

## Draft SITE DEVELOPMENT PERMIT

<b>FILE NO.</b>	<b>H12-021</b>
<b>LOCATION OF PROPERTY</b>	<b>Northwest corner of Trimble Road and Orchard Parkway (375, 397, 399 Trimble Road)</b>
<b>ZONING DISTRICT</b>	<b>IP Industrial Park</b>
<b>GENERAL PLAN DESIGNATION</b>	<b>Industrial Park</b>
<b>PROPOSED USE</b>	<b>Approximately 16,400 square foot addition, exterior alterations, landscape modifications and the removal of approximately 50 ordinance size trees at an existing office/R&amp;D campus on a 14.95 Acre Site.</b>
<b>ENVIRONMENTAL STATUS</b>	<b>Use of a Final EIR for the North San Jose Area Development Policy</b>
<b>OWNER/ADDRESS</b>	<b>Trimble Technology Park, LLC 2211 Michelson Dr., Suite 500 Irvine, CA 92612</b>

### FACTS

The Director of Planning, Building, and Code Enforcement finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Industrial Park on the adopted Envision San José 2040 General Plan Land Use/Transportation Diagram.
2. The site is located in the IP Industrial Park Zoning District.
3. The site is currently developed with a three industrial buildings totaling approximately 213,000 square feet.
4. The project proposes the removal of 50 ordinance size trees.
5. The project proposes the addition of approximately 16, 400 square feet of additional building square footage to the existing site for a total of approximately 229,360 square feet and associated site improvements, including landscaping and site circulation.
6. The subject site is 14.95 gross acres in size.
7. Sufficient on-site vehicular circulation exists on the site to meet the requirements set forth in the San Jose Municipal Code.
8. Pursuant to Section 15164 of the CEQA Guidelines, the City of San José has prepared an Environmental Impact Report (EIR). The environmental impacts of this project were addressed by a Final EIR and addenda thereto entitled, "North San Jose Area Development Policies Update Final EIR" and findings were adopted by City Council Resolution No. 72768 on June 21, 2005.

## FINDINGS

The Director of Planning, Building, and Code Enforcement concludes and finds, based on the analysis of the above facts, that:

1. The interrelationship between the orientation, location and elevations of the proposed building and site alterations are mutually compatible and aesthetically harmonious in that:
  - a. Sufficient open space separates all structure(s) and uses.
  - b. Parking spaces are conveniently located in relation to the uses they support.
2. The orientation, location and elevations of the proposed alterations to building(s), 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. The proposed second story addition and other building alterations are consistent with the architectural treatment of the existing buildings on the site.
  - b. Trees to be planted as mitigation measure for removing trees will be of a size and species that will be appropriate for the design, character and use of the buildings approved on this site.
3. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.
  - a. The environmental impacts of this project were addressed by a Final EIR entitled, "North San José Area Development Policies Update and findings were adopted by City Council Resolution No. 72768 on June 21, 2005. The City of San José may take action on the proposed project as being within the scope of the North San José Area Development Policies Update Final EIR adequately addresses the environmental effects of the proposed project, and project would not result in significant environmental effects that are not already identified in the Final EIR. The project will not have a significant adverse effect on the environment.
4. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain the appearance of the neighborhood in that:
  - a. The existing and proposed landscaping sufficiently screens the parking lot area.
5. Traffic access, pedestrian access and parking are adequate in that:
  - a. Sufficient maneuvering room will be provided on-site to allow smooth circulation and minimize interference with other uses.
  - b. There are sufficient walkways proposed around the perimeter of the building.
6. This Site Development Permit, as issued, is either consistent with the General Plan or counterbalancing considerations justify the inconsistency in that:
  - a. The project furthers the goals and objectives of the North San José Area Development Policy.

- b. The proposed development is consistent with the General Plan in that the proposed development will facilitate industrial uses consistent with the Industrial Park designation.
7. The amendment does not negate any findings required by Section 20.100.630.
8. After investigation and hearing held pursuant to Chapter 13.32 of the San José Municipal Code, the Director of City Planning finds that:
  - a. The location of the trees proposed for removal with respect to the proposed improvements unreasonably restricts the economic development of the parcel in question.

Based upon the above-stated findings and subject to the conditions set forth below, the Director of Planning approves, pursuant to Section 20.80.440(B) and Chapter 20.100 of the San José Municipal Code, the subject Site Development Permit.

**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 automatically twenty-four (24) months from and after the date of issuance hereof by said Director, if within such 24-month period, the proposed construction of building has not commenced, pursuant to and in accordance with the provisions of this Site Development Permit. 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 to extend the validity of this Permit in accordance with Title 20 of the San José Municipal Code.
3. **Reservation of North San Jose Industrial Development Capacity.** Pursuant to the terms and requirements of the North San Jose Area Development Policy, this Site Development Permit reserves industrial development capacity for up to **twenty-four (24) months** from the date that this Permit is approved by the Director of Planning, or Planning Commission on appeal in the maximum amount of 16,400 square feet
4. **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.

5. **Conformance to Plans.** Development of the site shall conform to approved Site Development plans entitled “Market Ready for Bixby Land Company,” dated November 21, 2012 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), with the exception of any subsequently approved changes.
6. **Revocation.** This Site Development Permit is subject to revocation for violation of any of its provisions or conditions.
7. **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.
8. **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 Planned Development Permit incorporated by reference in this Permit in accordance with Chapter 20.100 of the San José Municipal Code.
9. **Tree Removal and Replacement.** This Permit includes the removal of 50 ordinance-sized trees and 7 non-ordinance sized trees. Within 90 days of removal of the trees, the applicant shall replace each tree with a minimum of seventy-four (74) 24-inch box trees and a donation of \$300 per tree removed beyond the first seventy-four (74) trees to the “Our City Forest” non-profit organization, (408) 998-7337 or [www.ourcityforest.org](http://www.ourcityforest.org). The applicant shall provide appropriate evidence such as, but not limited to, photographs and/or receipts to the Planning Project Manager, to verify compliance with the mitigation requirements. Such evidence should be labeled H12-021 and sent to the Planning Project Manager, within 30 days of the replacement of each subject tree. A donation receipt to “Our City Forest” for offsite tree planting shall be provided to the Planning Project Manager prior to removal of the subject tree. Modifications to the number of trees to be planted on-site shall be subject to a Permit Adjustment.
10. **Permit Posting.** Prior to commencement of and during removal of any ordinance-size tree pursuant to this Permit, the applicant shall post on the site, or cause to be posted, a copy of this validated Permit in conformance with the following:
  - a. The copy of the permit shall be a minimum size of 8.5 by 11.0 inches; shall be posted at each public street frontage within 2 feet of the public sidewalk or right-of-way; and shall be posted in such a manner that the permit is readable from the public sidewalk or right-of-way; or
  - b. If the site does not have a public street frontage, a copy of the permit shall be posted at a location where the permit is readable from a common access driveway or roadway.
11. **Presentation of Permit.** During removal of any ordinance-size tree pursuant to this permit, the applicant shall maintain the validated permit on the site and present it immediately upon request by the Director of Planning, Building and Code Enforcement, Police Officers or their designee.
12. **Building Permit.** Procurement of a Building Permit from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the “Building Code” shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal

Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.

13. **Construction Impact Mitigation Measures.** The applicant is responsible for notifying all contractors of the conditions of this permit and that they shall perform construction activities in compliance with these conditions, or be subject to enforcement action.
- a. *Compliance.* The applicant shall ensure that the following construction impact mitigation measures are fully complied with throughout the duration of all construction activities associated with this project and related off-site construction work. Failure to comply with these conditions by the applicant, their contractors or subcontractors shall be cause for shutdown of the project site until compliance with the following conditions can be ensured by the City. These construction impact mitigation measures shall be included in all contract documents for the project to ensure full disclosure to contractors and subcontractors.
  - b. *Construction Hours.* Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Interior construction that is not audible at the adjacent property lines is permitted on Saturday and Sunday between 9:00 am and 6:00 pm.
  - c. *Enforcement.* The Director of Planning, Building and Code Enforcement may order an immediate halt to construction activities on the project site any time that the Director determines that the project is not in substantial conformance with the requirements of this Permit. Within seven days of ordering such a halt to construction, the Director of Planning, Building and Code Enforcement shall issue a Notice of Noncompliance in conformance with Section 20.100.320 of Title 20 of the San José Municipal Code indicating the specific area(s) of noncompliance and providing notice that the Director may issue an Order to Show Cause why the development permit shall not be revoked, suspended, or modified if the noncompliance is not corrected.
  - d. *Dust Control.* On-site areas visible to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash at least once a week. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site.

14. **Cultural Resources**

- a. *Archaeological Resources*
  - i. In the event any significant cultural materials are encountered, all construction within a radius of 50 feet of the find would be halted, the Director of Planning, Building, and Code Enforcement would be notified, and a professional archaeologist will examine the find and make appropriate recommendations regarding the significance of the find and the appropriate mitigation. Recommendations could include collection, recordation, and analysis of any significant cultural materials. (Significant cultural materials include but are not limited to: aboriginal human remains; chipped stone; ground stone; shell and bone artifacts; concentrations of fire-cracked rock; ash and charcoal; shell; bone; and historic features such as privies or building foundations.)

- ii. If human remains are discovered, the Santa Clara County Coroner will be notified. The Coroner would determine whether or not the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he would notify the Native American Heritage Commission, would attempt to identify “most likely” descendants of the deceased.
- iii. If the Director of Planning, Building, and Code Enforcement finds that the archaeological find is not a significant resource, work would resume only after the submittal of a preliminary archaeological report and after provisions for reburial and ongoing monitoring are accepted.
- iv. A final report would be prepared when a find is determined to be a significant archaeological site, and/or when Native American remains are found on the site. The final report would include background information on the completed work, a description and list of identified resources, the disposition and curation of these resources, any testing, other recovered information, and conclusions.

**15. Public Works Department Clearance.** Prior to the issuance of Building permits, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.

- a. **Minor Improvement Permit:** The public improvements conditioned as part of this permit may require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.
- b. **Transportation:**
  - i. An area wide traffic impact analysis was prepared as part of the North San Jose Area Development Policy, adopted June 2005. Traffic impacts were identified and resulted in an area wide traffic impact fees. This project is covered under the North San Jose EIR.
  - ii. Consistent with North San Jose EIR, this project is required to pay a traffic impact fee. The 2011 fee is \$13,533 per PM Peak Hour Trip. This fee must be paid prior to issuance of Public Works Clearance. Credits for existing structures on site will be applied to the traffic impact fee consistent with the policy and will be prorated with each building permit issued. Based on the plan, the calculated fee is \$207,867.
- c. **Grading/Geology:**
  - i. A grading permit may be required prior to the issuance of a Public Works Clearance.
  - ii. If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
  - iii. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication

- 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.
- d. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
  - e. **Street Improvements:**
    - i. Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
    - ii. Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontage.
    - iii. Install handicap ramp at the corner of Orchard Parkway and Trimble Road.
    - iv. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
  - f. **Electrical:** Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
16. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit/Demolition Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
- a. *Construction Plans.* This permit file number, H12-021, shall be printed on all plans submitted to the Building Division.
  - b. *Street Number Visibility.* Street numbers of the buildings shall be easily visible at all times, day and night.
  - c. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
17. **Green Building.** The project shall comply with the provisions of Ordinance No. 28622 in the San Jose Municipal Code or subsequent ordinance for private-sector green building that is in effect at the time that a building permit application is submitted to the Department of Planning, Building and Code Enforcement Building Division. A completed Green Point Rated or LEED checklist is required with application for Building Permit.
18. **Fire Clearance for Issuing Permits.** Compliance with all applicable fire and building codes and standards relating to fire and panic safety shall be verified by the Fire Department during the Building Permit process.
19. **Building and Property Maintenance.** The developer shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.

20. **Landscaping.** Planting and irrigation are to be provided as indicated on the approved plans. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced. Permanent irrigation is to be installed in accordance with the State Model Water Efficient Landscape Ordinance for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
21. **Irrigation Standards.** The applicant shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms to the City of San José Landscape and Irrigation Guidelines.
22. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
23. **Storm Water Stenciling.** All drain inlets shall be labeled “No Dumping-Flows to Bay.” Please contact the City of San José, Department of Public Works, at (408) 277-5161 to obtain free stencils.
24. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
25. **Signage.** This permit does not include the approval of any signage. Any future signs are to conform to the regulations of Title 23 of the Municipal Code and allowed with the issuance of a Sign Permit Adjustment.
26. **No Outside Storage.** No outside storage is permitted for the project.
27. **Anti Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris.
28. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
29. **Nuisance.** The uses of this site shall be operated in a manner that does not create a public or private nuisance. Nor shall the uses adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area or be detrimental to public health, safety or general welfare. Any such nuisance must be abated immediately upon notice by the City.
30. **Recycling.** It is required that scrap construction and demolition debris be recycled instead of disposing of it in a landfill. An infrastructure exists within San José to accommodate such recycling efforts. Integrated Waste Management staff can provide assistance on how to recycle construction and demolition debris from the project, including information on where to conveniently recycle the material. Additional information may be found at <http://www.sjrecycles.org/construction-demolition/cddd.asp> or by contacting the Commercial Solid Waste Program at (408) 535-8550.

**APPROVED** and issued on this **25<sup>th</sup> day of January, 2013.**

Joseph Horwedel, Director  
Planning, Building, and Code Enforcement

Deputy