure V-7-1 (Riparian Corridor Diagram) in the Final Master EIR. Prior to considering development applications, the City shall coordinate with the U.S. Fish and Wildlife Service (USFWS) regarding listed species and potential for impacts. The City shall apply the measures recommended by the USFWS to avoid incidental take.

Surveys should be conducted at the appropriate season to best determine the likelihood of occurrence and should employ accepted methodologies as determined by the DFG and USFWS. The significant results of such surveys should be recorded onto the City's existing biological resources map for future planning purposes (UAGP Policy VII-E.3[a]).

### KBP Specific Plans FEIR: Loss of Sensitive Wildlife and Plant Habitat Mitigation Measure B-1

For all lands within the Planned Urbanizing Area that contain or potentially contain valley riparian, riverine, wetland, grassland, and pasture habitats, site-specific surveys shall be conducted by a qualified biologist to determine whether any sensitive natural communities or species are present within the proposed development area. In particular, proposed development within any lands included within a riparian corridor as delineated on the Riparian Corridor Diagrams shall trigger the need for a site-specific survey and assessment of potential impact to sensitive species or their habitats.

### KBP Specific Plans FEIR: Loss of Sensitive Wildlife and Plant Habitat Mitigation Measure B-2

Surveys should be conducted at the appropriate season to best determine the likelihood of occurrence and should employ accepted methodologies as determined by the California Department of Fish and Game (CDFG) and the U.S. Fish and Wildlife Service (USFWS). The significant results of such surveys should be recorded onto the City's existing biological resources map for future planning purposes.

All habitat found to contain or potentially contain sensitive species shall be avoided and preserved unless doing so would create isolate and/or fragment habitat that would function adequately as judged by a qualified biologist and/or that the proposed development layout would be so constrained as to make the development financially infeasible; avoided habitat areas shall also be protected by fencing, signage and/or establishment of buffer areas as appropriate to the species or habitat involved. Generally, a minimum of 100-foot buffer or undeveloped land would be necessary. The protected habitat shall contribute to the long-term conservation of the species and ecosystems on which they depend.

### KBP Specific Plans FEIR: Loss of Sensitive Wildlife and Plant Habitat Mitigation Measure B-3

Where formally listed species are determined present, consultation shall be carried out with the CDFG and/or USFWS in accordance with the California and/or federal Endangered Species Act. Where candidate or other special status category of species are involved, informal consultation

with these agencies is recommended. The recommendations of these agencies shall be incorporated into the development plan, unless overriding considerations can be demonstrated.

KBP Specific Plans FEIR: Loss of Sensitive Wildlife and Plant Habitat  
Mitigation Measure B-4

Other measures to protect sensitive habitats shall be implemented. These may include the following:

- i. Avoid disturbance in wetland areas, including vernal pools and riparian communities along rivers and streams. Avoidance of these areas would include siting structures at least 100 feet from the outermost edge of the wetland. If complete avoidance is not possible, the disturbance to the wetland shall be minimized to the maximum extent possible, with restoration of the disturbed area provided. New vegetation should consist of similar native species to those removed.
- ii. Where wetlands or other sensitive habitats cannot be avoided, replacement habitat at a nearby off-site location

**Discussion:**

The Modesto Urban Area General Plan and the Kiernan Business Park Specific Plan anticipate development on the project site. The project site lies outside of the Environmental Resources Study Area, as identified in the Urban Area General Plan Master EIR Figure V-7-1, which was developed in consultation with the Department of Fish and Game and the Fish and Wildlife Service. However, in accordance with MEIR Mitigation Measure MEIR SWPH-9 and Kiernan Business Park and Carver-Bangs Specific Plans EIR Mitigation Measures No. B-1 and No. B-2, a biological field reconnaissance was conducted by PMC biologists in January of 2007. The information identified below is based upon information presented in the Biological Investigations Report, dated May 29, 2007, contained in Appendix A of this Initial Study.

(a,c,d) ***Less Than Significant with Mitigation Incorporated.*** The Biological Investigation Report conducted a database review as well as field reconnaissance to identify any potential impacts to biological resources. No recorded occurrences of special status species on-site were discovered during review of applicable data from the California Native Plant Society, Department of Fish and Game, and the U.S. Fish and Wildlife Service. Field reconnaissance, conducted in January 2007, confirmed no sensitive species or habitats were present on-site. However, habitat at the site provides suitable opportunities for many avian species, including some raptors and migratory birds. Raptors and raptor nests are considered to be a protected resource by federal and state agencies under the MBTA and California Code of Regulations. Construction could result in direct impacts to nests, eggs and chicks and indirect impacts upon nesting raptors or migratory birds species in the project vicinity resulting from an increase in noise, dust and increased human activity. Further, while it does not support wetland vegetation at the project site, the MID Lateral No. 6 flows from the waterway appear to have connectivity with the Tuolumne River, which is a tributary to the San Joaquin River. Therefore, MID Lateral No. 6 could be considered a jurisdictional waterway under Section 404 of the Clean Water Act, which would require that any fill material or permanent span over this waterway would need to be approved by the U.S. Army Corps of Engineers. In addition, any applicant for a federal license or permit conducting any activity that may result in a discharge of a pollutant into waters of the U.S. must obtain a certification from the Regional Water Quality Control Board that the discharge will comply with applicable effluent limitations and water quality standards. Incorporation of the following mitigation measures would reduce the above identified impacts to a less than significant level.

**MM IV.1a:** If proposed grading, site preparation, or construction activities are planned to occur during the nesting seasons for local avian species (typically March 1<sup>st</sup> through August 31<sup>st</sup>), the project applicant shall retain a qualified biologist approved by the City of Modesto to conduct a focused survey for active nests of raptors and migratory birds within and in the vicinity of (no less than 100-feet outside project boundaries, where possible) the construction area no more than 72 hours prior to ground disturbance. If an active nest is located during preconstruction surveys, USFWS and/or DFG (as appropriate) shall be notified regarding the status of the nest. Furthermore, construction activities shall be restricted, as necessary, to avoid disturbance of the nest until it is abandoned and the consulting regulatory agency deems disturbance potential to be minimal. Restrictions may include establishment of exclusion zones (no ingress of personnel or equipment at a minimum radius of 100-feet around the nest) or alteration of the construction schedule.

Timing/Implementation: Prior to obtaining a grading permit.

Monitoring: City of Modesto Community and Economic Development

**MM IV.1b:** If construction will occur during the non-breeding season (generally September 1<sup>st</sup> through February 28<sup>th</sup>), a policy of avoidance and passive relocation (allowing an animal to move out of harms way without any purposeful interference by humans) for any wildlife found onsite shall be implemented for the duration of the project. The appropriate regulatory agency (USFWS or DFG) shall be contacted regarding any species of wildlife refusing to passively relocate from the project area.

Timing/Implementation: During all construction activities.

Monitoring: City of Modesto Community and Economic Development

**MM IV.1c:** Avoid all impacts to the MID Lateral No. 6. If spanning this channel cannot be avoided, then coordinate with the MID as soon as possible to determine connectivity of the waterway to surrounding creeks and rivers. If connectivity is established, contact the Army Corps of Engineers and Regional Water Quality Control Board to begin the permit process.

Timing/Implementation: The applicant/developer shall determine connectivity of the waterway to surrounding creeks and rivers prior to obtaining a permit for construction of the proposed bridge crossing at MID Lateral No. 6.

Monitoring: City of Modesto Community and Economic Development Department

(b) ***Less Than Significant.*** No sensitive habitat identified in local or regional plans, policies, regulations or by the California Department of Fish and Game of the U.S. Fish and Wildlife Service were present on-site, as verified during the field reconnaissance conducted in January 2007. The project site consisted primarily of common grass species, deciduous orchard and ruderal grass species. No wetlands occur on-site and no

habitat that would support special status species were identified on-site.

- (e) **No Impact.** There are no trees on the subject property that would qualify for protection as a heritage tree.
- (d) **No Impact.** There are no Habitat Conservation Plans (HCP), Natural Community Conservation Plans (NCCP) or other approved local, regional or state HCPs that include the project site.

**New Mitigation Measures:**

Although the proposed project could have a significant effect on Biological Resources/Sensitive Wildlife and Plant Habitat (items a, c and d), there will not be a significant effect in this case because mitigation measures **MM IV.1a**, **MM IV.1b** and **MM IV.1c**, as summarized above, will be added to the project. Therefore, with the preparation of a Mitigated Negative Declaration pursuant to CEQA section 21157.5 that incorporates the above-noted mitigation measures into the project, the project would have a less than significant impact on the environment.

**V. CULTURAL RESOURCES/ARCHAEOLOGICAL OR HISTORICAL SITES**

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>V. CULTURAL RESOURCES</b> – Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource or demolition of a listed or eligible historic resource.	[ ]	[ ]	[ ]	[ X ]
b) Have an adverse effect on any structure more than 50 years old?	[ ]	[ ]	[ ]	[ X ]
c) Involves the removal of known resources, results in the discovery of undiscovered archeological resources, or involves construction within an area of high sensitivity?	[ ]	[ ]	[ X ]	[ ]

## Existing Mitigation Measures Applicable to the Project:

### MEIR Table V-8-1 (b-f)

- b. Prior to excavation and construction, the prime construction contractor and any subcontractors shall be cautioned on the legal and/or regulatory implications of knowingly destroying cultural resources or removing artifacts, human remains, bottles, or other cultural materials from the project area.
- c. The project sponsor shall identify a qualified archeologist prior to any demolition, excavation, or construction. The City will approve the project sponsor's selection of a qualified archeologist. The archeologist would have the authority to temporarily halt excavation and construction activities in the immediate vicinity (ten-meter radius) of a find if significant or potentially significant cultural resources are exposed and/or adversely affected by construction operations.
- d. Reasonable time shall be allowed for the qualified archeologist to notify the proper authorities for a more detailed inspection and examination of the exposed cultural resources. During this time, excavation and construction would not be allowed in the immediate vicinity of the find; however, those activities could continue in other areas of the project site.
- e. If any find is determined to be significant by the qualified archeologist, representatives from the construction contractor and the City, the qualified archeologist, and a representative of the Native American community (if the discovery is an aboriginal burial) would meet to determine the appropriate course of action.
- f. All cultural materials recovered as part of a monitoring program would be subject to scientific analysis, professional curation, and a report prepared according to current professional standards.

### Discussion:

- a-b) **No Impact.** The project site is not identified on Figure V-8-1 of the Master EIR, which depicts the City of Modesto Landmark Preservation Sites. Further, there are no structures on-site over 50 years old that would qualify as an historical structure.
- c) **Less Than Significant.** The archeological study areas, as depicted on the 1995 Master EIR diagrams (Figure V-8-2 in 2003 MIER), indicate areas of the Modesto Planning Area where there is the highest potential for impacts on cultural resources. Four sites with archeological resources have been identified Urban Area General Plan Area and are recorded with the Central California Information Center (CCIC), in Turlock, California. These areas are located near the Stanislaus and Tuolumne Rivers, Dry Creek and terraces above waterways. The project site is outside of the resource study area and two miles from the nearest known archeological resource, which is adjacent to the Stanislaus River. No archaeological, paleontological, or human remains have previously been identified on-site.

Development of the site with an anticipated floor area ratio (FAR) of 0.30 will not result in excavation and earth moving activities at significantly greater depths than existing foundations, roads and trenches in the immediate vicinity. The subject property is currently in production as farmland. The land has previously been graded flat and is regularly excavated to allow for seasonal planting. Other projects in the immediate

vicinity include, the Bank of Stockton, Church of Jesus Christ of Latter-day Saints, the widening of Pelandale Avenue and Kaiser Hospital, all of which required excavation equal to or greater than what will be required for the subject project.

With the incorporation of the MEIR Mitigation Measures from Table V-8-1 (b-f), any impacts to resources discovered during construction activities would be mitigated to a less than significant level.

**New Mitigation Measures:**

No new mitigation measures are required.

**VI. GEOLOGY AND SOILS/LANDSLIDES AND SEISMIC ACTIVITY**

Section V-17.B of the MEIR provides analysis of Potential for Landslides and Seismic Activity impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>VI. GEOLOGY AND SOILS</b> -- Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	[ ]	[ ]	[ ]	[ X ]
ii) Strong seismic ground shaking?	[ ]	[ ]	[ ]	[ X ]
iii) Seismic-related ground failure, including liquefaction?	[ ]	[ ]	[ ]	[ X ]
iv) Landslides?	[ ]	[ ]	[ ]	[ X ]
b) Be located on expansive soil?	[ ]	[ ]	[ ]	[ X ]
c) Result in substantial loss of topsoil resources?	[ ]	[ ]	[ X ]	[ ]
d) ) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are	[ ]	[ ]	[ ]	[ X ]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
not available for the disposal of wastewater?				
e) Result in the loss of availability of known mineral resources that would be of value to the region and the state?	[ ]	[ ]	[ ]	[ X ]
f) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	[ ]	[ ]	[ ]	[ X ]

### Existing Mitigation Measures Applicable to the Project:

None Applicable.

### Discussion:

Development on this site is consistent with the Urban Area General Plan with respect to geological concerns. Soils in the vicinity of Modesto are not known to be unstable or expansive. Because the site is virtually flat, there is no reasonable expectation of landslide. Further, a soils report will be required prior to development in order that improvements may be properly engineered.

- (a) **No Impact.** The nearest fault is located approximately 15 miles to the southwest of the Modesto General Plan Area, per Figure V-17-1 of the MEIR identifying Faults Located within Stanislaus County.
- (b) **No Impact.** The soils in the area are not considered to have a great potential for expansion due to their low clay content and are not classified as expansive, as defined in Table 18-1B of the Uniform Building Code.
- (c) **Less Than Significant.** No soil erosion or loss of topsoil is expected to occur as a result of the proposed project. However, the City requires all new development to obtain a Stormwater Pollution Prevention Permit (SWPPP), which includes measures to minimize soil erosion.
- (d) **No Impact.** Septic tanks are not currently utilized on-site and no septic tanks are proposed. The project will be hooking into the public sewer system as required by the City of Modesto.
- (e) **No Impact.** There are no known mineral resources of significance to the region or state located on the property.
- (f) **No Impact.** There are no known mineral resources recovery sites located on the property. The property is currently used as farmland and is designated for business park uses in the General Plan.

**New Mitigation Measures:**

No new mitigation measures are required.

**VII. HAZARDS AND HAZARDOUS MATERIALS**

Section V-16.B of the MEIR and IV-I of the Kiernan Business Park and Carver-Bangs Specific Plans Focused EIR provide analysis of Hazards and Hazardous Materials impacts of development of the General Plan and the Kiernan Business Park Specific Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR and Kiernan Business Park and Carver-Bangs FEIR.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>VII. HAZARDS AND HAZARDOUS MATERIALS</b> – Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	[ ]	[ ]	[ X ]	[ ]
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	[ ]	[ ]	[ X ]	[ ]
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	[ ]	[ ]	[ X ]	[ ]
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	[ ]	[ ]	[ ]	[ X ]
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	[ ]	[ ]	[ ]	[ X ]
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	[ ]	[ ]	[ ]	[ X ]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	[ ]	[ ]	[ X ]	[ ]
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	[ ]	[ ]	[ ]	[ X ]

**Existing Mitigation Measures Applicable to the Project:**

MEIR HM-5

In the event that site inspection or construction activities uncover chemical contamination, underground storage tanks, abandoned drums, or other hazardous materials or wastes at a parcel, the inspection report preparer shall so notify the City. The City shall notify the County Health Services Department. Under the direction of these agencies, a site remediation plan shall be prepared by the project applicant (*General Plan Policy V-M.2[a]*).

The plan would (1) specify measures to be taken to protect workers and the public from exposure to potential site hazards and (2) certify that the proposed remediation measures would clean up the wastes, dispose the wastes, and protect public health in accordance with federal, state, and local requirements. Permitting or work in the areas of potential hazard shall not proceed until the site remediation plan is on file with the City.

If a parcel is contaminated to a level that prohibits the proposed use, the potential for reduction of the hazard should be evaluated. Site remediation is theoretically capable of removing hazards to levels sufficiently low enough to allow any use at the site. In practice, the technical feasibility of location a specific use on a specific site may require restriction to industrial use or a use that involves complete paving and covering of the parcel.

In accordance with OSHA requirements, any activity performed at a contaminated site shall be preceded by preparation of a separate site health and safety plan (prepared by the project applicant and filed with the City) for the protection of workers and the public. All reports, plans, and other documentation shall be added to the administrative record (*General Plan Policy V-M.2[a]*).

MEIR HM-6

For each specific project that would generate hazardous waste the City shall require, as a condition of building permit and/or business license approval, that the project sponsor prepare a hazardous material transportation program. The transportation program shall identify the location of the new facilities of use and designate either (1) specific routes to be used for transport of hazardous materials and wastes to and from the facility, or (2) specific routes to be

avoided during transport of hazardous materials and wastes to and from the facility. Routes would be selected to minimize proximity to sensitive receptors to the greatest practical degree. Passage through residential streets should be minimized and parking of waste haulers on residential streets should be prohibited. The City Fire Department shall review and approve the applicant's hazardous material transportation program or, working with the applicant, modify it to the satisfaction of both parties (*General Plan Policy V-M.2[d]*).

#### MEIR HM-9

Prior to the issuance of all building permits, the City shall identify the site in relation to all CERCLIS sites and to known or suspected uncontrolled or abandoned hazardous waste sites. All projects within 2,000 feet of these facilities shall conduct hazardous materials studies as necessary to identify the type and extent of contamination, if any, and the extent of risk to human health and public safety. If necessary, a remedial action program would be developed and implemented (*General Plan Policy V-M.2[e]*).

#### **Discussion:**

The project is in conformance with the General Plan. No new impacts related to Hazards or Hazardous Materials are anticipated, as compared to those impacts anticipated in the General Plan Master EIR. The project is not in the immediate vicinity of an airport or private airstrip or wildlands area. The applicant has certified that the project site does not appear on the State's list of identified hazardous waste sites.

- (a-c) ***Less Than Significant.*** No specific uses have been identified on-site as no development plans have been submitted. However, the types of uses permitted within the project area include business park uses and the routine transport, use or disposal of hazardous materials is not typical for these uses. The closest school site is the Mary Lou Dietrich Elementary School, located just less than ¼ mile to the southeast of the project site, south of Pelandale Avenue. The impact to the public or school through an upset or accidental release of hazardous materials in the environment is less than significant as hazardous materials are typically not utilized within the business park land use. However, should future uses be proposed that would involve the transfer of hazardous materials, a hazardous materials transportation program shall be required as a condition of building permit or business license approval, in accordance with MEIR HM-6.
- (d) ***No Impact.*** The project site is not located within any known Hazardous Materials Zones as described on the CA Department of Toxic Substance Controls' Hazardous Waste and Substances Site List (Cortese List).
- (e) ***No Impact.*** The project site is not located within an airport land use plan. The nearest public use airport is located approximately 6.5 miles southeast of the site.
- (f) ***No Impact.*** The project site is not located within the vicinity of a private airstrip. The nearest private airstrip is located approximately 6.5 miles southeast of the site.
- (g) ***Less Than Significant.*** Emergency access routes would be accessible and available for all vehicles and include direct access to the project area via "B" Road from Bangs Avenue and "A" Road from American Avenue.
- (h) ***No Impact.*** The project site is not located within the vicinity of wildlands. The site is in an urban area, substantially surrounded by development.

**New Mitigation Measures:**

No new mitigation measures are required.

**VIII. HYDROLOGY/FLOODING AND WATER QUALITY**

Sections V-9.B and V-10.B of the MEIR and IV-G of the Kiernan Business Park and Carver-Bangs Specific Plans Focused EIR provide analysis of Hydrology/Flooding and Water Quality impacts of development of the General Plan and the Kiernan Business Park Specific Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR and Kiernan Business Park and Carver-Bangs FEIR.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>VIII. HYDROLOGY AND WATER QUALITY –</b> Would the project:				
a) Violate any water quality standards or waste discharge requirements?	[ ]	[ ]	[ X ]	[ ]
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	[ ]	[ ]	[ X ]	[ ]
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	[ ]	[ ]	[ X ]	[ ]
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	[ ]	[ ]	[ X ]	[ ]
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	[ ]	[ ]	[ X ]	[ ]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
f) Otherwise substantially degrade water quality?	[ ]	[ ]	[ X ]	[ ]
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	[ ]	[ ]	[ ]	[ X ]
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	[ ]	[ ]	[ ]	[ X ]
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	[ ]	[ ]	[ X ]	[ ]
j) Inundation by seiche, tsunami, or mudflow?	[ ]	[ ]	[ X ]	[ ]

**Existing Mitigation Measures Applicable to the Project:**

MEIR FWQ-11

The City of Modesto shall prevent water pollution from urban storm runoff as established by the Central Valley Regional Water Quality Control Board for surface discharges and the Environmental Protection Agency for underground injection (*General Plan Policy V.E.3.C*)

MEIR FWQ-13

Construction activities shall comply with City requirements for conveyance, retention and detention. New development shall include onsite storage of stormwater as necessary. Rockwells shall not be allows for new development except at infill areas smaller than three acres where no other feasible alternative is available (UAGP PolicyV.E.3[h])

MEIR SD-4

The City of Modesto shall prevent water pollution from urban storm runoff as established by the Central Valley Regional Water Quality Control Board for surface discharges and Environmental Protection Agency for underground injection. (*General Plan Policy V-E.2[c]*)

MEIR SD-5

Storm water drainage facilities shall be constructed, operated, maintained, and replaced in a manner that will provide the best possible service to the public, given the financial abilities and Mana/Wagner Development Agreement

constraints of the City and of the private sector alike. In developing implementation plans, consideration shall be given to rehabilitation of existing facilities, remediation of developed areas with inadequate levels of drainage service, and the timely expansion of the system for future development. (General *Plan Policy V-E.3[d]*)

#### MEIR SD-11

The City shall ensure that new development complies with the City of Modesto's Stormwater Management Program: Guidance Manual for New Development Stormwater Quality Control Measures (UGAP Policy V-E.3[j])

#### MEIR SD-14

The City of Modesto shall require positive storm drainage facilities in the Planned Urbanizing Area. Recharge shall be typically accomplished at recharge/detention basins, designed to be in compliance with applicable federal and state water quality regulations for both groundwater and surface water (*General Plan Policy V-E.4[b]*)

#### **Discussion:**

The project is in conformance with the General Plan. No new impacts related to Hydrology/Flooding and Water Quality are anticipated. The site will be served with sanitary sewer and storm drainage in accordance with City of Modesto requirements. The site is not within the 100-year flood plain and outside the Flood Potential Study Area established in the Urban Area General Plan Master EIR (Figure V-10-1a in the MEIR). Further, the Kiernan Business Park South Facilities Master Plan (FMP) identifies those improvements needed to accommodate the project area, which identifies the need for a 7.4-acre feet storm detention basin and additional storm drain lines. In addition to the FMP, the project was required to complete a Water Supply Assessment (WSA) in accordance with SB 610, which was adopted by the City Council on May 1, 2007. The WSA was based on the City of Modesto/Modesto Irrigation District Joint Urban Water Management Plan, approved by the City Council on April 24, 2007. The City of Modesto also recently updated their Urban Water Master Plan.

- (a) ***Less Than Significant.*** The City requires all new development to obtain a Stormwater Pollution Prevention Permit (SWPPP) and be served by a positive storm drainage system. In addition, the facility would be constructed and operated in accordance with the FMP prepared for the project site and in accordance with the City's Guidance Manual for New Development, Stormwater Quality Control Measures and in accordance with Best Management Practices (BMPs).
- (b) ***Less Than Significant.*** The proposed project is consistent with the land uses as identified in the Master EIR and therefore, the water supply requirements would be the same as analyzed in the Master EIR. In accordance with SB 610, a Water Supply Assessment was completed for the project area. The near-term capacity study concluded that there is sufficient water available to serve the proposed project with existing entitlements through the year 2025 utilizing only existing entitlements and water contracts. The WSA completed for the project area identifies an adequate water supply for the project area.
- (c-f) ***Less Than Significant.*** Future development of the site would alter the existing drainage patterns and increase surface runoff. However, storm drainage facilities would be constructed in accordance with the Storm Drainage Master Plan and FMP prepared

for the project site, which identifies roadside basins and pumping to the MID canal. In addition, the City requires new development to be served by a positive storm drainage system and that the development obtain a SWPPP, which requires soil erosion control measures be implemented during all construction activities. In addition, the City requires that Best Management Practices (BMPs) be employed in the construction of all facilities.

- (g,h) **No Impact.** The project does not propose any housing on-site and the project site is outside the Flood Potential Area, Figure V-10-1 of the MEIR.
- (i) **Less Than Significant.** The project site is located approximately 34 miles west and downstream of the Don Pedro Dam and about 31 miles southwest and downstream from the New Melones Dam. Despite being downstream, the project site would not be expected to be inundated with flood waters in the unforeseeable event of a dam failure as floods would have been dispersed throughout the central San Joaquin Valley.
- (j) **Less Than Significant.** The project site is not located near a body of water substantial enough in size to result in seiche, tsunami or mudflow.

**New Mitigation Measures:**

No new mitigation measures required.

**IX. LAND USE AND PLANNING**

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>IX. LAND USE AND PLANNING – Would the project:</b>				
a) Physically divide an established community?	[ ]	[ ]	[ ]	[ X ]
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	[ ]	[ ]	[ ]	[ X ]
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	[ ]	[ ]	[ ]	[ X ]

**Existing Mitigation Measures Applicable to the Project:**

None Applicable.

**Discussion:**

The project site is designated as Business Park in the Urban Area General Plan and the Kiernan Business Park Specific Plan and the project is consistent with this land use designation.

- (a) **No Impact.** The project site is vacant. Development of the project site with Business Park uses would not physically divide an established community.
- (b) **No Impact.** The project site is designated by the Modesto Urban Area General Plan and the Kiernan Business Park Specific Plan for Business Park land uses. The proposed project is consistent with this designation and the development is required to meet all plans, policies, and property development standards for the site.
- (c) **No Impact.** The City of Modesto does not have an adopted Habitat Conservation Plan or Natural Community Conservation Plan.

**New Mitigation Measures:**

No new mitigation measures are required.

**X. MINERAL RESOURCES**

Section V-17.B of the MEIR touches on Mineral Resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>X. MINERAL RESOURCES</b> -- Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	[ ]	[ ]	[ ]	[ X ]
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	[ ]	[ ]	[ ]	[ X ]

**Existing Mitigation Measures Applicable to the Project:**

None Applicable.

**Discussion:**

The project site is planned for urban development in the 2008 General Plan and the associated MEIR. No change to this plan is proposed, and no new information affecting this subject has become available.

(a-b) **No Impact.** The Modesto Urban Area is not reported to have abundant mineral resources and there are no known special minerals in Modesto. Development of the project would not result in the loss of availability of any known mineral resource that would be of value to the region or of any locally important mineral resource.

**New Mitigation Measures:**

No new mitigation measures are required.

**XI. NOISE**

Section V-3.B of the MEIR and IV-C of the Kiernan Business Park and Carver-Bangs Specific Plans Focused EIR provide analysis of Noise impacts of development of the General Plan and the Kiernan Business Park Specific Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR and Kiernan Business Park and Carver-Bangs FEIR.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>XI. NOISE</b> – Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	[ ]	[ ]	[ X ]	[ ]
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	[ ]	[ ]	[ X ]	[ ]
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	[ ]	[ ]	[ X ]	[ ]
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	[ ]	[ ]	[ X ]	[ ]
e) For a project located within an airport land use plan or, where such a plan has not been	[ ]	[ ]	[ ]	[ X ]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	[ ]	[ ]	[ ]	[ X ]

**Existing Mitigation Measures Applicable to the Project:**

MEIR N-2

The noise ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

1. A hammer, or any other device or implement used to pound or strike an object.
2. An impact wrench, or other tool or equipment powered by compressed air.
3. A hand-powered saw.
4. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.
5. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.
6. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.
7. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested (*Modesto Municipal Code Section 4-9.101*).

### MEIR N-3

The City of Modesto shall require construction activities to comply with the City's noise ordinance (Title 4, Chapter 9) and noise-reducing construction practices to be implemented as conditions of approval for development projects where substantial construction-related noise impacts would be likely to occur (e.g. where construction would include extended periods of pile driving, where construction would occur over an unusually long period, or where noise-sensitive uses like homes and schools would be in the immediate vicinity, etc.). The city should consider potential mitigation measures, including, but not limited to, the following;

1. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields
2. Equipment that is quieter than standard equipment should be utilized
3. Haul routes that affect the fewest number of people should be selected (*General Plan Policy VII-G.3[a]*).

### **Discussion:**

A portion of the project site lies within the 65  $L_{dn}$  noise contour, as shown on Figure V-3-2 in the Urban Area General Plan Master EIR. However, the project site is planned for Business Park land uses, which are an acceptable land use within areas designated for up to 70 dB. Any future construction activities will be subject to the noise ordinance, but will constitute a temporarily significant noise impact; construction activities may be shut down by the Police Department if the contractors violate the ordinance.

- (a-d) ***Less Than Significant Impact.*** The project site is planned for Business Park land uses within the Modesto Urban Area General Plan and the Kiernan Business Park Specific Plan. A portion of the project site lies within the 65  $L_{dn}$  noise contour, as shown on Figure V-3-2 in the Urban Area General Plan Master EIR. However, the project site is planned for Business Park land uses and the General Plan designates areas within 70 dB as suitable for office uses, business commercial and professional uses. In addition, the types of uses proposed do not use equipment that would result in groundborne vibrations in their long-term operations. However, short-term impacts to noise would result from construction activities on-site.

### Short-Term Noise Impacts

Depending on the activities being performed, as well as the duration and hours during which construction activity would occur, noise associated with construction of the proposed project could result in a temporary significant increase in the ambient noise levels on-site, including an increase in groundborne vibrations. Residential development does exist to the south and west of the project, across Pelandale Avenue and Dale Road, respectively. However, due to their separation from the project site by major roadways, impacts on sensitive receptors would be minimal. Further, the MEIR Mitigation N-5 limits the loud and raucous operation of equipment or any construction, demolition, excavation, erection, alteration, or repair activity to the hours between 7:00 AM and 9:00 PM on weekdays or between 9:00 AM and 9:00 PM on Saturday, Sunday

and State or Federal holidays. All project construction activities will be restricted to these daytime hours.

- (e) **No Impact.** The project site is not located within an airport land use plan. The nearest public use airport is located approximately 6.5 miles southeast of the site.
- (f) **No Impact.** The project site is not located within the vicinity of a private airstrip. The nearest private airstrip is located approximately 6.5 miles southeast of the site.

**New Mitigation Measures:**

No new mitigation measures are required.

**XII. POPULATION AND HOUSING**

The General Plan MEIR was certified for the development of the Modesto Urban Area General Plan. No significant Population and Housing effects were identified.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>XII. POPULATION AND HOUSING --</b> Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	[ ]	[ ]	[ X ]	[ ]
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	[ ]	[ ]	[ ]	[ X ]
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	[ ]	[ ]	[ ]	[ X ]

**Existing Mitigation Measures Applicable to the Project:**

None Applicable.

**Discussion:**

- (a) **Less Than Significant.** The project site is planned for Business Park development under the 2003 Modesto Urban Area General Plan and Kiernan Business Park Specific Plan and the proposed project is consistent with this designation. While additional business park uses may indirectly induce population growth in the area through the

creation of jobs and/or services, development of Business Park uses were evaluated previously under the MEIR and the Kiernan Business Park-Carver Bangs Specific Plans FEIR.

- (b-c) **No Impact.** The project site is partially developed with commercial uses, used for agricultural purposes or is vacant. No housing units or population would be displaced by development of the project.

**New Mitigation Measures:**

No new mitigation measures are required.

**XIII. PUBLIC SERVICES**

Sections V-12, -13, and -14 of the MEIR provide analysis of impacts on Schools, Police Services, and Fire Services of development of the General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>XIII. PUBLIC SERVICES</b>				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire protection?	[ ]	[ ]	[ X ]	[ ]
Police protection?	[ ]	[ ]	[ X ]	[ ]
Schools?	[ ]	[ ]	[ X ]	[ ]
Parks?	[ ]	[ ]	[ X ]	[ ]
Other public facilities?	[ ]	[ ]	[ X ]	[ ]

**Existing Mitigation Measures Applicable to the Project:**

MEIR FS-2

The City of Modesto should ensure that adequate ingress and egress to all structures for fire

fighting and rescue purposes independent of privately owned and maintained driveways (*General Plan Policy V-K.2[b]*).

#### MEIR FS-14

Fire apparatus access roads to and around structures shall comply with the minimum requirements in Chapter 5 of the California Fire Code. (*UGAP Policy VI-D.1[b]*)

#### MEIR FS-16

All building permits shall be reviewed to ensure compliance with the current adopted edition of the California Fire Code, California Building Code, California Mechanical Code, California Electrical Code, California Plumbing Code, Title 19, Title 24, and the City of Modesto Municipal Code (*UAGP VI-E.1[d]*)

#### MEIR S-10

The City shall continue to require that the developer pay, prior to issuance of any building permits, the maximum residential, commercial and industrial development school fees in effect at the time building takes place. This requirement is in accordance with the provisions of Assembly Bill 2926 (*General Plan Policy V-H.2[e]*)

#### **Discussion:**

- (a) ***Less Than Significant.*** The nearest fire station is located at the Pelandale/Carver intersection, one (1) mile to the east of the project site. The Modesto Fire Department has determined that the proposed project will not create a need for new or modified policing facilities, as compared to the analysis presented in the Urban Area General Plan Master EIR.
- (b) ***Less Than Significant.*** The Modesto Police Department has determined that the proposed project will not create a need for new or modified policing facilities, as compared to the analysis presented in the Urban Area General Plan Master EIR.
- (c) ***Less Than Significant.*** MEIR Mitigation Measure S-10 mandates that the project proponent pay the maximum fees in effect at the time construction occurs. Government Code §65995(h) provides that the payment of fees imposed in accordance with the applicable Education Code requirements constitutes full and complete mitigation of the impacts of a proposed project.
- (d) ***Less Than Significant.*** See the discussion below under **Section XIV. Recreation/Parks Open Space.**
- (e) ***Less Than Significant.*** The project is consistent with the land uses designated in the 2003 Urban Area General plan and the MEIR. No additional impacts are expected beyond those anticipated in the MEIR. Further, the project is developing an FMP to determine the needed infrastructure to serve the property and will be required to develop those improvements identified.

#### **New Mitigation Measures:**

No new mitigation measures are required.

**XIV. RECREATION/PARKS AND OPEN SPACE**

Section V-11.B of the MEIR provides analysis of Parks and Recreation impacts of development of the General Plan: the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>XIV. RECREATION</b>				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	[ ]	[ ]	[ X ]	[ ]
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	[ ]	[ ]	[ X ]	[ ]

**Existing Mitigation Measures Applicable to the Project:**

None Applicable.

**Discussion:**

- (a) **Less Than Significant.** The project does not propose the addition of housing and therefore, no increase in population is being generated by the proposed project that may cause substantial physical deterioration of the recreational facilities.
- (b) **Less Than Significant.** The project does not propose the addition of housing and therefore, no increase in population is being generated by the proposed project. There are no requirements for commercial development to provide recreational facilities and none are being constructed.

**New Mitigation Measures:**

No new mitigation measures are required.

**XV. TRAFFIC AND CIRCULATION**

Section V-1.B of the MEIR and section IV-A of the Kiernan Business Park and Carver-Bangs Specific Plans Focused EIR provide analysis of Traffic and Circulation impacts of development of the General Plan and the Kiernan Business Park Specific Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR and Kiernan Business Park and Carver-Bangs FEIR.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>XV. TRAFFIC AND CIRCULATION – Would the project:</b>				
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	[ ]	[ X ]	[ ]	[ ]
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	[ ]	[ X ]	[ ]	[ ]
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	[ ]	[ ]	[ ]	[ X ]
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm	[ ]	[ ]	[ X ]	[ ]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
equipment)?				
e) Result in inadequate emergency access?	[ ]	[ X ]	[ ]	[ ]
f) Result in inadequate parking capacity?	[ ]	[ ]	[ X ]	[ ]
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	[ ]	[ ]	[ X ]	[ ]

**Existing Mitigation Measures Applicable to Project:**

MEIR TC-45

Individual development projects that could affect conditions on traffic facilities predicted by the General Plan Traffic Analysis to operate at LOS “E” (as shown in [Appendix A] of the Master EIR) shall not, without further study, cause conditions on those facilities to exceed LOS “E” at any time prior to 2025. If implementation of this Level of Service is impractical or infeasible, subsequent environmental review, including a Comprehensive Traffic Study, will be required.

The subsequent environmental review may take the form of:

- (1) A mitigated negative declaration, if feasible mitigation measures or alternatives will be incorporated to avoid the worsening of the LOS standards presented in [Appendix A] of the Master EIR. (Section 21157.5(a) of CEQA)
- (2) An EIR, if mitigation measures cannot avoid the worsening of the LOS Standards presented in [Appendix A] of the Master EIR. Section (Section 21157.59B0 of CEQA)

The Comprehensive Traffic Study shall include appropriate mitigation measures to update the General Plan Traffic Analysis for all subsequent Specific Plans, and for development within the affected Baseline Developed Area and Redevelopment Area, and shall conform to the *Criteria for a Traffic Impact Study*. (UAGP Policy V-B.7[d])

**Discussion:**

The scale and nature of the proposed project could result in traffic impacts of LOS “E” or worse and therefore, a *Transportation Impact Analysis for the Mana-Wagner Development Agreement* was completed by the City of Modesto Traffic Engineering and Operation Division. The traffic analysis contained in this initial study is based upon information presented in the Transportation Impact Analysis (TIA) and the TIA is incorporated herein by reference. The TIA may be viewed at the City of Modesto Planning Division offices, located at 1010 Tenth Street, 3<sup>rd</sup> Floor Modesto, CA 95354.

The TIA is intended to evaluate the potential project-specific impacts that development of Phase I, Phase II and Phase III would have on the surrounding roadway network. To evaluate potential project-specific impacts of each of the three phases, the TIA studied the following seven scenarios: Phase I (2012) without street improvements, Phase I (2012) with street improvements, Phase II (2016) and Phase I without street improvements, Phase II (2016) and Mana/Wagner Development Agreement

Phase I with street improvements, Phase III (2019), Phase II and Phase I without street improvements, Phase III (2019) Phase II and Phase I with street improvements and a cumulative conditions assessment. Project daily traffic volumes, both with and without the proposed project, were compared to daily roadway segment capacities. Volume-to-capacity ratios were calculated for “without project” and “with project” conditions to determine if the proposed project would significantly impact daily roadway segment operations in the vicinity of the project site. Trip generation estimates for the proposed project were developed by using the trip generation rates contained in the Institute of Transportation Engineers (ITE), *Trip Generation*, (7<sup>th</sup> Edition).

Land Use	Size	Weekday						
		Daily	PM Peak Hour			Afternoon Peak Hour		
			In	Out	Total	In	Out	Total
Phase I: Business Park	91,000 square feet	1,726	109	21	130	32	106	138
Phase II: Business Park	89,000 square feet	1,704	108	20	128	30	105	136
Phase III Business Park	97,000 square feet	1,790	117	22	139	34	113	147
<b>TOTAL</b>	<b>277,000 square feet</b>	<b>3,725</b>	<b>326</b>	<b>62</b>	<b>388</b>	<b>89</b>	<b>297</b>	<b>385</b>

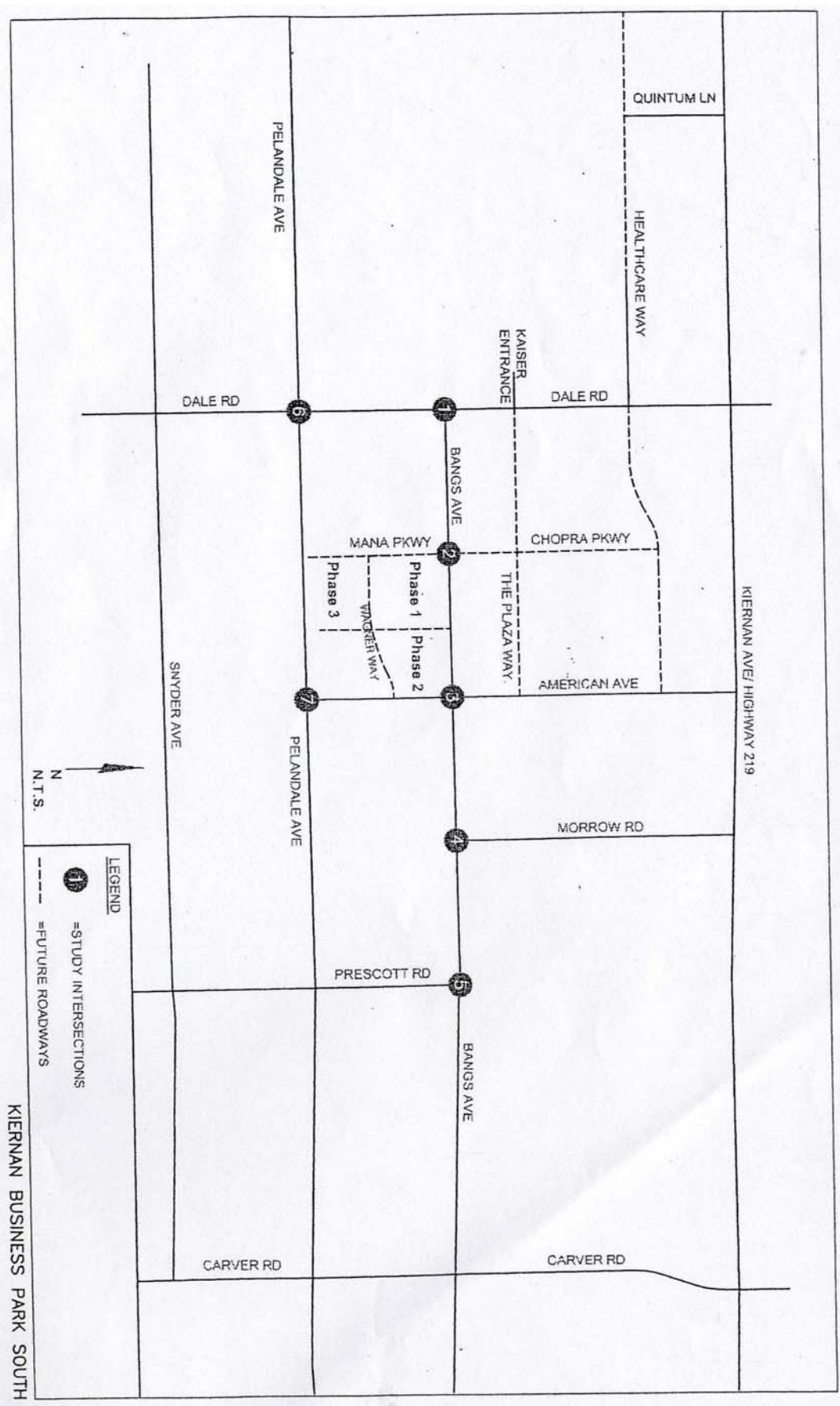
#### STUDY LOCATIONS

Intersection operations were evaluated during the weekday morning (AM) and evening (PM) peak periods. Ten intersections in the vicinity of the project site were analyzed as follows. See **Figure XV-1 – Study Locations** for all study locations.

- |                                  |                                      |
|----------------------------------|--------------------------------------|
| (1) Bangs Avenue/Dale Road       | (5) Bangs Avenue/Prescott Road       |
| (2) Bangs Avenue/Chopra Parkway  | (6) Pelandale Avenue/Dale Road       |
| (3) Bangs Avenue/American Avenue | (7) Pelandale Avenue/American Avenue |
| (4) Bangs Avenue/Morrow Road     |                                      |

In addition to the 10 intersection locations identified above, a total of 2 roadway segments were analyzed including the following segments:

- 1) Dale Road, Bangs Avenue to Pelandale Avenue
- 2) Bangs Avenue, Dale Road to American Avenue
- 3) Bangs Avenue, American Avenue to Prescott Road



## EXISTING CONDITIONS

Regional access to the project site is provided via State Route (SR) 99 at Pelandale Avenue, while local access to the site is provided via Bangs Avenue and American Avenues. Transit service in Modesto is provided by Modesto Area Express (MAX) and Stanislaus Regional Transit (StaRT). MAX currently provides two (2) routes that serve the Pelandale Avenue/Dale Road intersection: Routes 28 and 31. Each of these routes connects to downtown Modesto and to Vintage Faire Mall, where transfer facilities are provided. In addition, there is a Park-and-Ride lot located in the northwest corner of the Vintage Faire Mall site, which provides parking facilities and shuttle services to the Lathrop/Manteca ACE train station. StaRT provides regional transit throughout Stanislaus County and currently operates service to the project area on Saturdays.

The traffic counts used were taken in 2007 for the Kiernan Business Park South Traffic Study performed by Fehr and Peers. To determine existing Levels of Service (LOS), weekday morning (7:00 AM to 9:00 AM) peak period and weekday evening (4:00 PM to 6:00 PM) peak period intersection turning movement counts were conducted at the study intersections on clear days with area schools in normal session. Field observations and the level of service results indicate that most intersections operate at an acceptable level during the weekday AM and PM peak hours.

As a result of new information, the City's Traffic Engineer reviewed the 2007 Fehr and Peers Transportation Impact Analysis (TIA) for the Kiernan Business Park South area and the 2009 Community and Economic Development Traffic Impact Analysis completed by the Community and Economic Development Department for the Mana-Wagner Development Agreement. Due to slower than anticipated background growth and the slower than anticipated build out of the Kaiser Medical Center, impacts identified in phase one of the TIA completed for the Mana-Wagner Development Agreement will occur in phase two and those impacts identified in phase two will not occur until phase three.<sup>1</sup>

## SIGNIFICANT IMPACT CRITERIA

The following criteria were utilized to determine whether an impact would be considered significant and require mitigation to reduce the impact to a less than significant level:

- Deterioration of a signalized intersection from LOS D (or better) to LOS E or LOS F;
- Deterioration of a controlled movement at an unsignalized intersection from LOS D or better to LOS E or F;
- Deterioration of a roadway segment from LOS D or better to LOS E or LOS F.

(a-b) ***Less Than Significant with Mitigation Incorporated.*** The addition of 3,725 daily weekday trips generated by Phase I, Phase II and Phase III collectively would result in potentially significant impacts under existing conditions. However, with the incorporation of the mitigation measures, as identified in the following discussions, the impacts would be reduced to a less than significant level.

---

<sup>1</sup> Barnes, Jeffrey L. City Traffic Engineer, Memo to David Wage, Planning Division, Modesto, CA February 11, 2010  
Mana/Wagner Development Agreement

Further, all development with the Kiernan Business Park South project area is responsible for paying the City's Capital Facilities Fee (CFF). The fees collected go toward the improvement of city-wide facilities identified in the City's CFF Program. Many of the mitigation measures identified below are also identified in the CFF Program and monies will be collected from the applicant for their fair share contribution to those improvements.

In addition to the CFF contribution, a Community Facilities District (CFD) is being formed for the Kiernan Business Park South project area. Those improvements, as identified below, will be developed utilizing funds collected through the CFD. The subject property is required to form and annex to a CFD for the Kiernan South area, which is a condition of approval on a previously approved parcel map for the subject property. All development within the Kiernan Business Park South project area will be required to annex into the CFD.

The intersection of Pelandale Avenue and American Avenue was studied, but did not show a significant impact with the addition of the proposed project. Identified impacts and associated mitigation measures are summarized below:

## ***PHASE II***

### **Impact No. 1: Bangs Avenue/Prescott Road (Intersection)**

Addition of Phase II traffic would result in deficient operations during the PM peak hour at the Bangs Avenue/Prescott Road intersection, which is considered significant. To mitigate this impact to a less than significant level, the TIA identified construction of a 250' eastbound right-turn only lane. The City has a project in the Capital Improvement Program (CIP) to install a signal at this intersection; however, the needed eastbound right-turn lane at the Bangs Avenue/Prescott Road intersection is not currently in the CIP. The City anticipates the right-turn lane will be added to the CIP in the near future.

**MM XV.1:** Concurrent with Phase II, a 250' eastbound right-turn only lane along Bangs Avenue at Prescott Road shall be installed. Should the City be unable to install the right-turn lane, the applicant shall be responsible for installation of the improvement.

Timing/Implementation: The right-turn only lane shall be installed and operational concurrent with Phase II.

Monitoring: Community and Economic Development- Planning Division

## ***PHASE III***

### **Impact No. 2: Westbound and Eastbound Bangs Avenue between Dale Road and American Avenue (Segment)**

The addition of traffic from Phase III would result in deficiencies along Bangs Avenue between Dale Road and American Avenue, which are considered significant. To mitigate this impact to a less than significant level, the TIA identified widening Bangs Avenue from two to four travel lanes from Dale Road to American Avenue. Providing a four-lane cross section would allow for turning movements to/from parcels while maintaining acceptable operations for through traffic. This improvement has been included in the

Facilities Master Plans for the Kiernan East and Kiernan South Specific Plan Areas with financing through a taxing district or Community Facilities District (CFD).

**MM XV.2:** Concurrent with Phase III, Bangs Avenue shall be widened to a four-lane major collector from Dale Road to Prescott Road.

Timing/Implementation: Widening shall be implemented and operational concurrent with Phase III.

**Monitoring:** Community and Economic Development- Planning Division

**Impact No. 3: Northbound Dale Road from Pelandale Avenue to Bangs Avenue (Segment)**

The addition of Phase III traffic would result in deficiencies along northbound Dale Road from Pelandale Avenue to Bangs Avenue, which are considered significant. To mitigate this impact to a less than significant level, the TIA identified the need for an additional (third) northbound through lane on Dale Road from Pelandale Avenue to Bangs Avenue. The costs of completing the widening, including the acquisition of right-of-way, have been programmed into the Kiernan South and East CFD.

**MM XV.3:** Concurrent with Phase III, Dale Road shall be widened to include an third northbound through lane on Dale Road from Pelandale Avenue to Bangs Avenue.

Timing/Implementation: Widening shall be implemented and operational concurrent with Phase III.

**Monitoring:** Community and Economic Development- Planning Division

**Impact No. 4: Bangs Avenue/American Avenue (Intersection)**

With the addition of Phase III, the Bangs Avenue/American Avenue intersection is projected to operate at unacceptable levels (LOS F) at the PM peak hour, which is considered significant. To mitigate this impact to a less than significant level, the TIA identified two alternatives. Both alternatives require the provision of four travel lanes on Bangs Avenue. The first alternative (1) is to construct a double-lane roundabout. The second alternative (2) is to install traffic signals. Either mitigation measure, alternative 1 or 2, would reduce the impact to a less than significant level.

The costs of completing improvements to the Bangs Avenue/American Avenue intersection have been programmed into the Kiernan South and East CFD.

**MM XV.4:** Concurrent with Phase III, a 2-lane roundabout at Bangs Avenue/American Avenue shall be installed. Alternatively a traffic signal shall be installed.

Timing/Implementation: Either the roundabout or the traffic signal shall be installed and operational current with Phase III.

**Monitoring:** Community and Economic Development- Planning Division

### **Impact No. 5: Bangs Avenue/Chopra Parkway/Mana Parkway (Intersection)**

With the addition of Phase III, the Bangs Avenue/Chopra Parkway/Mana Parkway intersection is projected to operate at unacceptable levels (LOS F) at the PM peak hour, which is considered significant. To mitigate this impact to a less than significant level, the TIA identified two alternatives. Both alternatives require the provision of four travel lanes on Bangs Avenue. The first alternative (1) is to construct a double-lane roundabout. The second alternative (2) is to install traffic signals. Either mitigation measure, alternative 1 or 2, would reduce the impact to a less than significant level.

The costs of completing improvements to the Bangs Avenue/Chopra Parkway/Mana Parkway intersection have been programmed into the Kiernan South and East CFD.

**MM XV.5:** Concurrent with Phase III, a 2-lane roundabout at Bangs Avenue/Chopra Parkway/Mana Parkway shall be installed. Alternatively a traffic signal shall be installed.

Timing/Implementation: Either the roundabout or the traffic signal shall be installed and operational current with Phase III.

Monitoring: Community and Economic Development- Planning Division

### ***PHASE III***

### **Impact No. 6: Westbound and Eastbound Bangs Avenue between American and Morrow Road (Segment)**

The addition of Phase III traffic would result in deficiencies along Bangs Avenue between American Avenue and Morrow Road, which is considered significant. To mitigate this impact to a less than significant level, the TIA identified widening Bangs Avenue from two to four travel lanes from American Avenue to Morrow Road. Providing a Major Collector cross section would allow for turning movements to/from parcels while maintaining acceptable operations for through traffic. The two additional lanes mitigate the impacts of Phase III from an unacceptable Level of Service F to an acceptable Level of service D in the Weekday PM Peak Hour.

**MM XV.6:** Concurrent with Phase III, Bangs Avenue shall be widened to a four-lane major collector, from American Avenue to Morrow Road.

Timing/Implementation: Widening shall be implemented concurrent with Phase III.

Monitoring: Community and Economic Development- Planning Division

### **Impact No. 7: Pelandale Avenue/Dale Road (Intersection)**

With the addition of Phase III, the Pelandale Avenue/Dale Road intersection is projected to operate at unacceptable levels (LOS F) at the PM peak hour, which is considered significant. Two improvements are needed to bring the intersection from a Level of

Service F to D: the construction of a right-turn lane on the eastbound approach of Pelandale Avenue, and the addition of a third through lane on the northbound approach of Dale Road to the intersection.

Pelandale Avenue, including the required right-turn lane on the eastbound approach, is included in the City's Capital Facilities Fee (CFF) and the development will be required to pay their fair share contribution toward future roadway improvements identified by CFF, so no additional mitigation is required. The third northbound through lane on the Dale Road approach can be accommodated within the existing right-of-way and is limited to re-stripping the roadway. The City of Modesto Traffic Division will fund the Dale Road improvement through their operations funds.

**MM XV.7:** Concurrent with Phase III, a third through lane on the northbound approach at Pelandale Avenue/ Dale Road shall be installed.

Timing/Implementation: The additional lane shall be installed and operational concurrent with Phase III.

Monitoring: Community and Economic Development – Traffic Division

### ***CUMULATIVE IMPACTS***

The relative impacts of the proposed project were also assessed within the context of future traffic conditions occurring in the year 2025. The future traffic volumes are based on long-term segment traffic forecasts derived from the General Plan Master EIR. Two segments analyzed in the traffic study include:

- 1) Dale Road from Pelandale Avenue to Bangs Avenue: At build-out of the General Plan (2025) this roadway segment of Dale is projected to operate LOS C. The project is projected to reduce the LOS D at the PM peak; however, this impact is within the accepted (LOS D) significance threshold established in the MIER;
  - 2) Bangs Avenue from Dale Road to Prescott Road: At build-out of the General Plan (2025) this roadway segment of Bangs is project to operate at LOS F. With the addition of subject project, this segment of Bangs is anticipated to operate within LOS D at the PM peak. The project would not have a significant cumulative impact.
- (c) ***No Impact.*** The site is not located within an airport land use area and therefore would not have an impact on air traffic patterns or result in an increase in traffic levels or a change in location that results in substantial safety risks. There would be no impact.
- (d) ***Less Than Significant.*** The proposed development under Phase I and Phase II would result in the construction of additional access intersections at Bangs Avenue/Mana Parkway and American Avenue/Wagner Way. A number of internal site access points would also be developed off Wagner Way and Mana Parkway. The *Transportation Impact Analysis for Development Agreement* did analyze the turning movements at these intersections and the project impact to these intersections would be less than significant.

- (e) **Less Than Significant with Mitigation Incorporated.** The overall circulation system in the project vicinity would not change. Existing emergency access routes would be accessible and available for all emergency vehicles providing direct access to the project site via Bangs Road and American Avenue. However, short-term impacts may occur as a result of construction timing, which could result in a significant though temporary impact to adequate site access. With the incorporation of the following mitigation measure, those impacts would be reduced to a less than significant level.

**MM XV.8:** The applicant/developer shall develop a construction management plan for review and approval by the City Traffic Engineer or designee.

Timing/Implementation: Prior to approvals of improvement plans.

Monitoring: Community and Economic Development – Traffic Division

- (f) **Less Than Significant.** All proposed development with the project area will be required to meet the City of Modesto parking standards designated for the proposed use. This requirement will be applied at the time of development plan review.
- (g) **Less Than Significant.** The project site is currently served by the Modesto Area Express (MAX) bus system Routes 28 and 31, which stop at Pelandale Avenue and Dale Road. Development of Phase I, Phase II, Phase III would increase transit demand in the area. Additional turnouts for Route 31 are being added along Pelandale Avenue adjacent to the project site to meet the additional demand.

#### **New Mitigation Measures:**

Although the proposed project could have a significant effect on Traffic and Circulation (items a, b, d and e), there will not be a significant effect in this case because mitigation measures **MM VX.1, MM VX.2, MM VX.3, MM VX.4, MM VX.5, MM VX.6, MM VX.7, MM VX.8**, as summarized above, have been agreed to by the applicant and will be added to the project. Therefore, with the preparation of a Mitigated Negative Declaration pursuant to CEQA section 21157.5 that incorporates the above-noted mitigation measures into the project, the project would have a less than significant impact on the environment.

#### **XVI. UTILITIES AND SERVICE SYSTEMS**

Sections V-5, -6, -9, and -15 of the MEIR provide analysis of impacts on Water Supplies, Sanitary Sewer Services, Storm Drainage, and Solid Waste of development of the General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>XVI. UTILITIES AND SERVICE SYSTEMS –</b> Would the project:				
a) Exceed wastewater treatment requirements	[ ]	[ ]	[ X ]	[ ]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
of the applicable Regional Water Quality Control Board?				
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	[ ]	[ ]	[ X ]	[ ]
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	[ ]	[ ]	[ X ]	[ ]
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	[ ]	[ ]	[ X ]	[ ]
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	[ ]	[ ]	[ X ]	[ ]
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	[ ]	[ ]	[ X ]	[ ]
g) Comply with federal, state, and local statutes and regulations related to solid waste?	[ ]	[ ]	[ X ]	[ ]

**Existing Mitigation Measures Applicable to the Project:**

MEIR WS-7

During review of all proposed development, the City shall require, as a condition of approval, that all developments reduce their potable water demand. The City should refer to Table V-5-1 in the Final MEIR for potential techniques to reduce potable water demand (*General Plan Policy V-C.3[a]*).

MEIR WS-15

All new connections to the public water system shall have meters installed. In addition, on or before January 1, 2025, all existing municipal and industrial service connections shall have water meters installed.

**Discussion:**

The project is in conformance with the General Plan. No new impacts related to Utilities and Service Systems are anticipated. The site will be served with sanitary sewer, water and storm drainage in accordance with the Draft Wastewater Capacity Study, dated February 24, 2007, and the Kiernan Business Park East and South Storm Drainage Technical Report, revised June 2007, prepared for the Kiernan Business Park South project area. Needed infrastructure improvements were identified and incorporated into the FMP. The site is not within the 100-year flood plain and is outside the Flood Potential Study Area established in the Urban Area General Plan Master EIR (Figure V-10-1a in the MEIR). Further, the Facilities Master Plan (FMP) identifies those improvements needed to accommodate the project area, which includes the needed infrastructure for sanitary sewer, water and storm drain facilities. In addition to the FMP, the project was required to complete a Water Supply Assessment (WSA) in accordance with SB 610, which was adopted by the City Council on May 1, 2007. The WSA was based on the City of Modesto/Modesto Irrigation District Joint Urban Water Management Plan, approved by the City Council on April 24, 2007. The City of Modesto also recently updated their Urban Water Master Plan.

- (a,b,e) ***Less Than Significant.*** A Wastewater Capacity Study was completed for Kiernan Business Park South, which identified the needed improvements for development of the project area. The study concluded that the existing 39-inch pipe in American Avenue would be sufficient to serve the proposed development. Further, those improvements identified in the Wastewater Capacity Study have been incorporated into the FMP and all development within the project area will contribute towards the necessary improvements and those improvements are consistent with the City of Modesto Wastewater Master Plan.
- (c) ***Less Than Significant.*** A Storm Drain Capacity Study was completed for Kiernan Business Park South, which identified the needed improvements for development of the project area including construction of a storm detention basin. In addition to the detention basin, a pump station and additional storm drain lines will be constructed with the rights-of-way for conveyance. All the needed improvements for storm drain have been incorporated into the FMP and all development within the project area will contribute towards the necessary improvements. Construction of the storm drain facilities will be required to follow Best Management Practices for storm water runoff. Detailed engineering, including but not limited to soils studies, soil borings, elevations, inlet/outlet structure, low flow channel, and side slopes for a dual-use flood control/recreation facility must be provided and must receive the approval of the City Engineer prior to construction.
- (d) ***Less Than Significant.*** In accordance with SB 610, a Water Supply Assessment was completed for the project area. The near-term capacity study concluded that there is sufficient water available to serve the proposed project with existing entitlements through the year 2025 utilizing only existing entitlements and water contracts. Further, the City of Modesto recently adopted the Water Capacity Study, which identified necessary improvements and those improvements have been incorporated into the FMP. All the needed improvements for water service have been incorporated into the FMP and all development within the project area will contribute towards the necessary improvements.
- (g) ***Less Than Significant.*** The project will not generate solid waste above that anticipated by the General Plan for the site.

- (h) **Less Than Significant.** No new effects on federal, state, and local statutes and regulations related to solid waste are anticipated.

**New Mitigation Measures:**

No new mitigation measures are required.

**XVII. Climate Change**

Section V-21 of the MEIR provide analysis of impacts of development and other activities associated with the City of Modesto Urban Area General Plan (UAGP) would contribute to global climate change. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>XVII. Climate Change – Would the project:</b>				
a) The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.	[ ]	[ ]	[ X ]	[ ]
b) The proposed project would result in average automobile trip lengths or CO <sub>2</sub> emissions higher than those assumed in the Master EIR.	[ ]	[ ]	[ X ]	[ ]
c) The proposed project would conflict with the Sustainable Communities Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.	[ ]	[ ]	[ X ]	[ ]

**Existing Mitigation Measures Applicable to the Project:**

None Applicable.

**Discussion:**

- (a) **Less Than Significant.** The City of Modesto General Plan Master EIR addressed potential climate change impacts due to development and other activities associated with the Urban Area General Plan (UAGP). The Urban Area General Plan Master EIR (MEIR) determined that buildout of the UAGP would make a cumulatively considerable contribution to global climate change. The UAGP nonetheless authorizes development that will contribute to global climate change by virtue of the production of greenhouse gases. The MEIR states the projected rate of growth of vehicle miles traveled (VMT) will increase the City's contribution to global climate change as the City develops. Development under the UAGP is expected to generate approximately 1,096,226.4 metric tons per year above 2005 emissions. The City Council adopted a Statement of

Overriding Considerations in 2008, finding that the benefits of the UAGP outweighed the City's increased contribution to global climate change.

The MEIR identifies policies CL-3 through CL-26 as policies in effect that have been determined to reduce, avoid or mitigate air quality environmental impacts within the existing City limits and within the Planned Urbanizing Areas as they annex and develop. These policies include but are not limited to, the use of shade trees to reduce the heat island effect, current energy efficient building standards to reduce energy consumption, and the inclusion of facilities for alternative transportation. The proposed project will develop in accordance with climate change policies included in the UAGP and the MEIR.

The General Plan designation for the site is Business Park. The proposed development is consistent with the Business Park designation in terms of land-use and intensity. Therefore the proposed Development Agreement to allow business park development is consistent with the 2008 General Plan.

- (b) **Less Than Significant.** Climate change is an inherently cumulative impact because no single project can produce enough greenhouse gases to substantially alter the global climate. No thresholds have been set for individual or cumulative greenhouse gases. Nonetheless, the proposed project would result in greenhouse gas emissions due primarily to automobile travel and energy use for lighting, heating, cooling and other activities. The primary source of CO<sub>2</sub> emissions generated from the project would be related to automobile trips. As identified under the traffic and circulation discussion, traffic engineering staff has determined that the project will be in substantial conformance with the GP MEIR assumptions for traffic generation, the CO<sub>2</sub> emissions generated from the project would also be in substantial conformance with that which was assumed under the GP MEIR analysis.
- (c) **Less Than Significant.** A Sustainable Communities Strategy has not yet been implemented by the ARB. Future development will be required to comply with the provisions of the Sustainable Communities Strategy once it is established.

**New Mitigation Measures:**

No new mitigation measures are required.

**XVIII. MANDATORY FINDINGS OF SIGNIFICANCE**

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>XVII. MANDATORY FINDINGS OF SIGNIFICANCE</b>				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels,	[ ]	[ X ]	[ ]	[ ]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?				
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	[ ]	[ ]	[ X ]	[ ]
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	[ ]	[ ]	[ X ]	[ ]

**Discussion:**

- (a) ***Less Than Significant with Mitigation Incorporated.*** As set forth in the MEIR and this Initial Study, this project does have the potential to further degrade the quality of the environment. The initial study identifies new project-specific impacts to biological resources and the circulation system, which do have the potential to impact the environment. However, with the mitigation measures identified in Section VI, Biological Resources/Sensitive Wildlife and Plant Habitat (**MM IV.1a, MM IV.1b and MM IV.1c**) and Section XV, Traffic and Circulation (**MM VX.1, MM VX.2, MM VX.3, MM VX.4, MM VX.5, MM VX.6, MM VX.7, MM VX.8**) those new impacts are reduced to a less than significant level.
- (b) ***Less Than Significant.*** The project has the potential to cause cumulative impacts to loss of agricultural resources, degradation of air quality, climate change and the circulation system: however, Statements of Overriding Considerations were adopted for those cumulative impacts identified in the MEIR. The proposed project does not contribute any new cumulative impacts beyond those previous identified.
- (c) ***Less Than Significant.*** As set forth in this Initial Study, the project does not have the potential to cause substantial adverse effects on human beings, either directly or indirectly, that would necessitate additional mitigation measures not previously identified in the Master EIR.

## IXX. DETERMINATION

Based on substantial evidence provided in the Initial Study, the City of Modesto finds:

- This Initial Study, prepared pursuant to CEQA Section 21157.1, has identified an additional significant environmental effect that was not analyzed in the Master EIR. This additional significant effect is potential impacts to Traffic/Circulation and Biological.
- Feasible mitigation measures will be incorporated to revise the subsequent project before the Mitigated Negative Declaration and Initial Study is released for public review pursuant to CEQA Section 21092 in order to avoid or mitigate the identified effects to a point where clearly no significant effects on the environment will occur.

### **New Project-Specific Mitigation Measures Identified by the Initial Study/ Mitigated Negative Declaration for Biological Resources:**

**MM IV.1a:** If proposed grading, site preparation, or construction activities are planned to occur during the nesting seasons for local avian species (typically March 1<sup>st</sup> through August 31<sup>st</sup>), the project applicant shall retain a qualified biologist approved by the City of Modesto to conduct a focused survey for active nests of raptors and migratory birds within and in the vicinity of (no less than 100-foot outside project boundaries, where possible) the construction area no more than 72 hours prior to ground disturbance. If an active nest is located during preconstruction surveys, USFWS and/or DFG (as appropriate) shall be notified regarding the status of the nest. Furthermore, construction activities shall be restricted, as necessary, to avoid disturbance of the nest until it is abandoned and the consulting regulatory agency deems disturbance potential to be minimal. Restrictions may include establishment of exclusion zones (no ingress of personnel or equipment at a minimum radius of 100-feet around the nest) or alteration of the construction schedule.

Timing/Implementation: Prior to obtaining a grading permit.

Monitoring: City of Modesto Community and Economic Development

**MM IV.1b:** If construction will occur during the non-breeding season (generally September 1<sup>st</sup> through February 28<sup>th</sup>), a policy of avoidance and passive relocation (allowing an animal to move out of harms way without any purposeful interference by humans) for any wildlife found onsite shall be implemented for the duration of the project. The appropriate regulatory agency (USFWS or DFG) shall be contacted regarding any species of wildlife refusing to passively relocate from the project area.

Timing/Implementation: During all construction activities.

Monitoring: City of Modesto Community and Economic Development

**MM IV.1c:** Avoid all impacts to the MID Lateral No. 6. If spanning this channel cannot be avoided, then coordinate with the MID as soon as possible to determine connectivity of the waterway to surrounding creeks and rivers. If connectivity is established, contact the Army Corps of Engineers and Regional Water Quality Control Board to begin the permit process.

Timing/Implementation: The applicant/developer shall determine connectivity of the waterway to surrounding creeks and rivers prior to obtaining a permit for construction of the proposed bridge crossing at MID Lateral No. 6.

Monitoring: City of Modesto Community and Economic Development Department

**New Project-Specific Mitigation Measures Identified by the Initial Study/ Mitigated Negative Declaration for Traffic and Circulation:**

**MM XV.1:** Concurrent with Phase I, A 250' eastbound right-turn only lane along Bangs Avenue at Prescott Road shall be installed. Should the City be unable to install the right-turn lane, the applicant shall be responsible for installation of the improvement.

Timing/Implementation: The right-turn only lane shall be installed and operational concurrent with Phase I.

Monitoring: Community and Economic Development- Planning Division

**MM XV.2:** Concurrent with Phase II, Bangs Avenue shall be widened to a four-lane major collector from Dale Road to Prescott Road.

Timing/Implementation: Widening shall be implemented and operational concurrent with Phase II.

Monitoring: Community and Economic Development- Planning Division

**MM XV.3:** Concurrent with Phase II, Dale Road shall be widened to include an third northbound through lane on Dale Road from Pelandale Avenue to Bangs Avenue.

Timing/Implementation: Widening shall be implemented and operational concurrent with Phase II.

Monitoring: Community and Economic Development- Planning Division

**MM XV.4:** Concurrent with Phase II, a 2-lane roundabout at Bangs Avenue/American Avenue shall be installed. Alternatively a traffic signal shall be installed.

Timing/Implementation: Either the roundabout or the traffic signal shall be installed and operational current with Phase II.

Monitoring: Community and Economic Development- Planning Division

**MM XV.5:** Concurrent with Phase II, a 2-lane roundabout at Bangs Avenue/Chopra Parkway/Mana Parkway shall be installed. Alternatively a traffic signal shall be installed.

Timing/Implementation: Either the roundabout or the traffic signal shall be installed and operational current with Phase II.

Monitoring: Community and Economic Development- Planning Division

**MM XV.6:** Concurrent with Phase III, Bangs Avenue shall be widened to a four-lane major collector, from American Avenue to Morrow Road.

Timing/Implementation: Widening shall be implemented concurrent with Phase III.

Monitoring: Community and Economic Development- Planning Division

**MM XV.7:** Concurrent with Phase III, a third through lane on the northbound approach at Pelandale Avenue/ Dale Road shall be installed.

Timing/Implementation: The additional lane shall be installed and operational concurrent with Phase II.

Monitoring: Community and Economic Development – Traffic Division

**MM XV.8:** The applicant/developer shall develop a construction management plan for review and approval by the City Traffic Engineer or designee.

Timing/Implementation: Prior to approvals of improvement plans.

Monitoring: Community and Economic Development – Traffic Division

- There is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment (CEQA Section 21064.5(2)).
- Based on the above-referenced Initial Study and feasible mitigation measures incorporated to revise the proposed project in order to avoid the effects or mitigate the effects to the point where clearly no significant effect on the environment will occur, staff finds that a Mitigated Negative Declaration should be adopted pursuant to CEQA Section 21157.5 et seq. for the proposed project.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described above have been added to the project. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I further find that the cumulative impacts of this project are consistent with those set forth in the Master EIR for the Modesto Urban Area General Plan. This project is subject to payment of City Capital Facilities Fees (CFF) to contribute to the construction of identified infrastructure to mitigate impacts identified under the MEIR. The proposed project is consistent with those land uses analyzed in the General Plan Master EIR and set forth in the Modesto Urban Area General Plan. As such, this project would generate no additional cumulative impacts that were not previously addressed in the Master EIR. All appropriate mitigation measures from the Master EIR have been incorporated into the project, as identified in the Mitigation Monitoring and Reporting Program (Appendix B) and no further evaluation of cumulative impacts is required as this project generates no significant cumulative impact.
- As required by CEQA Section 21081.6 et seq., a Mitigation Monitoring and Reporting Program (Appendix B) will be adopted by incorporating the mitigation measures into the project plan (Section 21081.6(b)).

Signature: *H. Brent Sinclair* Date: 6-25-10  
*for* H. Brent Sinclair, AICP  
 Community and Economic Development Department Director  
 City of Modesto

Applicants Concurrence

In accordance with Section 15070(b)(1) of the CEQA Guidelines, we hereby consent to the incorporation of the above Mitigation Measures which are also contained in the Ordinance for adoption of the proposed Development Agreement (DEV-09-001).

Signature: *Hans Wagner* Date: 6-25-10  
 Hans Wagner  
 Applicant

*By* Signature: *Mana Development* Date: 6/25/2010  
 Mana Development  
 Applicant

## Appendix A

## CITY OF MODESTO

### MEMORANDUM

DATE: February 11, 2010

TO: David Wage, Associate Planner

FROM: Jeffrey L. Barnes, Traffic Engineer *JLB*

SUBJECT: Mana/Wagner Traffic Impact Analysis Update

As you requested at recent meetings regarding the subject project, I have reviewed the 2007 Fehr & Peers (F & P) Transportation Impact Analysis report for the Kiernan Business Park South (KBPS) and the 2009 C & ED Mana-Wagoner (KBPS Phase 1, 2, and 3) Traffic Study Report and my comments updating the reports are as follows:

1. The F & P TIA used an ambient annual traffic growth rate of 2 percent per year to account for regional growth. The C & ED TIA used the same 2 % traffic growth rate from 2009 through 2015, but then the growth rate was increased to 5% from 2016 to 2019. Both studies used the 2025 General Plan build out time frame.
2. The current traffic growth rate is less than 1% and is nearly zero. There were only 38 single family residential building permits issued in Modesto in 2009. Currently, more businesses are closing than new businesses are opening. Some new businesses are opening however, thankfully. The C & ED TIA indicated a growth in traffic of 6% by 2012, 15% by 2016, and 22% by 2019. My current projections are 2% by 2012, 7% by 2016, and 9% by 2019 and these are still potentially on the high side.
3. The existing conditions information for the F & P TIA and the C & ED TIA are nearly identical due to the slow economy. The only difference noted was the level of service (LOS) was improved from D to C in the C & E D TIA because roadway improvements had been completed at the Pelandale Avenue and Dale Road intersection.
4. Other changes that have taken place since the F & P TIA was completed include the changed Kaiser Hospital development schedule. The original Kaiser plan included a hospital support wing (building). That project was delayed by Kaiser for many years. As a result the anticipated traffic generation from the Kaiser site has been significantly reduced. It is still anticipated that Kaiser will follow their master plan and the traffic generation will be realized in the distant future by General Plan build out.
5. Table 7 of the C & ED TIA indicates the Mana-Wagner Phase 1 trip generation would be 130 trips in the am peak hour and 138 trips in the pm peak hour. That traffic would have no significant impact when added to the existing traffic today, in 2012 or 2016 or in 2019.
6. Table 7 of the C & ED TIA indicates the second phase of the Mana-Wagner project would add another 128 trips in the am and 136 trips in the pm. Again, because the existing LOS for the nearby roadway segments and intersections are in the range of A, B, and C the traffic impacts for roadway segments would be less than significant.

7. Table 7 of the C & ED TIA indicates the third phase of the Mana-Wagner project would add another 139 trips in the am and 147 trips in the pm. That is a total of 397 trips in the am and 421 trips in the pm. This additional traffic with the existing and the 9% background growth would still see the segment LOS at A with a volume to capacity of 0.58. The level of service drops to B when the volume to capacity goes to 0.60.

The above information supports the delay in mitigation requirements moving the original phase one requirements to phase two. In addition, the original phase two requirements can be delayed to phase three based on the information above.

I have reviewed you 2/9/10 Traffic Improvements list and it appears very appropriate at this time with the current economic conditions.

I hope this information is helpful.

Thank you.

JLB:wd/referals/Mana-Wagner DA Traffic Study Update 2-11-10  
Attachment

cc: Patrick Kelly, Planning Manager  
Steve Mitchell, Principal Planner  
Helen Wang, Transportation Planner