



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Paul Krutko

**SUBJECT: PROPOSED DEVELOPMENT
AGREEMENT BETWEEN
CISCO TECHNOLOGY, INC.
AND THE CITY OF SAN JOSE**

DATE: June 3, 2010

Approved

Date

6-11-10

COUNCIL DISTRICT: 4
SNI AREA: N/A

RECOMMENDATION

Staff recommends that the City Council adopt an ordinance to approve a Development Agreement between Cisco Technology, Inc. and the City of San Jose to preserve the ability to construct up to 2.5 million square feet of industrial park development under the provisions of the North San Jose Area Development Policy on a 137 gross acre site for the following reasons:

1. The Development Agreement is consistent with all appropriate City Ordinances and Policies including the San José 2020, Title 20 of the Municipal Code, the North San Jose Area Development Policy as amended, and the requirements of the Development Agreement Ordinance.
2. The proposed Development Agreement supports the long term economic development goals of the City by encouraging the expansion of the existing industrial development.

OUTCOME

Approval of the proposed Development Agreement would vest applicable City ordinances, policies and corresponding Site Development Permits pertaining to the development of 2.5 million square-foot of Industrial Park development on the subject site in conjunction with the North San José Area Development Policy for a 20 year period.

BACKGROUND

Cisco Technology Inc. has requested a Development Agreement to vest three recently approved Site Development Permits that reserve 2.5 million square feet of development capacity under the North San Jose Area Development Policy. Development Agreements are a means by which predefined elements of land use approvals can be vested for a longer duration than normally included in a

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Development Permit. This provides the developer certain protections against changes in land use policy or regulation that may result in significant encumbrances to previously approved development scheduled to occur over a long time frame. It also provides consistency and certainty regarding the status of entitlements and the permitting process over the extended period required to develop.

Due to a noticing oversight, the schedule for this proposed Development Agreement to reach Council has been severely impacted. This action was intended to be brought before Council for consideration on June 15, following a June 9 Planning Commission Hearing. To ensure conformance with Council Policy 6-30: Public Outreach Policy, the Planning Commission will hold a special hearing on June 21 in order to make a recommendation to the City Council. The Planning Department and Office of Economic Development, in coordination with the Planning Commission, are facilitating this expedited schedule to fulfill our commitment to the City's largest employer to bring forward the proposal before the Council recess.

ANALYSIS

The proposed Development Agreement vests three Site Development Permits which reserve of up to 2.5 million (2,500,000) square feet of development capacity under the North San Jose Area Development Policy. This proposal represents a significant commitment by Cisco to continue their long term growth and investment in San Jose by focusing their future expansion through mutual goals with the City of intensification and in-fill development in the City's primary location for high-tech corporate headquarters. The Development Agreement has been prepared to ensure that Cisco has the ability to fully utilize the benefits to development provided through the North San Jose Area Development Policy while providing flexibility to the timing of new development in response to market demands. The proposed Agreement and associated Permits conform to all applicable City policies, including the General Plan, economic, social and environmental goals of the City, and the regulations governing the issuance of Development Agreements. Furthermore it furthers the Goals and Policies set forth in the General Plan and support the City's Economic Development Strategy. By encouraging the expansion of the existing industrial development, the proposed Agreement strengthens the municipal tax base and encourages further sustainable growth throughout the local economy.

To ensure conformance with the requirements of the North San Jose Area Development Policy, the Development Agreement vests the Policy itself along with the Mitigation Monitoring and Reporting Program for the North San Jose Program EIR and the North San Jose Area Traffic Impact Fee Ordinance. To direct and support future development in accordance with the Site Development Permits, the Industrial Park Zoning District Development Standards and the North San Jose Urban Design Guidelines are all also vested through this process. The DA and associated Site Development Permits have a term of 20 years. Provisions have been included in both the DA and Permits to ensure that development occurs within a reasonable timeframe. Both the DA and Permit's will automatically expire ten years after the date of issuance if Cisco or an affiliate has not utilized at least 150,000 square feet of the reservation.

CONCLUSION

The proposed Development Agreement demonstrates Cisco's commitment to continued growth in North San Jose. The City's ability to facilitate development and remove impediments for its major

economic contributors is critical to retaining our position as a global location for high-tech headquarters. This is especially relevant as we emerge from the current economic crisis of the past two years which has significantly stalled new industrial development nationwide, but has had a particular and profound effect on Silicon Valley and the wider Bay Area Region. The City's ability to ensure speed, consistency, and predictability through its permitting process is essential to large corporations making long term location decisions driven by dynamic market forces. Attracting and retaining this investment, especially in our driving industries is key to the City's long term fiscal sustainability. The proposed Development Agreement builds on the advantages provided by the North San Jose Area Development Policy while enhancing the flexibility to support Cisco's specific development requirements and timeframe.

EVALUATION AND FOLLOW-UP

As the associated permits do not contain site and architectural details necessary for development, subsequent amendments to these permits will be required to be reviewed and approved based upon conformance to the vested elements described above and any other applicable laws and policies in effect at the time.

POLICY ALTERNATIVES

Not Applicable

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater.
(Required: Website Posting)
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet any of the above criteria, staff followed Council Policy 6-30: Public Outreach Policy. A notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. This staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

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COORDINATION

The preparation of this memorandum and the associated work was coordinated with the Development of Planning Building and Code Enforcement and the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

This project is consistent with applicable General Plan policies and City Council approved design guidelines as further discussed in attached staff report.

CEQA

Resolution No. 72768 and Addenda thereto.


PAUL KRUTKO
Chief Development Officer

For questions please contact Nanci Klein, Division Manager at 408-535-8181.