

## SITE DEVELOPMENT PERMIT

<b>FILE NO.</b>	<b>H10-004</b>
<b>LOCATION OF PROPERTY</b>	<b>Northside of East Tasman Drive, 1,400 feet easterly of Zanker Road (3850 Tasman Drive)</b>
<b>ZONING DISTRICT</b>	<b>IP Industrial Park</b>
<b>GENERAL PLAN DESIGNATION</b>	<b>Industrial Park</b>
<b>PROPOSED USE</b>	<b>Site Development Permit to reserve a total of 2.5 million square feet of industrial development capacity over three sites known as Cisco Site 4.</b>
<b>ENVIRONMENTAL STATUS</b>	<b>Addendum to the North San José EIR and Addendum thereto. (Resolution # 72768)</b>
<b>OWNER</b>	<b>Cisco Technology Inc. 170 West Tasman Drive San Jose, CA 95134</b>

### FACTS

The Director of Planning finds that the following are the relevant facts regarding this proposed project:

1. The subject property has a designation of Industrial Park on the adopted San Jose 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located within the North San José Area Development Policy area.
3. The subject property is located in the IP Industrial Park Zoning District.
4. The subject property is located on the northside of East Tasman Drive, 1,400 feet easterly of Zanker Road at 3850 Tasman Drive.
5. The subject property is 48.1 gross acres in size.
6. The subject property is currently developed with approximately 1,141,402 square feet of industrial office/R&D space.
7. This Site Development Permit is to reserve industrial development capacity per the provisions of the *North San José Area Development Policy* to allow entitlement for up to 2.5 million square feet of new/additional industrial development capacity over three permit areas (H10-004, H10-005, and H10-006). No site or architectural approvals are included in this Site Development Permit. Any such approvals require the approval of a Site Permit Amendment/Adjustment at the discretion of the Director of Planning and will be subject to the development standards in effect at the time of approval.
8. Pursuant to Section 15164 of the CEQA Guidelines, the City of San José has prepared an Addendum to an Environmental Impact Report (EIR). The environmental impacts of this project were addressed by a Final EIR and addenda thereto entitled, "North San José Area Development

Policies Update and findings were adopted by City Council Resolution No. 72768 on June, 2005.

9. Future industrial development of the subject site based on this Site Development Permit shall require further environmental review, including a subsequent Initial Study to determine potential effects to the environment, to be conducted as part of subsequent development permit process to be considered at the time of actual development.

## **FINDINGS**

1. The interrelationship between the orientation, location and elevations of the proposed building(s) and structure(s) and other uses on-site are mutually compatible and aesthetically harmonious in that:
  - a. Any future development or intensification of the site is subject to a permit amendment/adjustment at the discretion of the Director of Planning and will be subject to the development standards in effect at the time of approval of any such amendment/adjustment.
2. The orientation, location and elevation of the proposed building(s) and structure(s) and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood in that:
  - a. Any future development or intensification of the site is subject to a permit amendment/adjustment at the discretion of the Director of Planning and will be subject to the development standards in effect at the time of approval of any such amendment/adjustment.
3. The environmental impacts of the project will not have an unacceptable negative effect on adjacent property or properties in that:
  - a. Any future industrial development of the subject site based on this Site Development Permit shall require further environmental review, including a subsequent Initial Study to determine potential effects to the environment, to be conducted as part of further development permits to be reviewed as part of this project once future development is proposed. No actual development proposal has been submitted for review at this time.
4. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior hearing, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood in that:
  - a. Review of all exterior landscaping, building, equipment, and utility treatment features will be reviewed as part of the review of subsequent development permit amendment/adjustments and would be subject to the development standards in effect at the time of approval of any such amendment/adjustment.
5. Traffic access, pedestrian access and parking are adequate in that:
  - a. Sufficient driveway curb cuts and driveways will be provided on site to provide access to the site without interfering with off-site circulation.
  - b. Pedestrian walkways will be provided to all major building entrances. A perimeter sidewalk will be provided.
  - c. The proposed number and size of parking spaces will comply with or exceed the requirements of the Zoning Ordinance.

6. This site has a designation of Industrial Park on the adopted San José 2020 General Plan Land Use/Transportation Diagram and the proposed industrial park uses associated with this application are consistent with this designation.

**APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
  - a. Acceptance of the Permit by the applicant; and
  - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Site Development Permit shall expire ten (10) years from and after the date of issuance hereof by said Director, if within such time period, the construction of buildings has not commenced. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/ Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval, may be imposed by the approval authority.
4. **Conformance with Plans.** Construction and development shall conform to approved plans entitled, "Master Site Development Permit, Campus A: H10-004, 1 of 3" dated March 25, 2010, last revised **September 24, 2009** on file with the Department of Planning, Building and Code Enforcement and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04).
5. **Square-Footage Reservation.** This permit, in conjunction with Site Development Permit H10-005, and H10-006, reserves up to 2.5 million square feet of development capacity over the whole of the site referred to as Cisco Site 4 (APNs: 097-84-001, 002, 003, 004, 005, 006, 015, 016, 017, 018, 019, 020; 097-85-001, 006, 007, 008, 009, 010, 011, 012). Said square footage reserved may be allocated to either new building construction or intensification of use of the existing buildings with the addition of parking.
6. **Subsequent Development Permit(s).** This Site Development Permit is to reserve up to 2.5 million square feet of new additional Industrial Park floor area only, across three sites know as Cisco Site 4. No site or architectural approvals are included in this permit. Any such approvals require the approval of a future Site Development Permit Amendment or Adjustment at the

discretion of the Director of Planning in accordance with all applicable laws.

7. **Previous Site Development Permits.** This Site Development Permit does not supersede, amend, adjust, or modify the exiting Site Development Permit approval, H96-041, for the site.
8. **Environmental Clearance.** Future industrial development of the subject site based on this Site Development Permit shall require further environmental review, including a subsequent Initial Study to determine potential effects to the environment, to be conducted as part of further development permits to be reviewed as part of this project.
9. **Revocation.** This Site Development Permit is subject to revocation for violation of any of its provisions or conditions.
10. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
11. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Site Development Permit incorporated by reference in this Permit in accordance with Section 20.44.200 of the San Jose Municipal Code.
12. **Environmental Mitigations:**
  - 1) **Air Quality**
    - a) Any future development or intensification of the site shall implement measures identified by BAAQMD to reduce long-term contributions to regional and local emissions, which may include, but are not limited to, the following:
      - (i) Providing a satellite telecommute center within or near the development;
      - (ii) Providing secure and conveniently-placed bicycle parking and storage facilities at parks and other facilities;
      - (iii) Using electric lawn and garden equipment for landscaping maintenance;
      - (iv) Constructing transit amenities such as bus turnouts/bus bulbs, benches, and shelters;
      - (v) Providing direct, safe, attractive pedestrian access from project land uses to transit stops and adjacent development; and
      - (vi) Utilizing reflective (or high albedo) and emissive roofs and light-colored construction materials to increase the reflectivity of roads, driveways, and other paved surfaces, and include shade trees near buildings to directly shield them from the sun's rays and reduce local air temperature and cooling energy demand.
    - b) Any future development or intensification on the site shall implement measures identified by BAAQMD to reduce construction-related air quality impacts, including the following:
      - (i) Water all active construction areas at least twice daily and more often during windy periods to prevent visible dust from leaving the site; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives.

- (ii) Water or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind.
- (iii) Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two (2) feet of freeboard.
- (iv) Pave, apply water at least three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- (v) Sweep daily (or more often if necessary) to prevent visible dust from leaving the site (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality.
- (vi) Sweep streets daily, or more often if necessary (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.
- (vii) Hydroseed or apply non-toxic soil stabilizers to inactive construction areas.
- (viii) Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- (ix) Replant vegetation in disturbed areas as quickly as possible.

## 2) **Biology**

- a) Any future development or intensification of the site will be required to implement the following standard measures (measure 1 or 2 listed below and measures 3 and 4), which were identified in the 2005 NSJADP FPEIR, to reduce impacts to nesting raptors:
  - (i) Avoidance. Construction shall be scheduled to avoid the nesting season to the extent feasible. In the South San Francisco Bay area, most raptors breed from January through August. If construction can be scheduled to occur between September and December, the nesting season would be avoided, and no impacts to nesting birds/raptors would be expected.

-OR-

- (ii) Preconstruction/Pre-disturbance Surveys. If it is not feasible to schedule construction between September and December, preconstruction surveys for nesting raptors shall be conducted by a qualified ornithologist to ensure that no active nests will be disturbed or destroyed during project implementation. Preconstruction surveys for nesting birds/raptors shall be conducted no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (January through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, the ornithologist would inspect the ground in open fields, as well as all trees in and immediately adjacent to the impact areas for nesting birds and raptors. If an active nest is found close enough to the construction area to be disturbed by these activities, the ornithologist, in consultation with CDFG, would determine the extent of a construction-free buffer zone (typically 250 feet) to be established around the nest.

-AND-

- (iii) **Inhibit Nesting.** If vegetation is to be removed, and all necessary approvals have been obtained, potential nesting substrate (e.g., bushes, trees, grass, burrows) that will be removed by the construction work shall be removed before the start of the nesting season (January), if feasible, to help preclude nesting. Removal of vegetation shall be completed outside of the nesting season, which extends from January through August.
- (iv) A final report on nesting birds and raptors, including any protection measures, shall be submitted to the Environmental Principal Planner, and be completed to the satisfaction of the Director of PBCE prior to start of future project grading.
- b) As identified in the 2005 NSJADP FPEIR, any future development or intensification of the site will require replacement of trees removed from the site. Implementation of the following mitigation measures at the time of future development or intensification of the site will reduce impacts to trees to a less than significant level:

All trees that are to be removed shall be replaced at the following minimum ratios:

Diameter of Tree to Be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
18 inches or greater	5:1	4:1	3:1	24-inch box
12-18 inches	3:1	2:1	none	24-inch box
Less than 12 inches	1:1	1:1	none	15-gallon container
x:x = tree replacement to tree loss ratio <b>Note:</b> Trees greater than 18" diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.				

In the event that the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the City's Director of Planning at the Site Development Permit stage:

- (i) The size of a 15-gallon replacement tree can be increased to 24-inch box and count as two replacement trees.
- (ii) An alternative site(s), will be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of the Department of Planning, Building, and Code Enforcement.

- (iii) A donation of \$300 per mitigation tree to *Our City Forest* or *San José Beautiful* for in-lieu off-site tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site planting will be provided to the Planning Project Manager prior to issuance of a development permit.

### 3) **Cultural**

- a) Prior to project design-level approval, the preparation of a Historic Properties Treatment Plan (HPTP) by a professional archaeologist will be required for any development project on a property that has: 1) a recorded archaeological site present that has been determined eligible for or is listed on one of the registers and/or is adjacent to a parcel with a recorded site that has been determined eligible for or is listed on one of the registers; or 2) a potential for significant subsurface cultural resources identified through either archival research and/or testing. The Urban Industrial Core Area is extremely sensitive for both recorded and unknown prehistoric resources which are likely to yield Native American burials. Residential areas adjacent to the Urban Industrial Core also appear to have some sensitivity. The HPTP should provide a background context for the parcel/resources and appropriate guidelines for considering and protecting cultural resources during any future development or modification of the site(s). The Plan should include resource protection and monitoring plans for both prehistoric and historic archaeological resources as well as methods and procedures to deal with inadvertent cultural discoveries that may be exposed during subsurface construction. In the case of parcels that have only been partially inventoried but have either known sites or potential cultural resource properties present and/or adjacent, the HPTP should include a records review and field inventory. Any new findings should be incorporated into the HPTP guidelines.
- b) Should evidence of prehistoric or historic era cultural resources be discovered during future construction work, work within 20 feet of the find shall be stopped to allow adequate time for evaluation and mitigation by a qualified professional archaeologist. The material shall be evaluated and if significant, a mitigation program including collection and analysis of the materials at a recognized storage facility shall be developed and implemented under the direction of the City's Environmental Principal Planner.

Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and should make a determination as to whether the remains are Native American.

If the Coroner determines that the remains are not subject to his/her authority, the Native American Heritage Commission shall be notified to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as

to the disposition of the remains pursuant to this state law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

3) **Hazardous Materials**

- a) At the time further Site Development Permits are required for specific development projects on the site, the project proponent(s) shall have a qualified professional (e.g., a California-registered environmental assessor) complete an updated Phase I environmental site assessment of the site area. The study shall identify current and historical land uses or conditions that may have resulted in a release of hazardous materials into the environment, or impact the proposed development. The assessment shall be performed in conformance with the standards adopted by the American Society for Testing Materials (ASTM) for Phase I site assessments. The Phase I site assessment shall identify any limitations to development due to the presence of hazardous materials in the vicinity, and present recommendations for further investigation, if necessary.
- b) If the Phase I site assessment for either site indicates that a release of hazardous materials could have affected the site, the City may require that additional soil and/or groundwater investigation be conducted by a qualified environmental professional to assess the presence and extent of contamination at the site. Soil and groundwater investigations shall conform to state and local guidelines and regulations.
- c) If results of the subsurface investigation(s) indicate the presence of hazardous materials, site remediation may be required by the applicable state or local regulatory agencies. Depending on the nature of contamination, remediation may consist of soils removal, groundwater extraction/treatment, or modification to site planning and building design to minimize risk of exposure. Specific remedies would depend on the extent and magnitude of contamination and the requirements of the regulatory agencies.
- d) If contamination is identified, the City shall require that construction only occur in accordance with a site-specific health and safety plan prepared by a certified industrial hygienist. The plan shall include provisions for monitoring exposure to construction workers and delineate procedures to be undertaken in the event that contamination is identified above action levels and identify emergency procedures and responsible personnel. Construction workers at contaminated sites would need to receive hazardous materials training in accordance with federal and state regulations.
- e) The site operator shall be required to comply with federal, state, and local requirements for managing hazardous materials. Depending on the type and quantity of hazardous materials, these requirements could include the preparation of, implementation of, and training in the plans, programs, and permits such as the California Accidental Release Prevention (CalARP), City of San José Toxic Gas Ordinance, California Fire Code, and BAAQMD Air Toxics program.

#### 4) **Hydrology**

- a) Prior to construction of future development or intensification of the site, the City shall require the applicant to submit a Storm Water Pollution Prevention Plan (SWPPP) and a Notice of Intent (NOI) to the State of California Water Resource Quality Control Board to control the discharge of storm water pollutants including sediments associated with construction activities. Along with these documents, the applicant may also be required to prepare an Erosion Control Plan. The Erosion Control Plan may include Best Management Practices (BMPs) as specified in the California Storm Water Best Management Practice Handbook (such as silt fences/straw wattles around the perimeter of the site, regular street cleaning, and inlet protection) for reducing impacts on the City's storm drainage system from construction activities. The SWPPP shall include control measures during the construction period for:
  - Soil stabilization practices,
  - Sediment control practices,
  - Sediment tracking control practices,
  - Wind erosion control practices, and
  - Non-storm water management and waste management and disposal control practices.
- b) Prior to issuance of a grading permit, the applicant for future development on the site shall be required to submit copies of the NOI and Erosion Control Plan (if required) to the City Project Engineer, Department of Public Works. The applicant shall also be required to maintain a copy of the most current SWPPP on-site and provide a copy to any City representative or inspector on demand.
- c) Each phase of future development or intensification on the site shall comply with the City of San José Grading Ordinance, including erosion- and dust-control during site preparation, and with the City of San José Zoning Ordinance requirement for keeping adjacent streets free of dirt and mud during construction.
- d) Any future development or intensification of the site shall comply with the NPDES permit issued to the City of San José and other co-permittees of the SCVURPPP, and with the provisions of the City's Post-Construction Urban Runoff Management Policy, which require the inclusion in the site design of pollutant source control and stormwater treatment control measures to the maximum extent practicable. At the Site Development Permit stage, the applicant shall submit plans for BMPs and numerically sized TCMs including or such as, but not limited to the following:
  - Vegetated swales and flow-through areas;
  - Bioretention areas or basins;
  - Disconnected downspouts that are directed into landscape areas;
  - Minimization of impervious surfaces and increased use of permeable pavement;
  - Location of all storm drain inlets to be stenciled with, "No Dumping! Flows to Bay;" and

- Location and design of trash enclosures (all shall be covered) and materials handling areas.
- e) Any future development or intensification of the site shall comply with Provision C.3 of NPDES permit Number CAS0299718, which provides enhanced performance standards for the management of stormwater for new development.
- f) Any future development or intensification of the site shall comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29), which establishes general guidelines and minimum BMPs for specific land uses and numerically sized (or hydraulically sized) TCMs.

5) **Noise**

- a) Future noise-generating construction activities should be limited to the hours between 7:00 AM and 7:00 PM Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific construction noise mitigation plan and a finding by the Director of Planning, Building, and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
- b) Equip all internal combustion engine driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- c) Utilize "quiet" air compressors and other stationery noise sources where technology exists.
- d) Stage construction equipment a minimum of 200 feet from noise sensitive receptors, such as the residential uses across Tasman Drive.
- e) Avoid unnecessary idling of equipment within 200 feet of noise sensitive receptors, such as the residential uses across Tasman Drive.
- f) Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem.

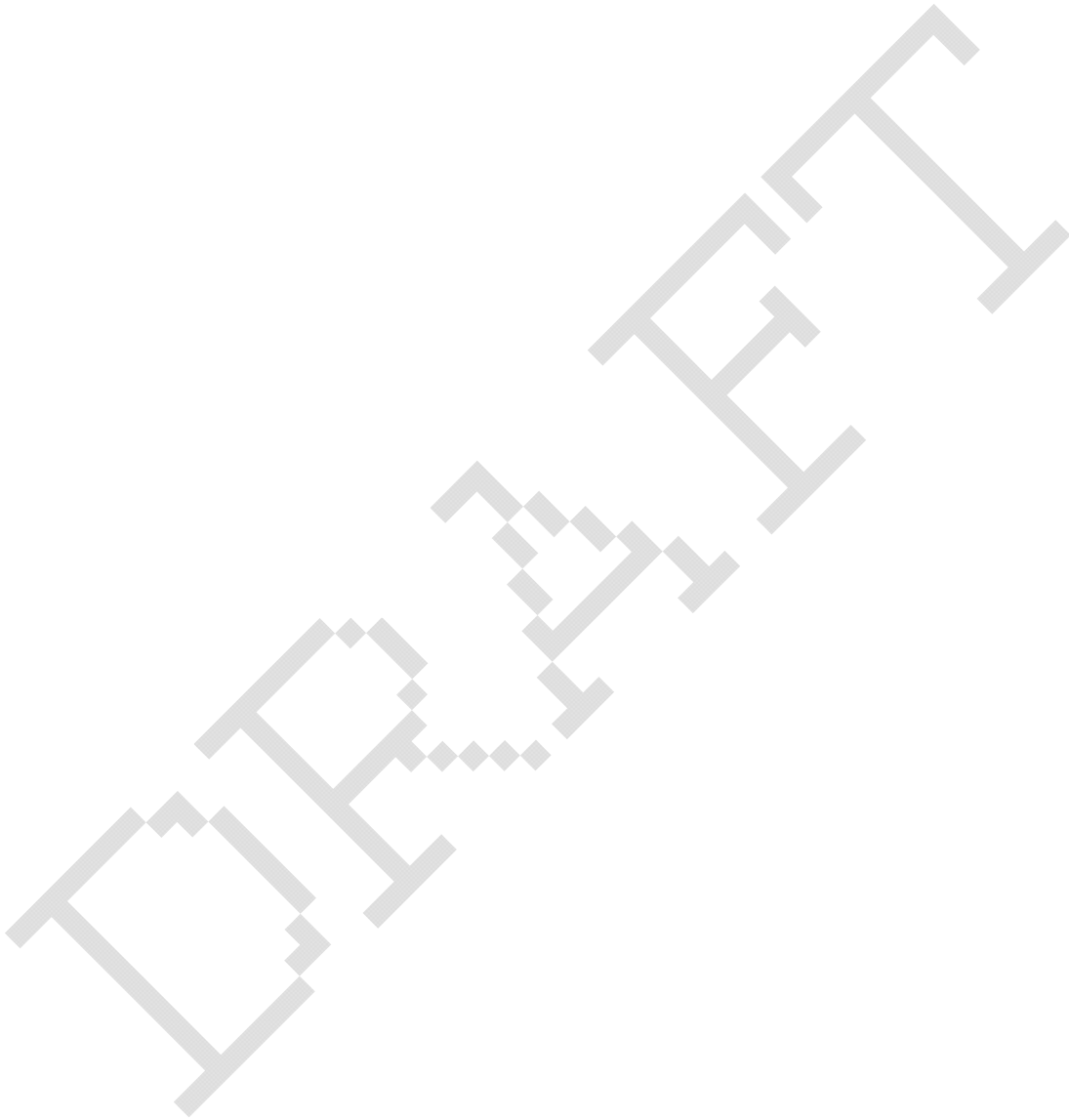
6) **Transportation**

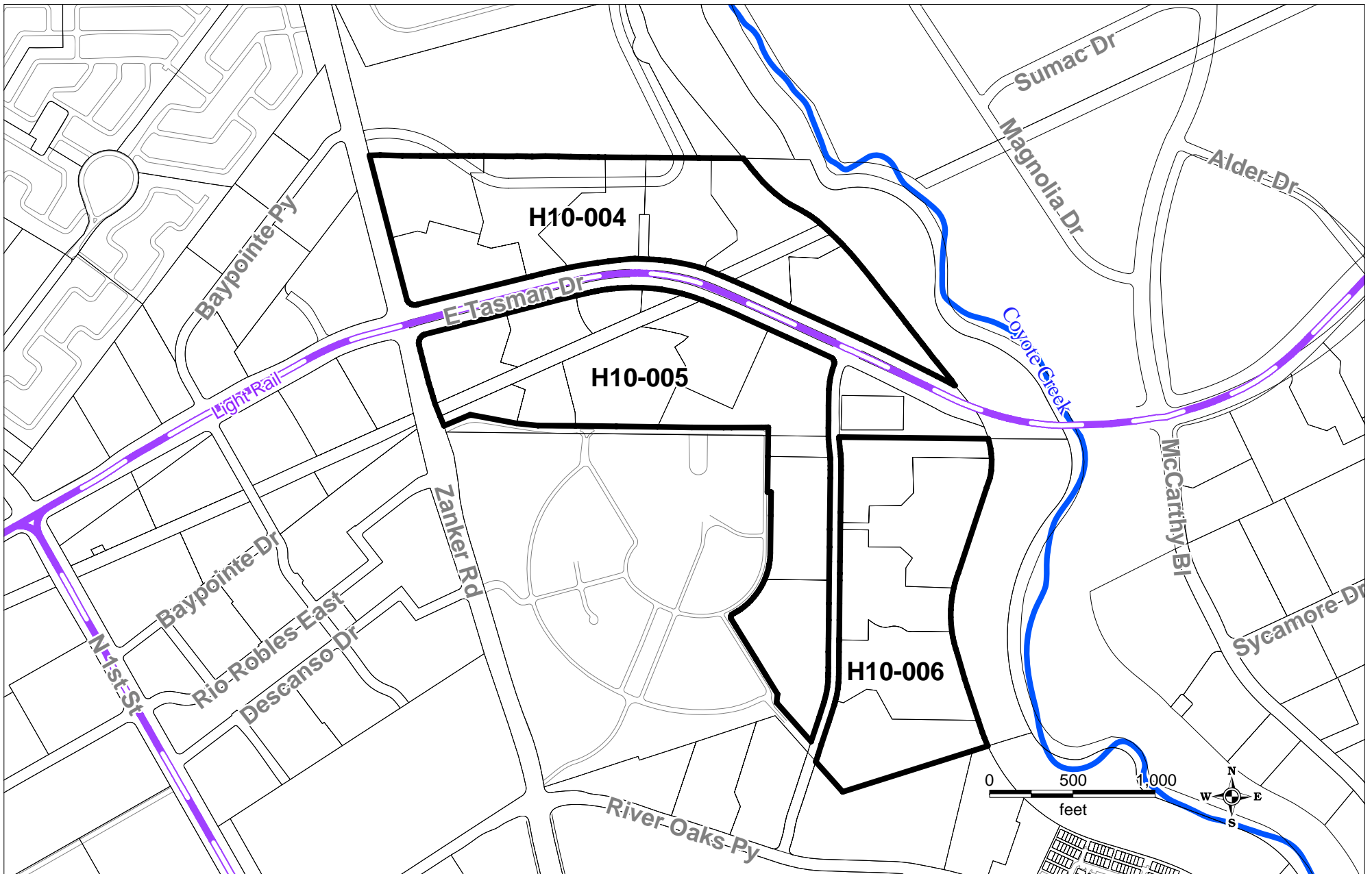
- a) Each specific development or intensification project on the site will be required to conform to the City's North San José Area Development Policy Traffic Impact Fee Ordinance and applicable General Plan policies to reduce transportation impacts.

Joseph Horwedel, Director  
Planning, Building and Code Enforcement

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Deputy





File No: H10-004, H10-005, H10-006  
District: 4

Location



Prepared by the Department of Planning,  
Building, and Code Enforcement  
4/29/2010

## SITE DEVELOPMENT PERMIT

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3. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval, may be imposed by the approval authority.
4. **Conformance with Plans.** Construction and development shall conform to approved plans entitled, "Master Site Development Permit, Campus B: H10-005, 2 of 3" dated March 25, 2010, last revised **September 24, 2009** on file with the Department of Planning, Building and Code Enforcement and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04).
5. **Square-Footage Reservation.** This permit, in conjunction with Site Development Permit H10-004, and H10-006, reserves up to 2.5 million square feet of development capacity over the whole of the site referred to as Cisco Site 4 (APNs: 097-84-001, 002, 003, 004, 005, 006, 015, 016, 017, 018, 019, 020; 097-85-001, 006, 007, 008, 009, 010, 011, 012). Said square footage reserved may be allocated to either new building construction or intensification of use of the existing buildings with the addition of parking.
6. **Subsequent Development Permit(s).** This Site Development Permit is to reserve up to 2.5 million square feet of new additional Industrial Park floor area only, across three sites know as Cisco Site 4. No site or architectural approvals are included in this permit. Any such approvals require the approval of a future Site Development Permit Amendment or Adjustment at the

discretion of the Director of Planning in accordance with all applicable laws.

7. **Previous Site Development Permits.** This Site Development Permit does not supersede, amend, adjust, or modify the exiting Site Development Permit approval, H96-041, for the site.
8. **Environmental Clearance.** Future industrial development of the subject site based on this Site Development Permit shall require further environmental review, including a subsequent Initial Study to determine potential effects to the environment, to be conducted as part of further development permits to be reviewed as part of this project.
9. **Revocation.** This Site Development Permit is subject to revocation for violation of any of its provisions or conditions.
10. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
11. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Site Development Permit incorporated by reference in this Permit in accordance with Section 20.44.200 of the San Jose Municipal Code.
12. **Environmental Mitigations:**
  - 1) **Air Quality**
    - a) Any future development or intensification of the site shall implement measures identified by BAAQMD to reduce long-term contributions to regional and local emissions, which may include, but are not limited to, the following:
      - (i) Providing a satellite telecommute center within or near the development;
      - (ii) Providing secure and conveniently-placed bicycle parking and storage facilities at parks and other facilities;
      - (iii) Using electric lawn and garden equipment for landscaping maintenance;
      - (iv) Constructing transit amenities such as bus turnouts/bus bulbs, benches, and shelters;
      - (v) Providing direct, safe, attractive pedestrian access from project land uses to transit stops and adjacent development; and
      - (vi) Utilizing reflective (or high albedo) and emissive roofs and light-colored construction materials to increase the reflectivity of roads, driveways, and other paved surfaces, and include shade trees near buildings to directly shield them from the sun's rays and reduce local air temperature and cooling energy demand.
    - b) Any future development or intensification on the site shall implement measures identified by BAAQMD to reduce construction-related air quality impacts, including the following:
      - (i) Water all active construction areas at least twice daily and more often during windy periods to prevent visible dust from leaving the site; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives.

- (ii) Water or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind.
- (iii) Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two (2) feet of freeboard.
- (iv) Pave, apply water at least three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- (v) Sweep daily (or more often if necessary) to prevent visible dust from leaving the site (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality.
- (vi) Sweep streets daily, or more often if necessary (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.
- (vii) Hydroseed or apply non-toxic soil stabilizers to inactive construction areas.
- (viii) Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- (ix) Replant vegetation in disturbed areas as quickly as possible.

## 2) **Biology**

- a) Any future development or intensification of the site will be required to implement the following standard measures (measure 1 or 2 listed below and measures 3 and 4), which were identified in the 2005 NSJADP FPEIR, to reduce impacts to nesting raptors:
  - (i) Avoidance. Construction shall be scheduled to avoid the nesting season to the extent feasible. In the South San Francisco Bay area, most raptors breed from January through August. If construction can be scheduled to occur between September and December, the nesting season would be avoided, and no impacts to nesting birds/raptors would be expected.

-OR-

- (ii) Preconstruction/Pre-disturbance Surveys. If it is not feasible to schedule construction between September and December, preconstruction surveys for nesting raptors shall be conducted by a qualified ornithologist to ensure that no active nests will be disturbed or destroyed during project implementation. Preconstruction surveys for nesting birds/raptors shall be conducted no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (January through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, the ornithologist would inspect the ground in open fields, as well as all trees in and immediately adjacent to the impact areas for nesting birds and raptors. If an active nest is found close enough to the construction area to be disturbed by these activities, the ornithologist, in consultation with CDFG, would determine the extent of a construction-free buffer zone (typically 250 feet) to be established around the nest.

-AND-

(iii) **Inhibit Nesting.** If vegetation is to be removed, and all necessary approvals have been obtained, potential nesting substrate (e.g., bushes, trees, grass, burrows) that will be removed by the construction work shall be removed before the start of the nesting season (January), if feasible, to help preclude nesting. Removal of vegetation shall be completed outside of the nesting season, which extends from January through August.

(iv) A final report on nesting birds and raptors, including any protection measures, shall be submitted to the Environmental Principal Planner, and be completed to the satisfaction of the Director of PBCE prior to start of future project grading.

b) As identified in the 2005 NSJADP FPEIR, any future development or intensification of the site will require replacement of trees removed from the site. Implementation of the following mitigation measures at the time of future development or intensification of the site will reduce impacts to trees to a less than significant level:

All trees that are to be removed shall be replaced at the following minimum ratios:

Diameter of Tree to Be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
18 inches or greater	5:1	4:1	3:1	24-inch box
12-18 inches	3:1	2:1	none	24-inch box
Less than 12 inches	1:1	1:1	none	15-gallon container
x:x = tree replacement to tree loss ratio <b>Note:</b> Trees greater than 18" diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.				

In the event that the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the City's Director of Planning at the Site Development Permit stage:

- (i) The size of a 15-gallon replacement tree can be increased to 24-inch box and count as two replacement trees.
- (ii) An alternative site(s), will be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of the Department of Planning, Building, and Code Enforcement.

- (iii) A donation of \$300 per mitigation tree to *Our City Forest* or *San José Beautiful* for in-lieu off-site tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site planting will be provided to the Planning Project Manager prior to issuance of a development permit.

### 3) **Cultural**

- a) Prior to project design-level approval, the preparation of a Historic Properties Treatment Plan (HPTP) by a professional archaeologist will be required for any development project on a property that has: 1) a recorded archaeological site present that has been determined eligible for or is listed on one of the registers and/or is adjacent to a parcel with a recorded site that has been determined eligible for or is listed on one of the registers; or 2) a potential for significant subsurface cultural resources identified through either archival research and/or testing. The Urban Industrial Core Area is extremely sensitive for both recorded and unknown prehistoric resources which are likely to yield Native American burials. Residential areas adjacent to the Urban Industrial Core also appear to have some sensitivity. The HPTP should provide a background context for the parcel/resources and appropriate guidelines for considering and protecting cultural resources during any future development or modification of the site(s). The Plan should include resource protection and monitoring plans for both prehistoric and historic archaeological resources as well as methods and procedures to deal with inadvertent cultural discoveries that may be exposed during subsurface construction. In the case of parcels that have only been partially inventoried but have either known sites or potential cultural resource properties present and/or adjacent, the HPTP should include a records review and field inventory. Any new findings should be incorporated into the HPTP guidelines.
- b) Should evidence of prehistoric or historic era cultural resources be discovered during future construction work, work within 20 feet of the find shall be stopped to allow adequate time for evaluation and mitigation by a qualified professional archaeologist. The material shall be evaluated and if significant, a mitigation program including collection and analysis of the materials at a recognized storage facility shall be developed and implemented under the direction of the City's Environmental Principal Planner.

Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and should make a determination as to whether the remains are Native American.

If the Coroner determines that the remains are not subject to his/her authority, the Native American Heritage Commission shall be notified to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as

to the disposition of the remains pursuant to this state law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

3) **Hazardous Materials**

- a) At the time further Site Development Permits are required for specific development projects on the site, the project proponent(s) shall have a qualified professional (e.g., a California-registered environmental assessor) complete an updated Phase I environmental site assessment of the site area. The study shall identify current and historical land uses or conditions that may have resulted in a release of hazardous materials into the environment, or impact the proposed development. The assessment shall be performed in conformance with the standards adopted by the American Society for Testing Materials (ASTM) for Phase I site assessments. The Phase I site assessment shall identify any limitations to development due to the presence of hazardous materials in the vicinity, and present recommendations for further investigation, if necessary.
- b) If the Phase I site assessment for either site indicates that a release of hazardous materials could have affected the site, the City may require that additional soil and/or groundwater investigation be conducted by a qualified environmental professional to assess the presence and extent of contamination at the site. Soil and groundwater investigations shall conform to state and local guidelines and regulations.
- c) If results of the subsurface investigation(s) indicate the presence of hazardous materials, site remediation may be required by the applicable state or local regulatory agencies. Depending on the nature of contamination, remediation may consist of soils removal, groundwater extraction/treatment, or modification to site planning and building design to minimize risk of exposure. Specific remedies would depend on the extent and magnitude of contamination and the requirements of the regulatory agencies.
- d) If contamination is identified, the City shall require that construction only occur in accordance with a site-specific health and safety plan prepared by a certified industrial hygienist. The plan shall include provisions for monitoring exposure to construction workers and delineate procedures to be undertaken in the event that contamination is identified above action levels and identify emergency procedures and responsible personnel. Construction workers at contaminated sites would need to receive hazardous materials training in accordance with federal and state regulations.
- e) The site operator shall be required to comply with federal, state, and local requirements for managing hazardous materials. Depending on the type and quantity of hazardous materials, these requirements could include the preparation of, implementation of, and training in the plans, programs, and permits such as the California Accidental Release Prevention (CalARP), City of San José Toxic Gas Ordinance, California Fire Code, and BAAQMD Air Toxics program.

#### 4) **Hydrology**

- a) Prior to construction of future development or intensification of the site, the City shall require the applicant to submit a Storm Water Pollution Prevention Plan (SWPPP) and a Notice of Intent (NOI) to the State of California Water Resource Quality Control Board to control the discharge of storm water pollutants including sediments associated with construction activities. Along with these documents, the applicant may also be required to prepare an Erosion Control Plan. The Erosion Control Plan may include Best Management Practices (BMPs) as specified in the California Storm Water Best Management Practice Handbook (such as silt fences/straw wattles around the perimeter of the site, regular street cleaning, and inlet protection) for reducing impacts on the City's storm drainage system from construction activities. The SWPPP shall include control measures during the construction period for:
  - Soil stabilization practices,
  - Sediment control practices,
  - Sediment tracking control practices,
  - Wind erosion control practices, and
  - Non-storm water management and waste management and disposal control practices.
- b) Prior to issuance of a grading permit, the applicant for future development on the site shall be required to submit copies of the NOI and Erosion Control Plan (if required) to the City Project Engineer, Department of Public Works. The applicant shall also be required to maintain a copy of the most current SWPPP on-site and provide a copy to any City representative or inspector on demand.
- c) Each phase of future development or intensification on the site shall comply with the City of San José Grading Ordinance, including erosion- and dust-control during site preparation, and with the City of San José Zoning Ordinance requirement for keeping adjacent streets free of dirt and mud during construction.
- d) Any future development or intensification of the site shall comply with the NPDES permit issued to the City of San José and other co-permittees of the SCVURPPP, and with the provisions of the City's Post-Construction Urban Runoff Management Policy, which require the inclusion in the site design of pollutant source control and stormwater treatment control measures to the maximum extent practicable. At the Site Development Permit stage, the applicant shall submit plans for BMPs and numerically sized TCMs including or such as, but not limited to the following:
  - Vegetated swales and flow-through areas;
  - Bioretention areas or basins;
  - Disconnected downspouts that are directed into landscape areas;
  - Minimization of impervious surfaces and increased use of permeable pavement;
  - Location of all storm drain inlets to be stenciled with, "No Dumping! Flows to Bay;" and

- Location and design of trash enclosures (all shall be covered) and materials handling areas.

- e) Any future development or intensification of the site shall comply with Provision C.3 of NPDES permit Number CAS0299718, which provides enhanced performance standards for the management of stormwater for new development.
- f) Any future development or intensification of the site shall comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29), which establishes general guidelines and minimum BMPs for specific land uses and numerically sized (or hydraulically sized) TCMs.

5) **Noise**

- a) Future noise-generating construction activities should be limited to the hours between 7:00 AM and 7:00 PM Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific construction noise mitigation plan and a finding by the Director of Planning, Building, and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
- b) Equip all internal combustion engine driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- c) Utilize "quiet" air compressors and other stationery noise sources where technology exists.
- d) Stage construction equipment a minimum of 200 feet from noise sensitive receptors, such as the residential uses across Tasman Drive.
- e) Avoid unnecessary idling of equipment within 200 feet of noise sensitive receptors, such as the residential uses across Tasman Drive.
- f) Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem.

6) **Transportation**

- a) Each specific development or intensification project on the site will be required to conform to the City's North San José Area Development Policy Traffic Impact Fee Ordinance and applicable General Plan policies to reduce transportation impacts.

Joseph Horwedel, Director  
Planning, Building and Code Enforcement

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Deputy

