Milpitas High School Performing Arts Center and Gym Project

Initial Study / Mitigated Negative Declaration

Milpitas Unified School District
1331 E. Calaveras Boulevard
Milpitas, CA 95035

January 2022

Prepared by MIG, Inc.
2205 Junction Ave, Suite 205
San Jose, CA 95131

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Draft Mitigated Negative Declaration

Project: Milpitas High School Performing Arts Center and Gym Project

Lead Agency/ Project Proponent: Milpitas Unified School District

Availability of Documents: The Initial Study for this Mitigated Negative Declaration is available for review at:

Milpitas Unified School District
1331 E. Calaveras Blvd.
Milpitas, CA 95035

Contact: Travis Kirk, TBK Construction Management
Milpitas Unified School District
1331 E. Calaveras Boulevard.
Milpitas, CA 95035
Phone: 209-777-4073

PROJECT DESCRIPTION

The Milpitas Unified School District (MUSD) is proposing to construct a new Performing Arts Center (PAC), second gym, and fitness center at the Milpitas High School Campus, located at 1285 Escuela Parkway, in the City of Milpitas, California. The new PAC would replace the existing auditorium, which would be converted into a student union space where students can gather. The two new gyms proposed are a new fitness center and a new athletic sports gym. All proposed improvements would occur within the existing school campus.

The purpose of the project is to provide updated facilities to meet the needs of the current student enrollment. No new classrooms are proposed by the project, therefore the project does not support additional enrollment at the campus.

The MUSD is the Lead Agency for the project.

FINDINGS

The MUSD has reviewed the attached Initial Study and determined that the Initial Study identifies potentially significant project effects, however:

1. Mitigation measures included in the project would avoid or mitigate the effects to a point where no significant effects would occur; and
2. There is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment. Pursuant to California Environmental Quality Act (CEQA) Guidelines Sections 15064(f)(3) and 15070(b), a Mitigated Negative Declaration has been prepared for consideration as the appropriate CEQA document for the project.

BASIS OF FINDINGS

Based on the environmental evaluation presented in the attached Initial Study, the project would not cause significant adverse effects related to aesthetics, agricultural and forestry resources, air quality, energy, geology/soils, greenhouse gas emissions, hazards/hazardous materials, land use/planning, mineral resources, noise, population/housing, public services, recreation, transportation, utilities/service systems, and wildfire. The project does not have impacts that are individually limited, but cumulatively considerable.

The environmental evaluation has determined that the project would have potentially significant impacts on biological, cultural and tribal cultural resources as described below.

Mitigation Measures

The project could result in significant adverse effects to air quality, biological resources, cultural resources, and tribal cultural resources. However, the project includes the mitigation measures listed below, which reduce these impacts to a less-than-significant level. With implementation of these mitigation measures, the project would not substantially degrade the quality of the environment, reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, or substantially reduce the number or restrict the range of a rare or endangered plant or animal. Nor would the project cause substantial adverse effects on humans, either directly or indirectly.

Mitigation Measures Incorporated into the Project:

Mitigation Measure AIR-1: To reduce fugitive dust that would be generated during Project construction activities, the Milpitas Unified School District (MUSD) and/or its designated contractors, contractor's representatives, or other appropriate personnel shall implement the following Bay Area Air Quality Management District (BAAQMD) basic dust control measures during all project construction activities.

- Water all exposed surfaces (e.g., staging areas, soil piles, graded areas, and unpaved access roads) two times per day during construction and adequately wet demolition surfaces to limit visible dust emissions.
- Cover all haul trucks transporting soil, sand, or other loose materials off the Project site.
- Use wet power vacuum street sweepers at least once per day to remove all visible mud or dirt track-out onto adjacent public roads (dry power sweeping is prohibited) during construction of the proposed Project.
- Vehicle speeds on unpaved roads/areas shall not exceed 15 miles per hour.
- Complete all areas to be paved as soon as possible and lay building pads as soon as possible after grading unless seeding or soil binders are used.
- Minimize idling time of diesel-powered construction equipment to five minutes and post signs reminding workers of this idling restriction at access points and equipment staging areas during construction of the proposed Project
- Maintain and properly tune all construction equipment in accordance with manufacturer's specifications and have a CARB-certified visible emissions evaluator check equipment prior to use at the site.
- Post a publicly visible sign with the name and telephone number of the construction contractor and MUSD staff person to contact regarding dust complaints. This person shall respond and take corrective action within 48 hours. The publicly visible sign shall also include the contact phone number for the BAAQMD to ensure compliance with applicable regulations.

Mitigation Measure BIO-1: To avoid impacts to nesting birds and avoid potential violation of state and federal laws pertaining to birds, all construction-related activities (including but not limited to mobilization and staging, clearing, grubbing, tree removal, fence installation, demolition, and grading) should occur outside the avian nesting season (that is, prior to February 1 or after September 15) if possible. If construction-related activities and construction noise occur within the avian nesting season (from February 1 to September 15), all suitable habitats located within the project's area of disturbance, including staging and storage areas, plus a 250-foot (non-raptor nests) and 1,000-foot (raptor nests) buffer around these areas shall be thoroughly surveyed, as feasible, for the presence of active nests by a qualified biologist no more than five days before commencement of any site disturbance activities and equipment mobilization. If project activities are delayed by more than five days, an additional nesting bird survey shall be performed. Active nesting is present if a bird is building a nest, sitting in a nest, a nest has eggs or chicks in it, or adults are observed carrying food to the nest. The results of the surveys shall be documented by a qualified biologist.

If pre-construction nesting bird surveys result in the location of active nests, no site disturbance and mobilization of heavy equipment (including but not limited to equipment staging, fence installation, clearing, grubbing, vegetation removal, fence installation, demolition, and grading), shall take place within 250 feet of non-raptor nests and 1,000 feet of raptor nests, or as determined by a qualified biologist in consultation with the California Department of Fish and Wildlife, until the chicks have fledged. Monitoring shall be required to ensure compliance with Migratory Bird Treaty Act (MBTA) and relevant California Fish and Game Code requirements. Monitoring dates and findings shall be documented by a qualified biologist.

Mitigation Measure CUL-1a: Inadvertent Discovery of Archaeological Resources. In the event that archaeological resources (sites, features, or artifacts) are exposed during project construction activities for the Project, immediately stop all construction work occurring within 100 feet of the find until a qualified archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards, can evaluate the significance of the find. The archaeologist will determine whether additional study is warranted. Should it be required, the archaeologist may install temporary flagging around a resource to prevent any disturbances from construction equipment. Depending upon the significance of the find under CEQA (14 CCR 15064.5[f]; California Public Resources Code, Section 21082), the archaeologist the archaeologist may determine it is appropriate to record the find (thereby addressing any data potential) and allow work to continue. If the archaeologist observes the discovery to be potentially significant, preservation in place or additional treatment may be required.

Mitigation Measure CUL-1b: Inadvertent Discovery of Human Remains. In accordance with Section 7050.5 of the California Health and Safety Code, if potential human remains are found, the lead agency (City of Milpitas) staff and the Santa Clara County Coroner shall be immediately notified of the discovery. The coroner would provide a determination regarding the nature of the remains within 48 hours of notification. No further excavation or disturbance of the identified material, or any area reasonably suspected to overlie additional remains, can occur until a determination has been made. If the County Coroner determines that the remains are, or are believed to be, of Native American ancestry, the coroner would notify the Native American Heritage Commission within 24 hours. In accordance with California Public Resources Code, Section 5097.98, the Native American Heritage Commission must immediately notify those persons it believes to be the Most Likely Descendant from the deceased Native American. Within 48 hours of this notification, the Most Likely Descendant would recommend to the lead agency their preferred treatment of the remains and associated grave goods.

Mitigation Measure TRIB-1a: Tribal Cultural Resources Awareness Training. Construction personnel involved in ground disturbing activities within native soils shall attend a Tribal Cultural Resources Awareness Training prior to initiating ground disturbing activities within native soils at the site.

Mitigation Measure TRIB-1b: Inadvertent Discovery of Tribal Cultural Resources. If any previously unrecorded resources (including, but not limited to: historic building features, chipped or ground stone, or other debris) are discovered during ground-disturbing work, the work will cease at that location and within 100 feet, until the tribal representatives are consulted and MUSD determines how to proceed.

It is possible for a lead agency to determine that an artifact is considered significant to a local tribe, and thus considered a significant resource under CEQA, even if it would not otherwise be considered significant under CEQA. As such, all Native American tribal finds are to be considered significant until the lead agency has enough evidence to make a determination of significance. In the event that Native American archaeological resources are discovered, or suspected to have been discovered, tribal representatives and qualified archaeologists will determine how to proceed. These determinations will be written into the project record. If the lead agency chooses

not to follow the recommended mitigation measures, this refusal will also be written into the project record, along with its reasoning.

MILPITAS HIGH SCHOOL PERFORMING ARTS CENTER AND GYM PROJECT INITIAL STUDY

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Appendix B: Air Quality CalEEMod Calculations, MIG, Inc., October 2021
Appendix C: Updated Geotechnical Investigation and Geologic Hazards Evaluation, Cornerstone Earth Group, July 2021
Appendix D: Transportation Analysis, Hexagon Transportation Consultants, October 2021

Chapter 1. Introduction

This Initial Study (IS) evaluates the potential environmental effects of a project to construct a new performing arts center (PAC) and athletic gym facilities at an existing high school campus in the City of Milpitas. These proposed activities constitute a project under the California Environmental Quality Act (CEQA).

The Milpitas Unified School District (MUSD) is the CEQA Lead Agency for the project. No responsible agencies have been identified.

1.1 PROJECT BACKGROUND AND OVERVIEW

The MUSD is implementing a project funded by Milpitas Unified School District Bond Measure AA 2018 (Bond AA) funds to construct a new PAC and athletic gym facilities at the existing Milpitas High School campus. The new 560-seat PAC would replace an existing 350-seat auditorium and be located in the northeast corner of the campus. The proposed gym facilities consist of a hardcourt athletic gym and a fitness center. All proposed improvements would occur within the existing school campus.

The purpose of the project is to provide updated facilities to meet the needs of the current student enrollment. No new classrooms are proposed by the project, therefore the project does not support additional enrollment at the campus.

1.2 REGULATORY GUIDANCE

The California Environmental Quality Act (CEQA; Public Resources Code § 21000 et seq.) and the CEQA Guidelines (14 CCR §15000 et seq.) establish the MUSD as the lead agency for the project. The lead agency is defined in CEQA Guidelines Section 15367 as "the public agency which has the principal responsibility for carrying out or approving a project." The lead agency is responsible for preparing the appropriate environmental review document under CEQA. The MUSD School Board serves as the decision-making body for the MUSD and is responsible for adopting the CEQA document and approving the project.

CEQA Guidelines Section 15070 states that a public agency shall prepare a proposed Negative Declaration or a Mitigated Negative Declaration when:

1. The Initial Study shows that there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment, or
2. The Initial Study identifies potentially significant effects, but:
    - Revisions in the project plans made before a proposed Mitigated Negative Declaration and Initial Study are released for public review would avoid the effects or mitigate the effects to a point where no significant effects would occur, and
    - There is no substantial evidence, in light of the whole record before the agency, that the project as revised may have a significant effect on the environment.

Pursuant to Section 15070, the MUSD has determined a Mitigated Negative Declaration is the appropriate environmental review document for the Milpitas High School Performing Arts Center and Gym Project.

To ensure that the mitigation measures and project revisions identified in a Mitigated Negative Declaration are implemented, the MUSD would be required under CEQA Guidelines Section

15097(a) to adopt a program for monitoring or reporting on the measures it has imposed to mitigate or avoid significant environmental effects. The MUSD shall therefore prepare a Mitigation, Monitoring and Reporting Plan based on the mitigation measures contained in this IS/MND.

1.3 LEAD AGENCY CONTACT INFORMATION

The lead agency for the project is the MUSD. The contact person for the lead agency is:

Travis Kirk, TBK Construction Management
Milpitas Unified School District
1331 E. Calaveras Boulevard, Milpitas CA 95035
Phone: 209-777-4073

1.4 DOCUMENT PURPOSE AND ORGANIZATION

The purpose of this document is to evaluate the potential environmental effects of the Milpitas High School Performing Arts Center and Gym Project. This document is organized as follows:

- Chapter 1 – Introduction. This chapter introduces the project and describes the purpose and organization of this document.
- Chapter 2 – Project Description. This chapter describes the project location, area, site, objectives, and characteristics.
- Chapter 3 – Environmental Checklist and Responses. This chapter contains the Environmental Checklist that identifies the significance of potential environmental impacts (by environmental issue) and a brief discussion of each impact resulting from implementation of the proposed project. This chapter also contains the Mandatory Findings of Significance.
- Chapter 4 – Report Preparation. This chapter provides a list of those involved in the preparation of this document.
- Appendices

Chapter 2. Project Description

2.1 PROJECT PURPOSE

The purpose of the project is to provide updated facilities to meet the needs of the current student enrollment. The proposed improvements are funded by Bond AA, which was passed in 2018 to update MUSD facilities.

2.2 PROJECT LOCATION

Milpitas High School is located at 1285 Escuela Parkway, in the City of Milpitas. The site is bounded by Escuela Parkway to the east, Marshall Pomeroy Elementary school to the north, Arizona Avenue to the west and Sandalwood Lane and the Foothill Square shopping mall to the south. (Figure 1 Project Location)

2.3 SITE FEATURES

Milpitas High School (MHS) is the MUSD's only comprehensive four-year high school, offering a traditional program of study to approximately 3,200 students in grades 9 through 12. The school was originally constructed in 1969 and now consists of 138 instructional classrooms. The site includes a gymnasium, an auxiliary gymnasium and locker room buildings, a performing arts building, classroom buildings, a cafeteria/library building, a math and science building, several portable classrooms, artificial turf sports fields, a running track and bleachers, a swimming pool and locker/restroom building, paved sports courts, paved flatwork, and parking areas, parking photovoltaic/shade (solar-parking canopies) structures, and landscape features. The overall topography of the campus is relatively flat with a gentle downward slope to the west. The MUSD proposes to construct a new performing arts theater, a second gym, and fitness center at the Milpitas High School campus (Figure 2). The project would not provide for an increase in enrollment and would serve existing students attending the high school and do not represent new classroom spaces that increase student capacity or include new uses not presently accommodated. Additional details on the proposed buildings are discussed below and shown in Figure 3 through Figure 10.

<u>Performing Arts Center (PAC)</u>

The new PAC would be located in the northeast corner of the high school campus site and adjacent to Escuela Parkway and a parking lot for Marshall Pomeroy Elementary School. The PAC would include a stage and theater seating for 560 people, changing and make up rooms, design technology, choral, band, and orchestra classrooms, storage areas, restrooms, and practice rooms (Figure 3 and Figure 4). The PAC site is occupied with surface parking and solar panel structures (currently being relocated, see below). The existing auditorium would be converted into a student union space after construction of the PAC.

The proposed PAC would be a maximum of 54 feet in height and contain a total of 39,330 square feet of floor space on three levels:

- Level 0/basement: 1,285 square feet
- Level 1: 37,153 square feet
- Level 2: 892 square feet

The building would be constructed with concrete masonry unit (CMU) and steel brace frame construction.

Second Gym

The new second gym is intended as a "practice gym" for multiple sports and physical education classes. The proposed second gym (Building N) would be located in a paved area on the interior of the site, just south of Building C (lockers) and north of Building L (science). The proposed fitness center would be located on an existing grass lawn area adjacent to the existing pool and includes an exercise room, weight room, and outdoor weight area.

The second gym would be 30 feet, 8 inches in height and contain 18,128 square feet of floor area. The building would provide women's, men's, and gender-neutral restrooms. The building would accommodate 200 fixed seats with a 530-person occupancy (Figure 5 and Figure 6).

Fitness Center

The fitness center (Building M) would be located on the southwest side of campus in a small turf area between the existing pool and track. The building is proposed as a single-story building (20 feet in height) with 11,088 square feet of floor area (Figure 7 and Figure 8).

Fire Access Improvements

The project also includes approximately 350 feet of new 20-foot wide fire access roadways within the interior of the campus. The roadways would be located within areas that are already largely paved with pedestrian pathways.(Figure 2)

Solar Array Relocation

The District is currently in the process of relocating existing solar canopies to the northwest corner of the campus where there are existing outdoor basketball courts. The paved areas under the solar canopies are being reconfigured to provide additional parking.

Utilities

The project would connect to existing water and sewer infrastructure for water and wastewater services. Recycled water infrastructure is available to serve the project, therefore landscape irrigation would utilize recycled water instead of potable water.

Stormwater

Stormwater from new construction would be treated before entering the municipal storm drain system. Stormwater runoff from roof drains, paved parking lots and other hardscape areas of the site will be collected and directed to media filter units for treatment. After filtering, the stormwater is discharged into the campus' existing storm drain system, and eventually conveyed to the municipal storm drain lines that discharge to Calera Creek located immediately south of the site. The sizing of each filter unit is based on peak flows of 2 cubic feet per second (csf) per acre, and rainfall intensities of 0.2 inches per hour per acre.

The project would result in a net decrease in impervious surface area and a net increase in pervious surface area on the site, as shown in the following summary:

Existing Site (Total 4.1 acres):

- Impervious surfaces (including roof area) – 3.45 acres
- Pervious areas – 0.65 acres

Proposed Site (4.1 acres):

- Impervious surfaces (including roof area) – 3.42 acres
- Pervious areas – 0.68 acres

Landscaping

The project proposes the removal of eight trees in order to accommodate the proposed buildings, including four for the proposed PAC. These trees are located in the landscaped area along Escuela Parkway. Four additional trees south of the PAC site and within the landscape frontage along Escuela Parkway are proposed for removal due to poor health. One tree on the interior of the campus is proposed for removal due to conflict with the proposed fire access roadway improvements. The proposed tree removals are shown in Figure 9, also in the arborist's report (Appendix A).

Project plans show replacement plantings in the areas surrounding the proposed buildings. Shrubs and vines would be five-gallon sized plantings and tree species would be 24-inch box sized. The proposed landscape plantings are shown on Figure 10 and Figure 11.

Construction

The proposed project is anticipated to start construction in May 2022 and take approximately 18 months to complete. Work is expected to begin simultaneously for all three buildings, however the gym and fitness center are expected to be completed prior to the PAC, since they are smaller and less complex structures.

The estimated phasing for construction is as follows:

- Site prep: one month
- Earthwork, grading, excavation: two months
- PAC - foundation: three months
- PAC - exterior: five months
- PAC - interior: six months
- Site concrete, landscape: two months
- Second Gym: 12 months – this work is to be done concurrently with PAC.
- Fitness Center: 12 months – this work is to be done concurrently with PAC.

The project is estimated to disturb a total of approximately 3.49 acres of land including:

- PAC: approximately 2.34-acre
- Gym: approximately 0.73-acre
- Fitness Center: approximately 0.42-acre

Earthwork quantities are estimated in cubic yards (CY) as follows:

- Approximate cut: 30,900 CY
- Approximate fill: 10,600 CY
- Approximate net: 20,300 CY of cut

Total off-haul (cut) is estimated at approximately 20,300 CY of soil. The project also anticipates an estimated 600 tons of asphalt and 5,000 tons of base rock. Assuming a capacity of nine CY per truck, this would result in approximately 2,255 round trips for the off-haul, 67 round trips for

the import of asphalt and 556 round trips for the import of base rock over the 18-month construction period.

The expected construction equipment type and numbers of days in use for the project are as follows:

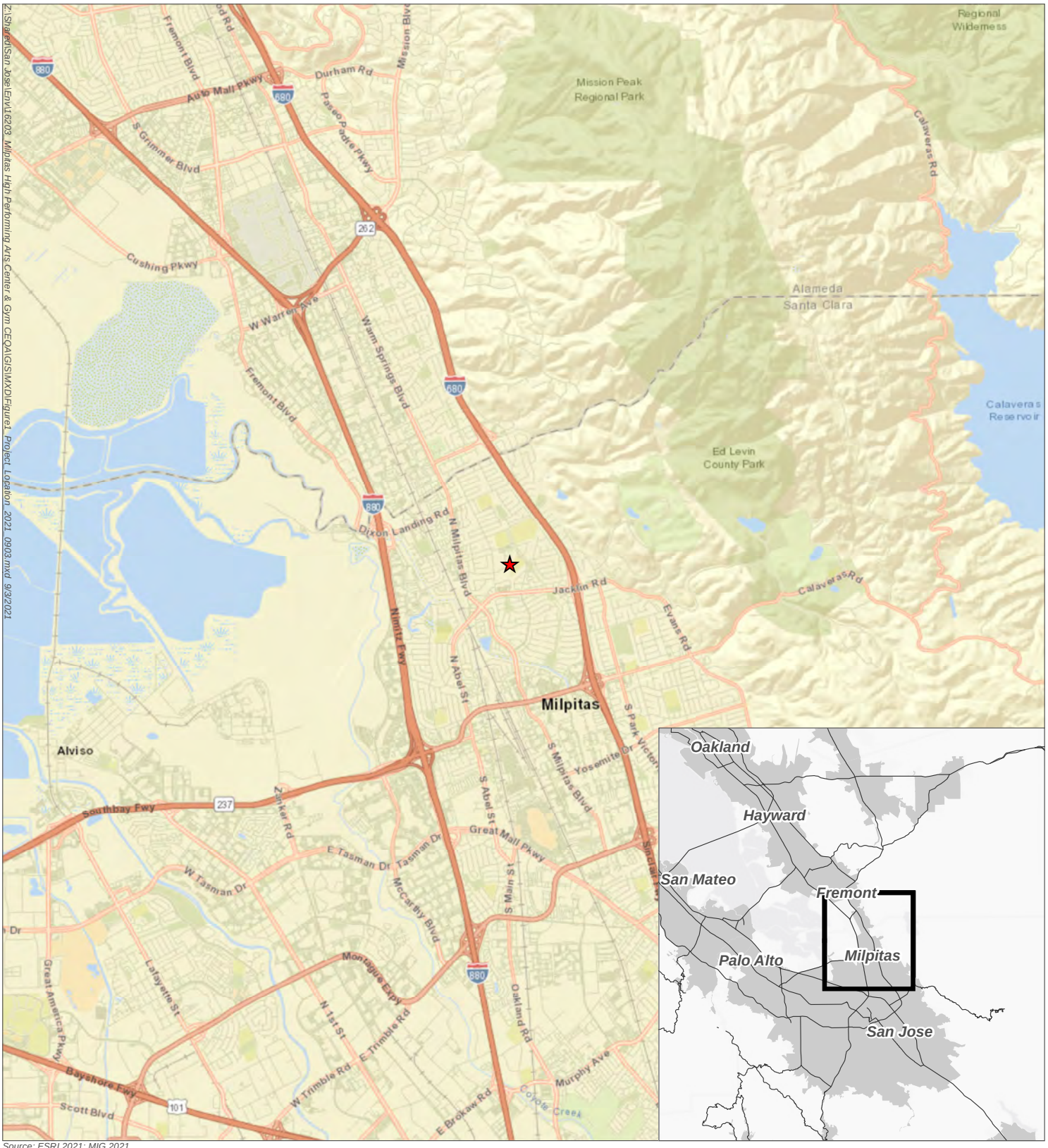
Table 1. Project Construction Equipment Estimates

Equipment Type	**No. on Site**	**No. of Working Days In Use**
Loader (duals as an excavator)	0-2, varies	150
Paver	1	1
Roller	0-2, varies	25
F-250 Trucks	0-4, varies	150
End Dump Trucks	0-4, varies	300
Scraper	0-2, varies	25
Water truck	1	100
Dozer	0-2 varies	50

On average, the project expects approximately 75 construction workers on site for the duration of the construction period.

Staging areas are not yet identified in the project plans, however this analysis assumes staging would occur in already developed areas of the campus and would not require ground disturbance or tree trimming/removal. Public road or lane closures are not anticipated to accommodate the proposed construction. The contractor will be required to prepare a construction logistics plan to coordinate construction and maintain access and safety for students during construction.

Construction hours would be limited to 7:00 A.M. to 7:00 P.M. daily, consistent with the City's noise regulations for construction hours (Municipal Code Chapter 213-3.04).



Source: ESRI 2021; MIG 2021

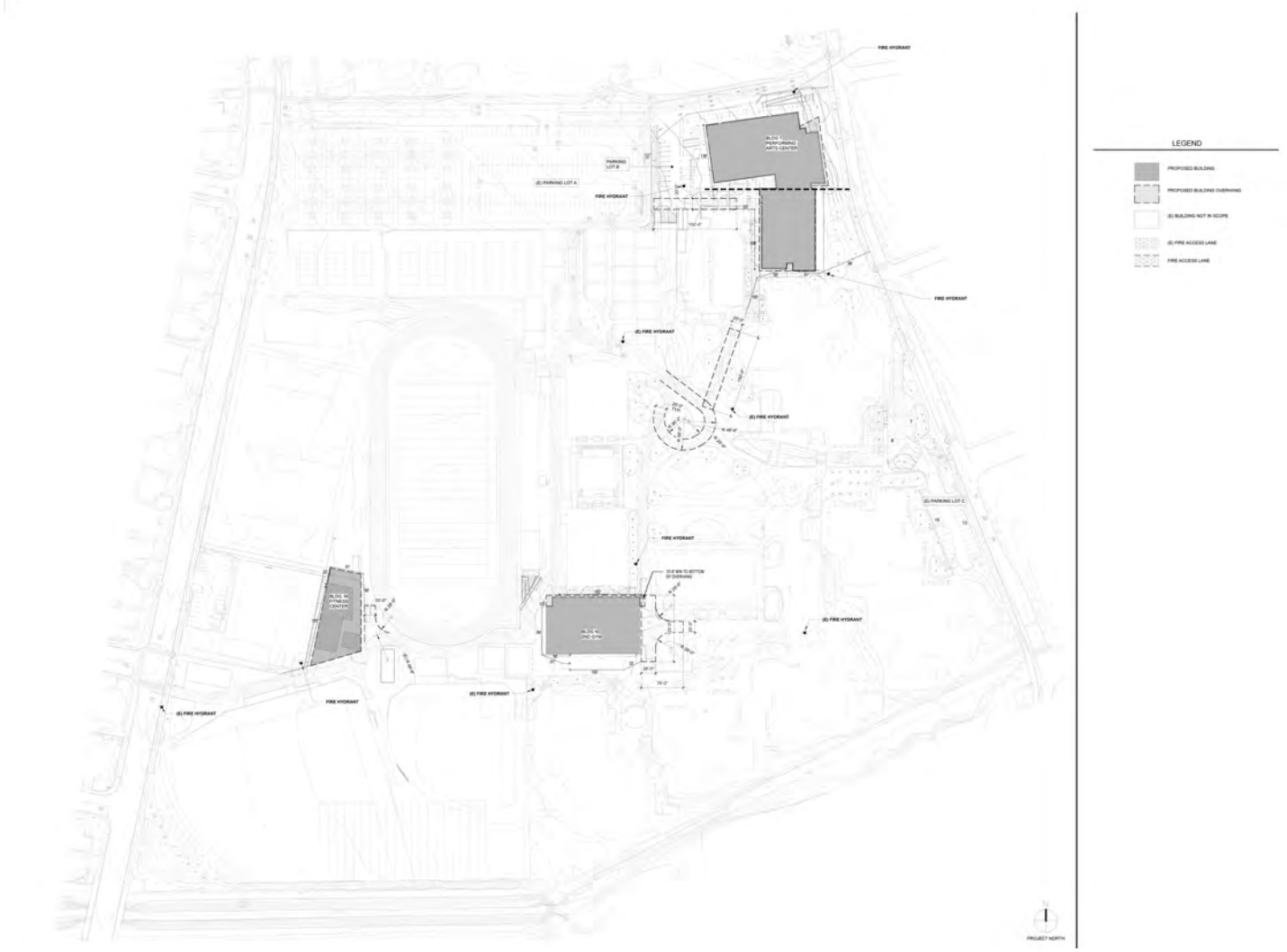
0 0.75 1.5 3 Miles

Map Features

★ Project Location

Figure 1 Project Location

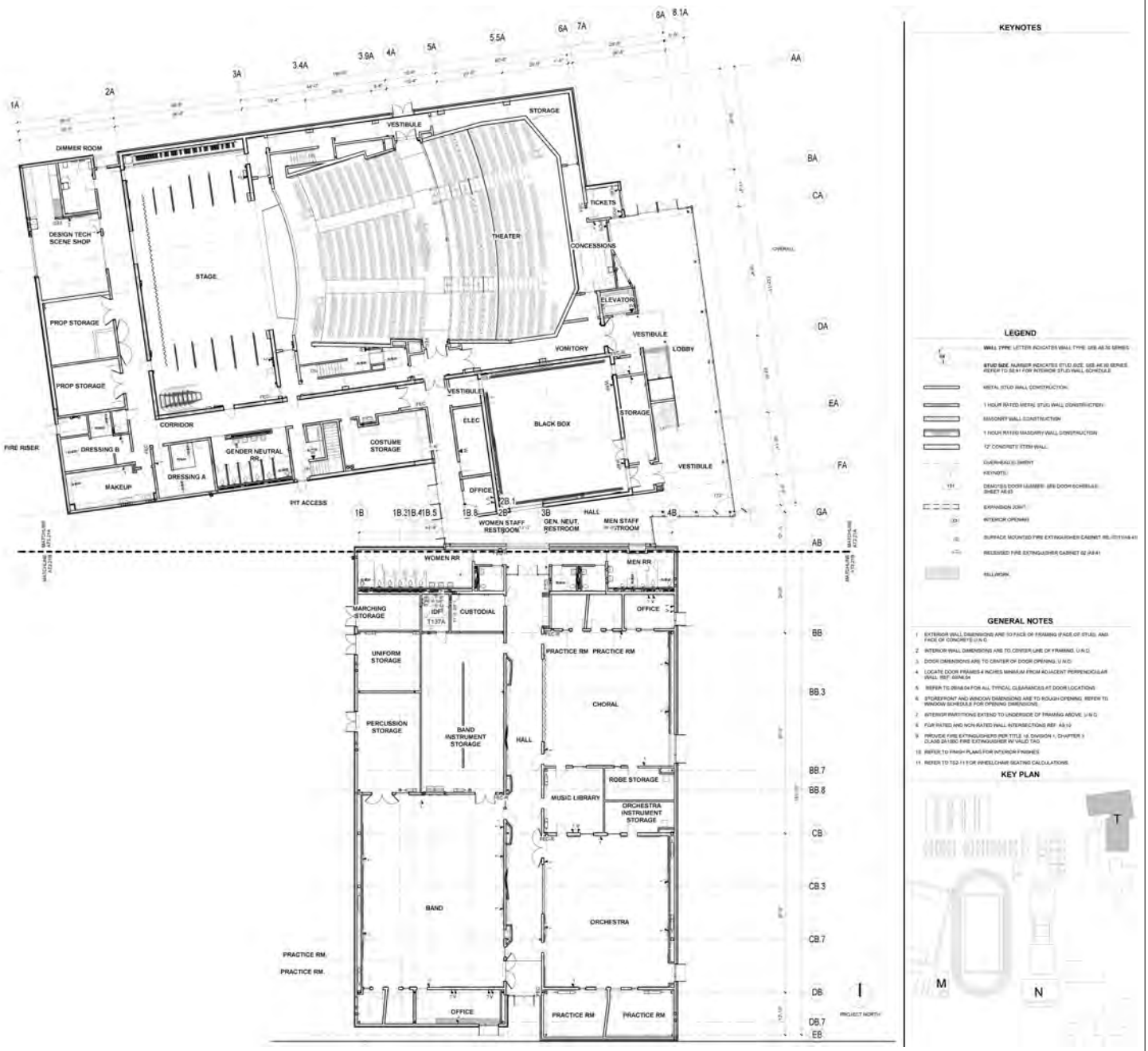
Milpitas High School Performing Arts Center and Gym Project



Source: LPS 8/10/2021

Figure 2 Proposed Site Layout

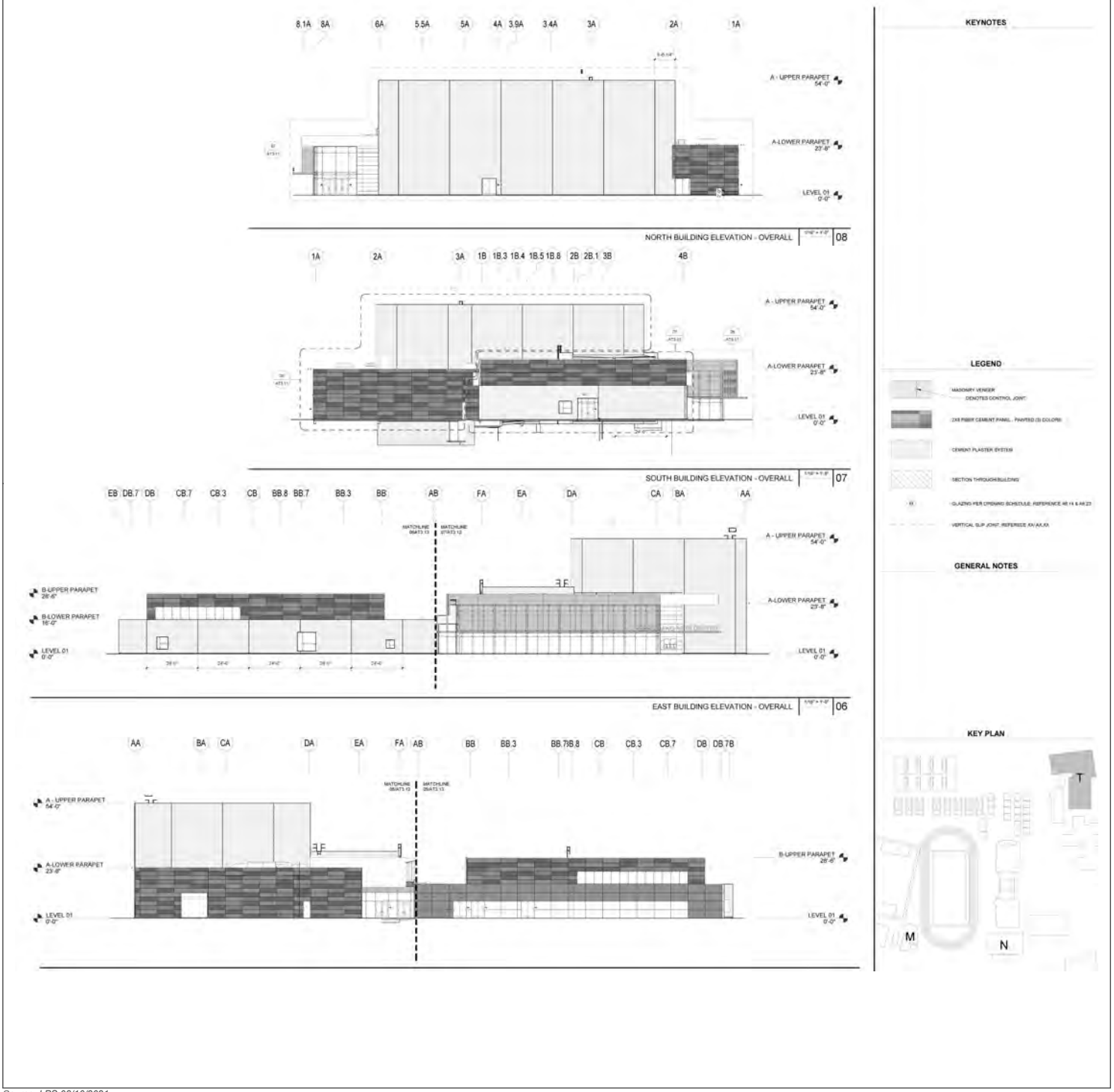
Milpitas High School Performing Arts Center and Gym Project



Source: LPS 8/10/2021

Figure 3 Theater Layout

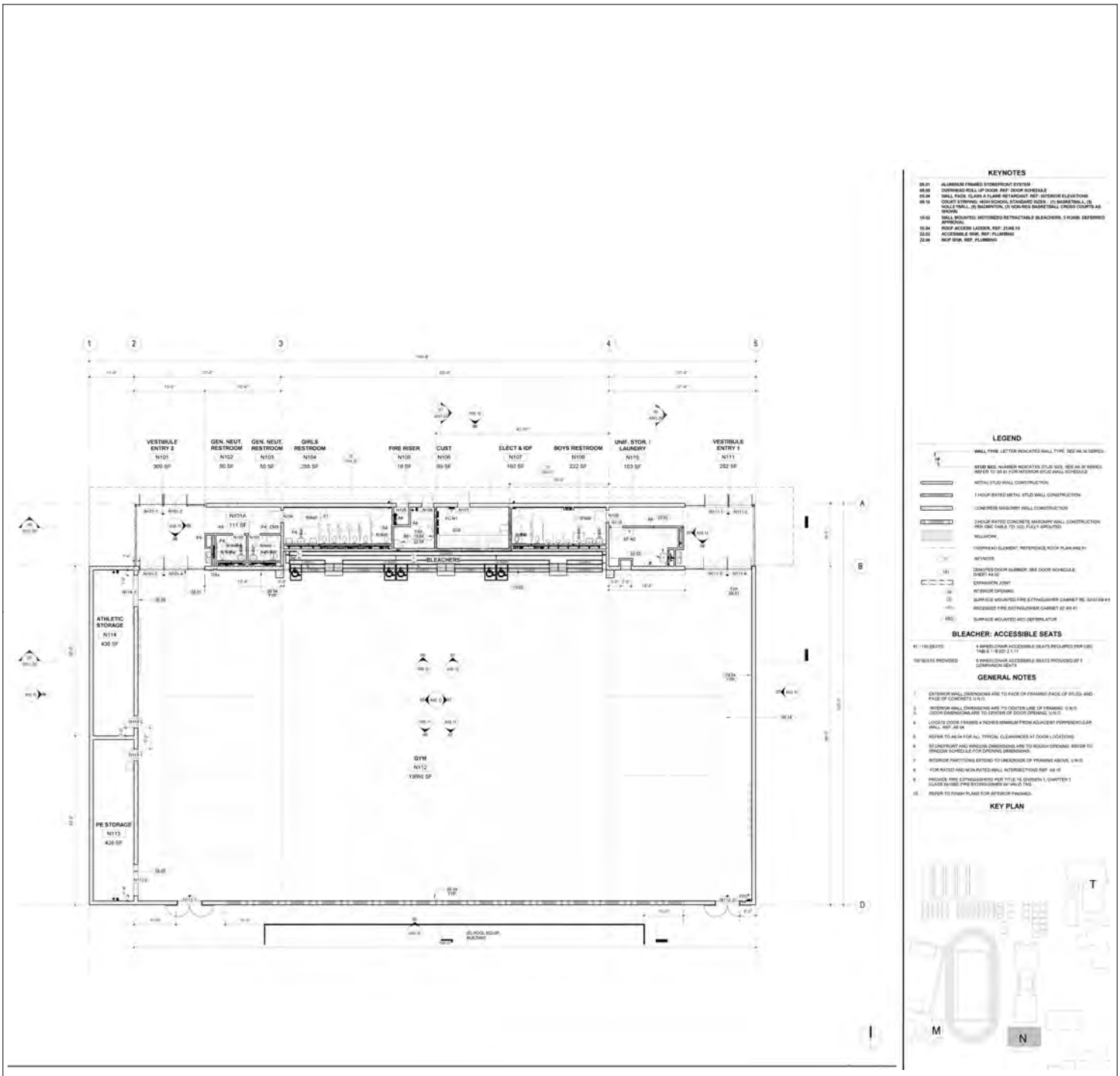
Milpitas High School Performing Arts Center and Gym Project



Source: LPS 08/10/2021

Figure 4 Theater Elevations

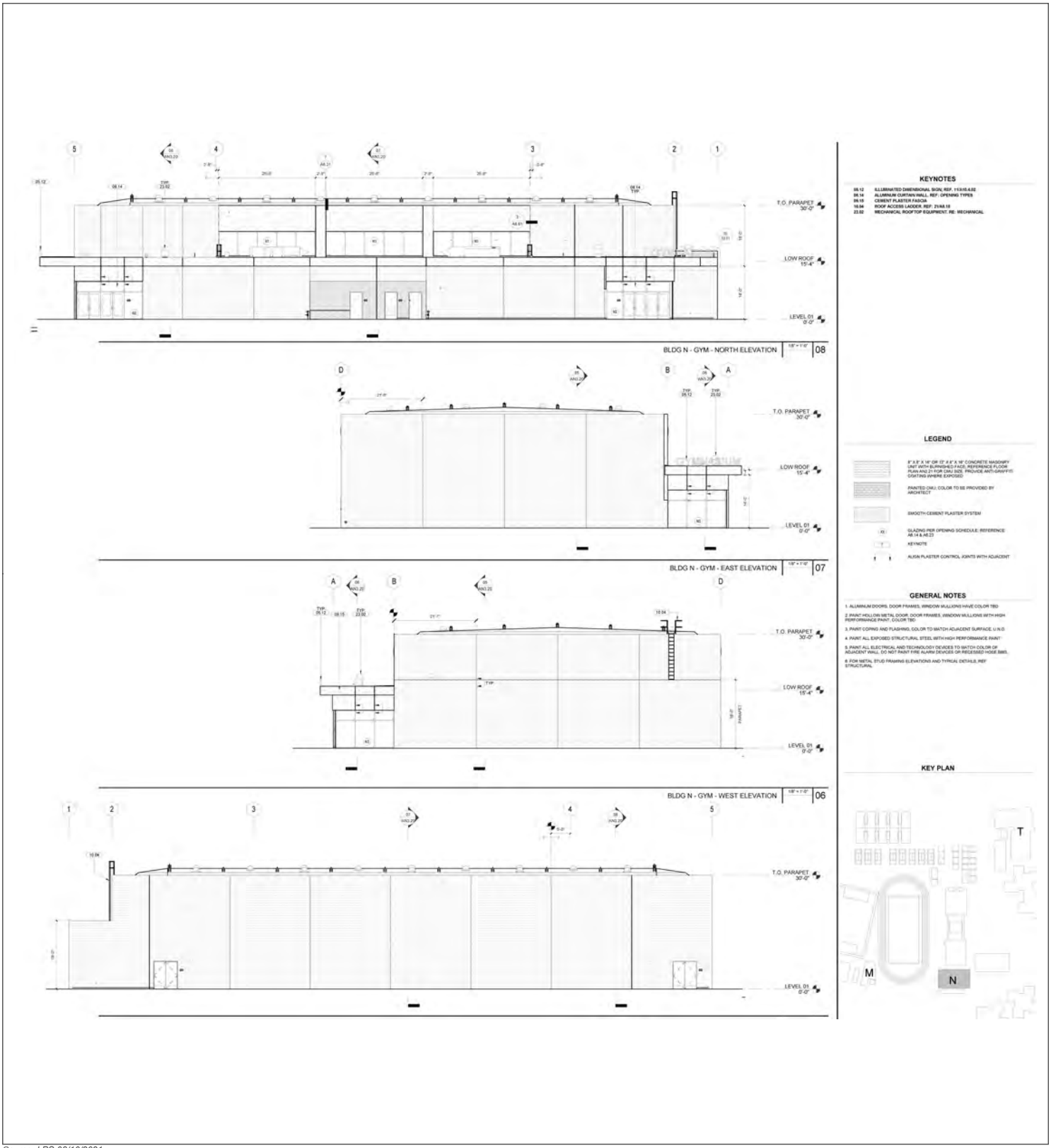
Milpitas High School Performing Arts Center and Gym Project



Source: LPS 8/10/2021

Figure 5 Second Gym Layout

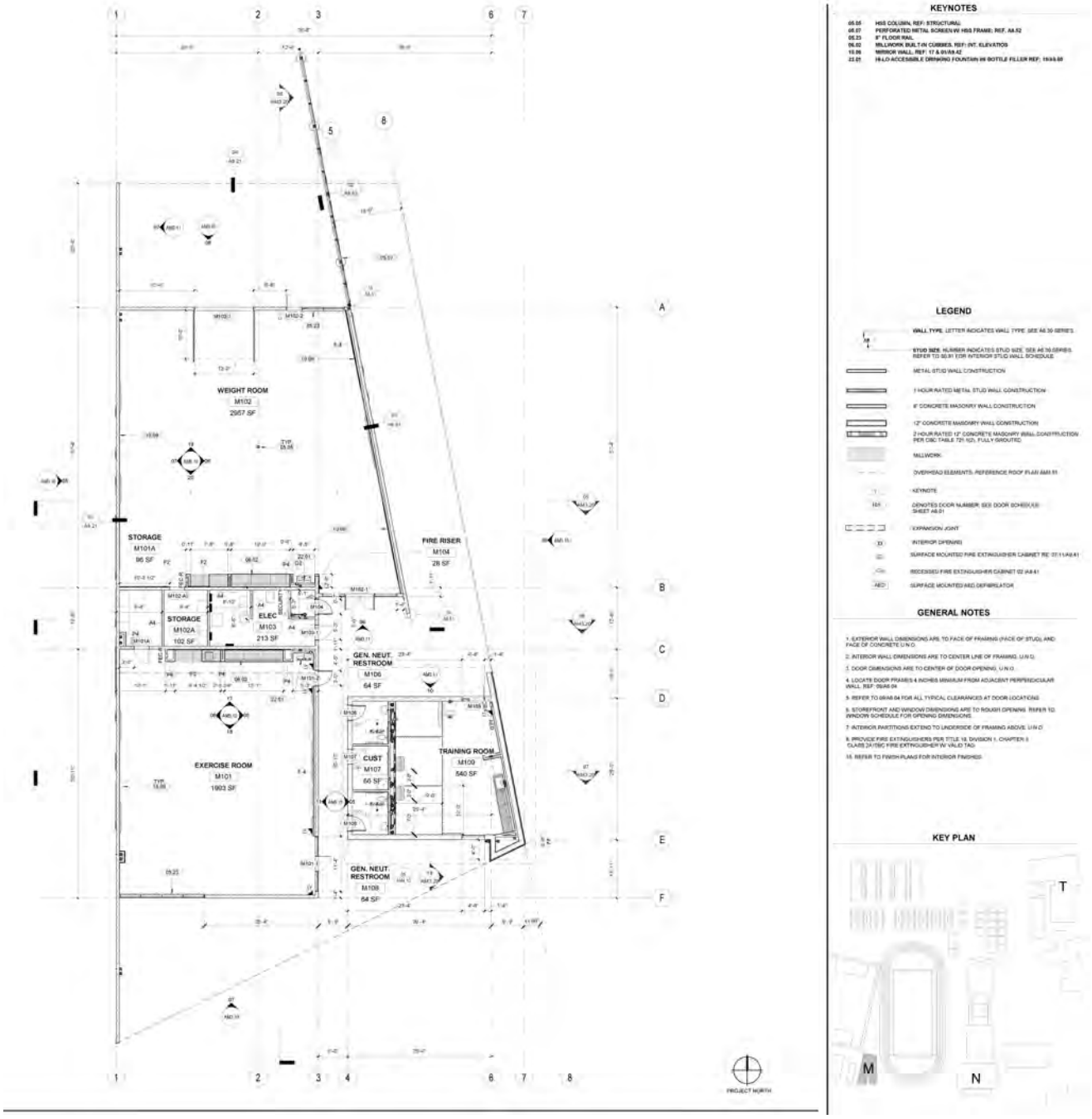
Milpitas High School Performing Arts Center and Gym Project



Source: LPS 08/10/2021

Figure 6 Second Gym Elevations

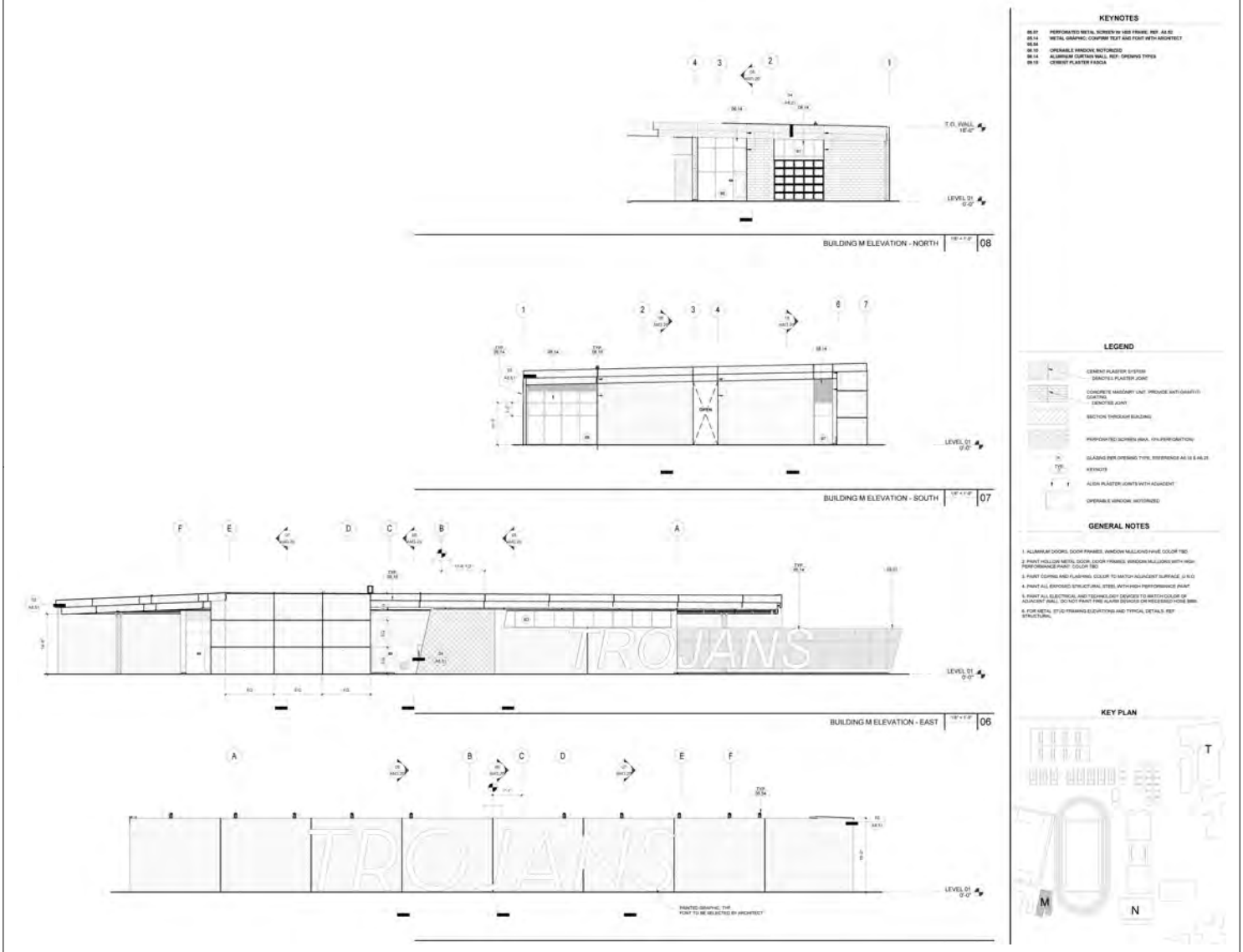
Milpitas High School Performing Arts Center and Gym Project



Source: LPS 08/10/2021

Figure 7 Fitness Center Layout

Milpitas High School Performing Arts Center and Gym Project

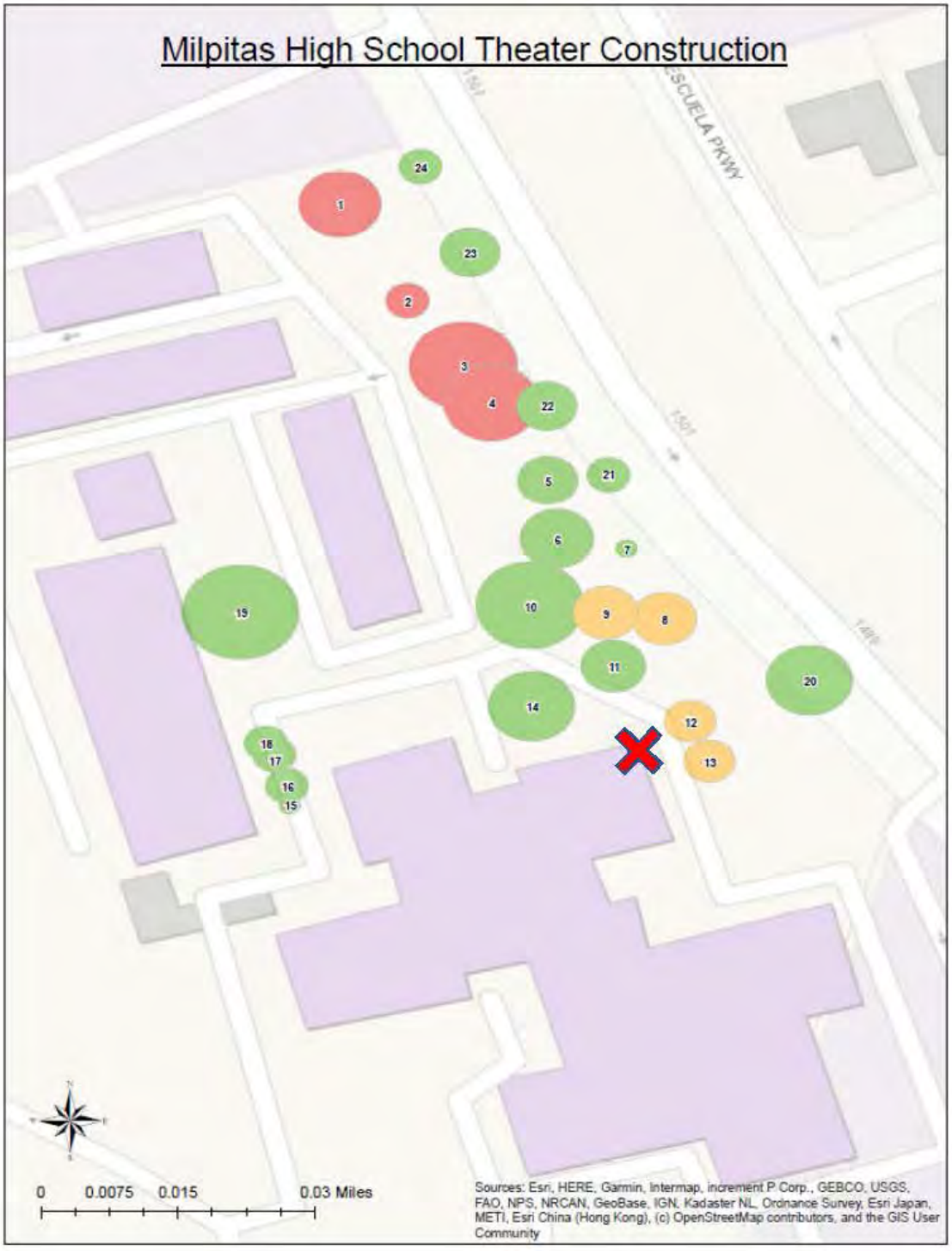


Source: LPS 08/10/2021

Figure 8 Fitness Center Elevations

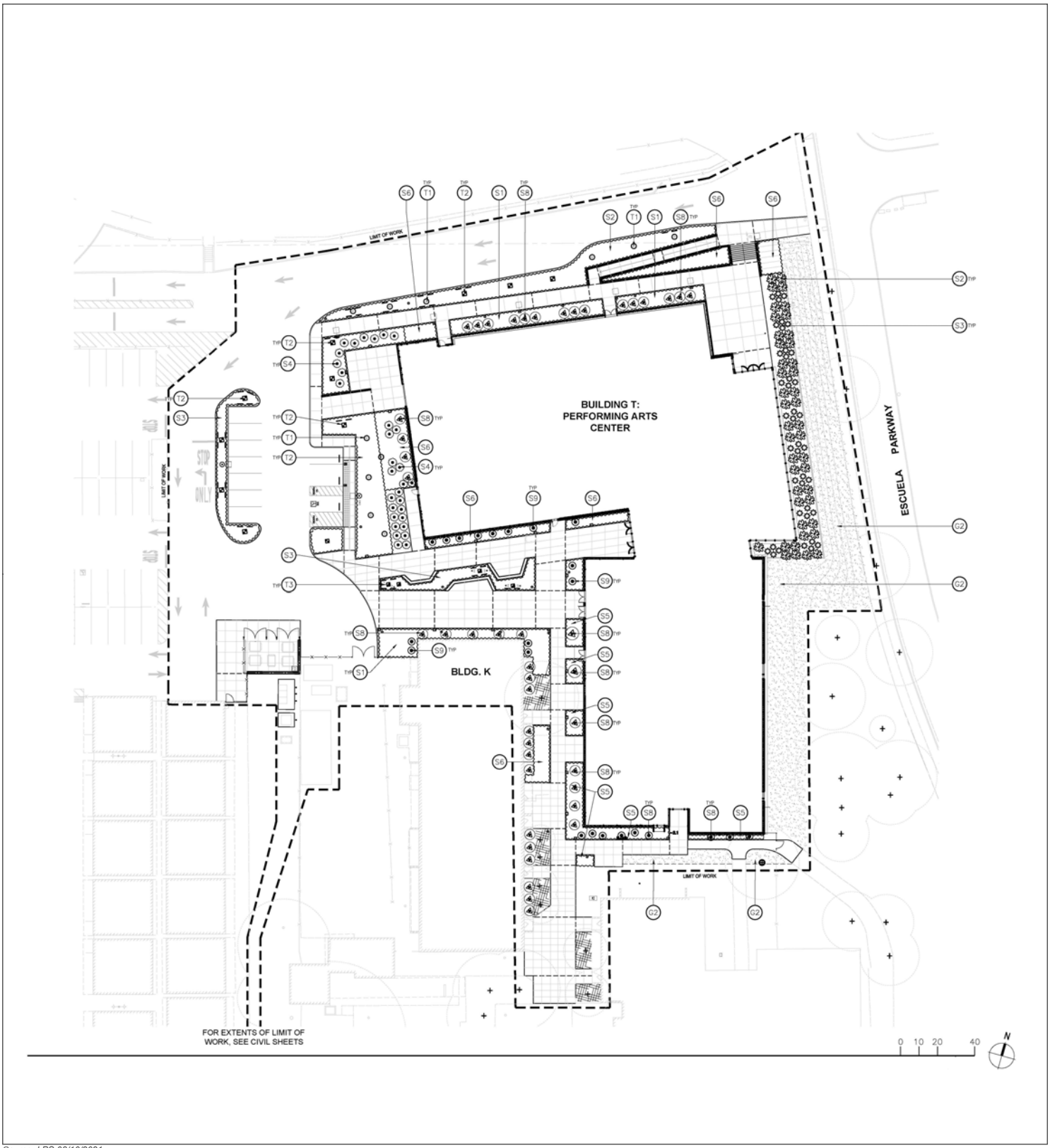
Milpitas High School Performing Arts Center and Gym Project

Trees shown in red are construction related removals, trees in yellow are recommended for removal. The Red X shows where a redwood has been removed recently.



Source: WCA 10/19/2020

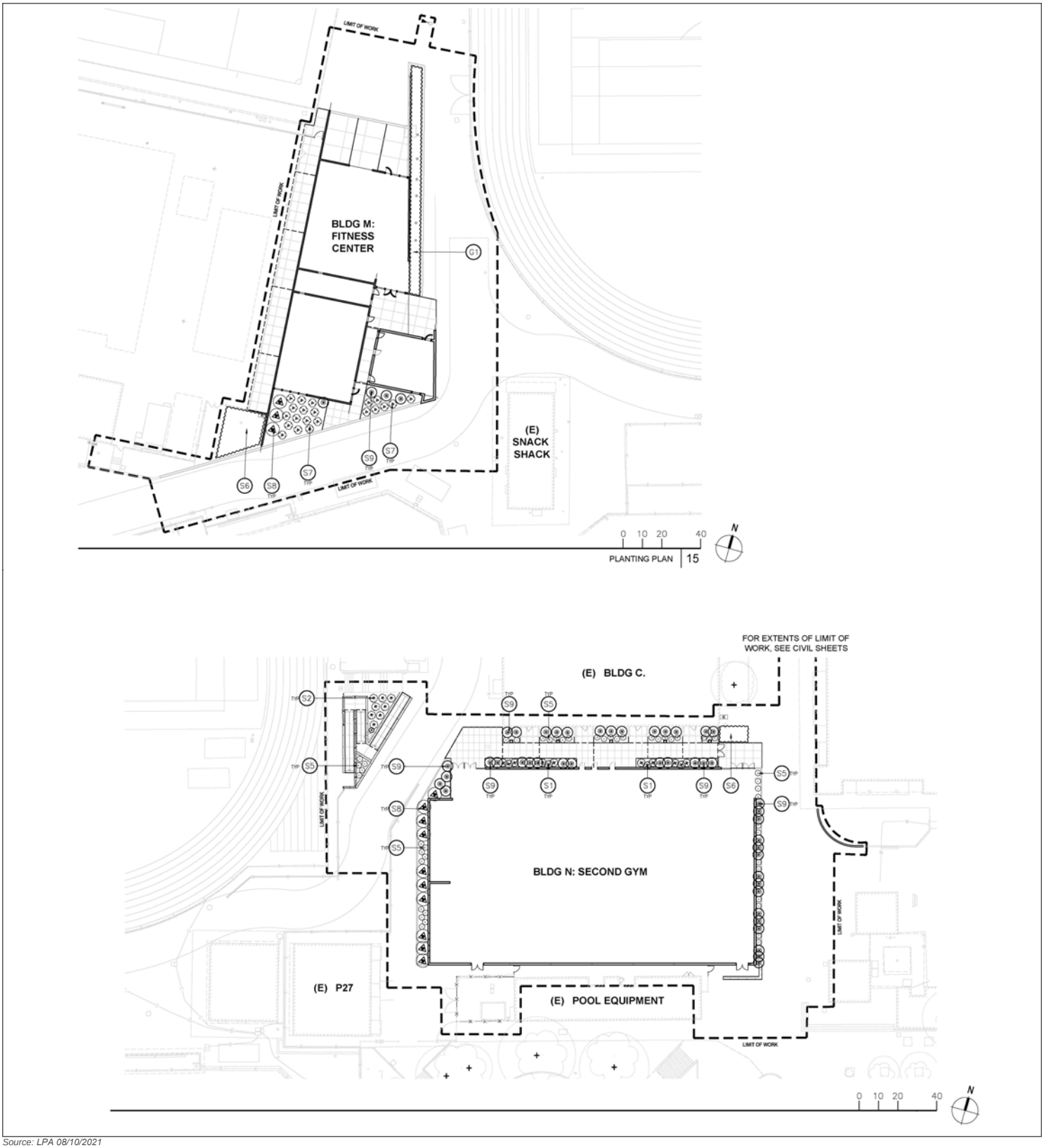
Figure 9 Approximate Tree Removal Locations



Source: LPS 08/10/2021

Figure 10 Planting Plan – Theater

Milpitas High School Performing Arts Center and Gym Project



Source: LPA 08/10/2021

Figure 11 Planting Plan – Second Gym and Fitness Center

Milpitas High School Performing Arts Center and Gym Project

Figure 12 Site Photographs

1. From Escuela Parkway looking southwest across PAC site

2. Escuela Parkway looking northwest toward PAC site

3. Existing parking/solar canopy area where PAC would be located looking south

4. Second gym location looking east.

5. Fitness center location looking north

6. View from Arizona Avenue across pool to fitness center location.

7. Portable to be removed looking southwest

8. View east to PAC and basketball court location.

2.4 BEST MANAGEMENT PRACTICES

The MUSD has incorporated the following Best Management Practices (BMPs) into the planning, design, construction, operation, and maintenance of the proposed project to minimize the potential adverse effects of the project on the surrounding community and the environment. These BMPs will be included in project construction drawings and/or specifications and as such are considered a part of the project and are not considered mitigation measures.

Table 2: Best Management Practices

Impact Section	Best Management Practice
Arborist Report	Contractors shall follow recommendations contained in the Arborist report prepared by WCA (October 2020) including site preparation, establishing tree protection zones (fencing and signage) and requirement to retain a Certified Arborist for any excavation within a tree protection zone. No canopy trimming or cutting of roots over 2-inches in diameter without approval from the Certified Arborist. See Arborist report (Appendix A) for additional requirements.
Geotechnical Information	Pavement, subgrade, and gradation requirements see geotechnical investigation report entitled: "Geotechnical Investigation and Geologic Hazards Evaluation Milpitas High School - Performing Arts Center, Gymnasium, and Fitness Center 1285 Escuela Parkway Milpitas, California" Prepared By: Cornerstone Earth Group, 1259 Oakmead Parkway, Sunnyvale, CA 94085 Project No: 578-6-1 Dated: October 6, 2020
Hazards and Hazardous Materials	Standard BMPs shall be employed to protect stormwater from accidental leaks and potential pollutants as part of the SWPPP prepared for the project (see Hydrology/Water Quality BMPs below). It is standard procedure for the District to sample for asbestos containing materials and lead based paint prior to any demolition or deconstruction activities, and will sample materials as necessary during implementation of this project. The contractor will protect all hazardous containing items during the execution of this project and shall comply with all local, state, and federal regulations regarding the safe handling and disposal of hazardous materials. Prior to construction, the District shall conduct subsurface soil testing for agricultural chemicals at the project site and will implement further action, as necessary, to comply with applicable state and federal laws, rules, and regulations.
Hydrology/Water Quality	The project disturbs more than one acre of land and therefore requires compliance with the requirements of the California General Permit For Stormwater Discharges associated with Construction Activity (Permit No. CAS000002). The Construction General Permit requires the filing of a Notice of Intent (NOI) with the State Water Resources Control Board (SWRCB) and preparation and implementation of a Stormwater Pollution Prevention Plan (SWPPP) during construction. A SWPPP has

	been prepared and an NOI has been filed with the SWRCB by the owner's qualified SWPPP designer (QSD). In order to meet the requirements of the National Pollutant Discharge Elimination System (NPDES) program for construction, construction contractors shall install and maintain appropriate BMPs, as shown in the erosion control plans and in accordance with the SWPPP, on all construction projects. BMPs shall be installed in accordance with industry recommended standards, and/or in accordance with the Construction General Permit issued by the state. sediment, construction materials, debris and wastes, and other pollutants must be retained on site and may not be transported from the site via sheet flow, swales, area drains, natural drainage courses, wind, or vehicle tracking to the extent feasible. Under direction of the Contractor's qualified SWPPP practitioner (QSP), erosion and/or sediment control devices shall be modified as needed as the project progresses to ensure effectiveness. The contractor shall download and keep a copy of the SWPPP on site and available for review throughout the entire construction period.
Noise	Construction hours shall be limited to 7:00 A.M. to 7:00 P.M. daily, consistent with the City's noise regulations (Milpitas Municipal Code Chapter 213-3.04).

2.5 REQUIRED APPROVALS

The MUSD is both the proponent and the Lead Agency for the proposed project. The project involves the construction of school facilities and is subject to review and approval by the Division of the State Architect (DSA). All requirements related to or as part of the DSA review and approval process are considered part of the project.

Encroachment permits may be necessary from the City of Milpitas for utility connections within City rights-of-way.

Chapter 3. Environmental Checklist and Responses

1. **Project Title:** Milpitas High School Performing Arts Center and Gym Project

2. **Lead Agency Name and Address:** Milpitas Unified School District, 1331 E. Calaveras Boulevard, Milpitas CA, 95035

3. **Contact Person and Phone Number:** Travis Kirk, TBK Construction Management 209-777-4073

4. **Project Location:** 1235 Escuela Parkway, Milpitas, CA

5. **Project Sponsor's Name and Address:** Same as Lead Agency

6. **General Plan Designation:** PF – Public Facilities

7. **Zoning:** Institutional

8. **Description of the Project:** The proposed project consists of the construction of a new performing arts center, second gym, and fitness center at the Milpitas High School campus.

9. **Surrounding Land Uses and Setting:** The school site is surrounded by residential and other public facilities, including school uses to the north and east, residential and commercial uses to the south, and residential uses to the west.

10. **Other public agencies whose approval is required:** The project may require encroachment permits from the City for curb cut and driveway improvements.

11. **Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1? If so, is there a plan for consultation that includes, for example, the determination of significance of impacts to tribal cultural resources, procedures regarding confidentiality, etc.?** The MUSD has not received any request from a Native American tribe traditionally and culturally affiliated with the project area. Thus, no consultation has been conducted.

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.

☐	Aesthetics	☐	Greenhouse Gas Emissions	☐	Public Services
☐	Agricultural and Forestry Resources	☐	Hazards and Hazardous Materials	☐	Recreation
☒	Air Quality	☐	Hydrology/Water Quality	☐	Transportation
☒	Biological Resources	☐	Land Use/Planning	☒	Tribal Cultural Resources
☒	Cultural Resources	☐	Mineral Resources	☐	Utilities/Service Systems
☐	Energy	☐	Noise	☐	Wildfire
☐	Geology/Soils	☐	Population/Housing	☒	Mandatory Findings of Significance

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

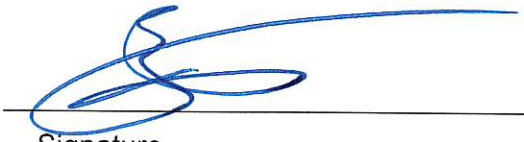
☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☒ 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.



Signature

1/28/2022

Date

Milpitas Unified School District

EVALUATION OF ENVIRONMENTAL IMPACTS

1. A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2. All answers must take account of the whole action involved, including off-site as well as onsite, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3. Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.

4. "Negative Declaration: Less Than Significant with Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from "Earlier Analyses," as described in 5. below, may be cross-referenced).

5. Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration (Section 15063(c)(3)(D)). In this case, a brief discussion should identify the following:

   a. Earlier Analysis Used. Identify and state where they are available for review.

   b. Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

   c. Mitigation Measures. For effects that are "Less Than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

6. Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

7. Supporting Information Sources. A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8. This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.

9. The explanation of each issue should identify:

   a. the significance criteria or threshold, if any, used to evaluate each question; and
   b. the mitigation measure identified, if any, to reduce the impact to less than significance.

3.1 AESTHETICS

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
*Would the project:**				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☒	☐
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage points.) If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☒	☐
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☐	☒
*Except as provided in Public Resources Code Section 21099				

3.1.1 Environmental Setting

The project located in the City of Milpitas within a developed and primarily residential community. Typical development in the areas near the proposed project site include single-family residences and school uses. A small commercial development is located at the southwest corner of the campus, south of the softball/baseball fields.

The project site is an existing high school that was originally constructed in 1969. Over time, the campus has added various facilities to meet enrollment needs including new classrooms and other buildings. More recent improvements included converting the track and football and soccer fields to synthetic turf in 2004 and a new pool in 2015. Views of the school from major surrounding roadways are shown in Figure 4. Public views of the campus are available from Escuela Parkway and Arizona Avenue.

Escuela Parkway is a wide two-lane roadway separated by an approximately 80-foot wide greenway. Existing school buildings, parking areas, landscaping, and school signage are readily viewable from Escuela Parkway, which is considered the “front” of the campus as it provides access to the administrative facilities and parking for visitors. The existing school buildings are all one-story in height and set back from the roadway a minimum of 60 feet. The buildings have a uniform architecture with concrete walls, flat roofs and metal eaves, painted predominantly gray at the building base and off white above, with accents in the school colors of navy blue and yellow. Various landscaping including mature trees (redwoods and magnolia City street trees), grass turf areas, and shrubs around the perimeters of the buildings. A small parking lot and bus pull out is located midway along the Escuela Parkway frontage. Another larger parking lot and driveway is located in the northeast corner of the campus for staff and student parking. The surface lot

contains photovoltaic (PV) solar array structures over the parking area that are currently being relocated to the northwest corner of the campus. Views on the east side of Escuela Park way include single-family residences as well as San Jose Evergreen Community College and Thomas Russell Middle School.

Arizona Avenue is a two-lane residential street and provides access to what would be considered the rear of the campus where all the athletic facilities are concentrated. Views to the campus from this street include the baseball field, swimming pool, soccer field, track, football field, tennis courts, basketball courts, and chain link security fencing. Various other school facilities including the existing gym and classroom buildings can be seen on the interior of the site.

Views from the commercial development located south of the campus are blocked by an existing six-foot high wall. The north side of the campus is adjacent to single family homes and Marshall Pomeroy Elementary School, therefore there are no public street views from the north side of the site.

Views surrounding the campus are of urban development including homes, landscaping, roadways and school buildings, and the area topography is flat and level. The proposed gym facilities would be located on the interior of the school site, while the PAC would be located along Escuela Parkway and would be readily visible to motorists and pedestrians on Escuela Parkway.

3.1.2 Regulatory Setting

City of Milpitas General Plan

The City of Milpitas General Plan 2040 (Milpitas General Plan) contains the following Land Use, Community Development and Conservation policies that are relevant to the proposed project:

- LU 6-3 Minimize the visual impact of large parking lots by locating them away from public streets, and reclaim unneeded and underutilized paved areas that could be converted to neighborhood-enhancing features such as gathering areas, pocket parks, or other community focused amenities.
- CD 2-2 Continue to develop and implement design standards and guidelines for residential, non-residential, and infrastructure development, both in the private and public realms, consistent with state law, to provide design and site planning approaches, landscaping, site grading and similar architectural and site planning criteria that will add design excellence, visual quality and interest to the community.
- CD 5-7 Encourage the use of creative landscape design to create visual interest and reduce conflicts between different land uses.
- CD 6-5 Promote consistent development patterns along streets, particularly by how buildings relate to the street, to promote a sense of visual order, and provide attractive streetscapes.
- CD 6-8 Apply special paving at major intersections and crosswalks along enhanced corridors to create a visual focal point, improve the pedestrian setting, and slow traffic speeds.
- CD 7-1 Maintain the visual character of hillsides, recognizing both the importance of the exposure of hillside development from offsite public views and the importance of providing panoramic public views from and of hillsides.
- CON 2-3 Avoid removal of large, mature trees that provide wildlife habitat, visual screening, or contribute to the visual quality of the environment through appropriate

project design and building siting. If full avoidance is not possible, prioritize planting of replacement trees onsite over off-site locations. Replacement trees for high-quality mature trees should generally be of like kind, and provide for comparable habitat functionality, where appropriate site conditions exist.

- CON 2-4 Proactively work to incorporate tree and plant species into the community that provide vibrant greenery, are drought tolerant, and enhance the visual quality of the City.

3.1.3 Discussion

Would the project:

a) Have a substantial adverse effect on a scenic vista?

Less than Significant Impact. For purposes of determining significance under CEQA, a scenic vista is defined as a viewpoint that provides expansive views of a highly valued landscape for the benefit of the public. None of the roadways surrounding the project site are considered scenic roadways in the Milpitas General Plan. The Milpitas General Plan identifies Mission Hills and Monument Peak to the east of the site as a scenic backdrop to the City and important to the community identity and character (De Novo Planning Group 2020). Mount Diablo is also identified as a significant visual feature located outside the City in northeast Contra Costa County. There are no officially designated scenic vista points in the Milpitas planning area (De Novo Planning Group 2020) and there are no officially designated scenic highways in the vicinity of Milpitas (Caltrans 2021). Given the orientation of the school site to these scenic resources, views of both the school and Mission Hills are available from Arizona Avenue on the western side of the campus, looking east to the hills.

The project would introduce new features into the views of Mission Hills from Arizona Avenue, looking across the MHS site to the east. The proposed PAC would block a portion of the views to the hills, just as other existing single-family homes and trees within the viewshed currently block lower portions of the hillside. However, due to the distance from Arizona Avenue (over 800 feet), the general view of the hillsides would still be maintained.

The proposed second gym and fitness center are on the interior of the school site and would be set back no less than 250 feet from the nearest public roadway (Arizona Avenue). The gym buildings are one- to two-stories in height so are comparable with existing development on the campus. Therefore, the impact is considered less than significant.

b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

No Impact. The project alignment is not visible from an officially designated state scenic highway. The closest officially designated state scenic highway to the project site is Interstate 680 (I-680) between Mission Boulevard in Fremont to Bernal Avenue near Pleasanton (Caltrans 2021), located over six miles north of the project site. Therefore, the project would not damage scenic resources within a state scenic highway. The segment of I- 680 extending north from the Santa Clara/Alameda County line, located approximately 0.8 mile north of the site, is eligible for designation as a state scenic highway, however, it does not yet have official designated status.

Because the project does not affect scenic resources within a state scenic highway, there would be no impact.

c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that

are experienced from publicly accessible vantage point.) If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

Less than Significant Impact. The proposed project adds new buildings to support existing school functions on an already developed high school campus. The proposed project would consist of a new performing arts center that would be readily visible from Escuela Parkway, as well as new gym facilities that would be visible at a distance (at least 250 feet) from Arizona Avenue.

The proposed PAC would be located in the northeast corner of the campus, which is currently occupied with a surface parking lot containing solar canopies (currently being relocated) and a landscaped frontage along Escuela Parkway. The PAC is an "L"-shaped building with the theater portion in the northeast of the site approximately 135 feet wide (along Escuela Parkway), 200 feet long (along the northern side) and 54 feet high. The classroom portion (band, choral, and orchestra practice rooms, and storage) of the PAC extends from the south side of the theater, parallel to Escuela Parkway, and is approximately 145 feet long, 95 feet wide, and 16 feet in height at the lower parapet and 28 ½ feet in height at the upper parapet.

The two gym buildings would be located on the interior of the school site and have heights similar to the existing buildings on campus. The fitness center would be 20 feet in height, while the gym would be 31 feet in height.

Construction of the PAC would require the removal of four trees adjacent to the parking area located in the northeast corner of the campus near Escuela. The street trees immediately adjacent to the Escuela Parkway are not proposed for removal. An additional four trees near the front office are recommended for removal due to declining health. Replacement landscaping includes a total of nine trees along the PAC's northern elevation, shrubs, turf and ground cover along the eastern frontage, as well as 12 trees and other shrubs and vines along the western elevation and parking area. Additional information on replacement landscaping for the gym and fitness center buildings is described in Section 2.4 of this Initial Study.

Because the site is in an urban area on an already developed site, no permanent significant change or degradation of the existing visual character or quality of the site is anticipated. Therefore, the impact is considered less than significant.

d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

Less than Significant Impact. New pole lighting for the PAC is concentrated along the northern elevation/driveway as well as the rear western side of the PAC and parking area. No new significant lighting is proposed to be oriented toward residential uses on the eastern elevation of the PAC. Other lighting is proposed for the gym and fitness center buildings, however, these buildings are oriented toward the center of the campus and would not have a significant effect on public views in the area. The impact is considered less than significant.

3.1.4 References

California Department of Transportation (Caltrans). 2021. California State Scenic Highway System Map. Accessed on August 31, 2021, at: https://caltrans.maps.arcgis.com/apps/webappviewer/index.html?id=465dfd3d807c46cc8e8057116f1aacaa

De Novo Planning Group. 2020. Milpitas General Plan Draft EIR. November 2. Accessed on September 2, 2021, at: https://static1.squarespace.com/static/57277b461d07c02f9c2f5c2c/t/5fa094bab97246713f3e4e9a/1604359401370/Milipitas_Public_Draft_EIR_reduced.pdf

3.2 AGRICULTURAL AND FOREST RESOURCES

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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?	☐	☐	☐	☒
b) Conflict with existing zoning for agricultural use or a Williamson Act contract?	☐	☐	☐	☒
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	☐	☐	☐	☒
d) Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒
*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. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board.				

3.2.1 Environmental Setting

The project site is located in the City of Milpitas and all proposed project improvements would occur on an existing, developed site. The California Department of Conservation Farmland Mapping and Monitoring Program identifies the area as Urban and Built-up Land (California Department of Conservation 2021).

3.2.2 Discussion

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?

b) Conflict with existing zoning for agricultural use or a Williamson Act contract?

c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?

d) Result in the loss of forest land or conversion of forest land to non-forest use?

e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?

No Impact. (Responses a – e). The proposed project would not impact Prime Farmland, Unique Farmland, Farmland of Statewide Importance, forest land, or land under a Williamson Act contract as none are present on site. All construction activities are confined to an existing, developed school site including areas in use for surface parking, covered in black top pavement or natural grass turf and are not in agricultural or forestry use. Thus, the project would not result in impacts to any agricultural or forestry resources.

3.2.3 References

California Department of Conservation. 2021. Santa Clara County Important Farmland 2018. Division of Land Resource Protection. August. Accessed on August 23, 2021 at https://filerequest.conservation.ca.gov/RequestFile/2834917

City of Milpitas, 2021. Milpitas General Plan. Land Use Element.

3.3 AIR QUALITY

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:*				
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☒
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	☐	☒	☐	☐
c) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☒	☐
d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	☐	☐	☒	☐
*Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations.				

3.3.1 Environmental Setting

Air quality is a function of pollutant emissions, and topographic and meteorological influences. The physical features and atmospheric conditions of a landscape interact to affect the movement and dispersion of pollutants and determine its air quality.

Federal, state, and local governments control air quality through the implementation of laws, ordinances, regulations, and standards. The federal and state governments have established ambient air quality standards for "criteria" pollutants considered harmful to the environment and public health. National Ambient Air Quality Standards (NAAQS) have been established for carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO_2), ozone (O_3), fine particulate matter (particles 2.5 microns in diameter and smaller, or $PM_{2.5}$), inhalable coarse particulate matter (particles 10 microns in diameter and smaller, or PM_{10}), and sulfur dioxide (SO_2). California Ambient Air Quality Standards (CAAQS) are more stringent than the national standards for the pollutants listed above and include the following additional pollutants: hydrogen sulfide (H_2S), sulfates (SO_X), and vinyl chloride. In addition to these criteria pollutants, the federal and state governments have classified certain pollutants as hazardous air pollutants (HAPs) or toxic air contaminants (TACs), such as asbestos and diesel particulate matter (DPM).

The proposed project is located in the San Francisco Bay Area Air Basin (SFBAAB), an area of non-attainment for national and state ozone, state PM_{10}, and national and state $PM_{2.5}$ air quality standards. The Bay Area Air Quality Management District (BAAQMD) has jurisdiction over air quality in the SFBAAB.

Existing Emissions Sources

The proposed project would be located at Milpitas High School. The school generates emissions from mobile sources (e.g., student and staff vehicle trips to and from school), small stationary sources (e.g., boilers, furnaces, or ovens), and area sources (e.g., water and space

heating equipment and landscaping). These existing emissions contribute to local and regional air quality conditions near the high school and in the greater SFBAAB.

Sensitive Receptors

Some people are more affected by air pollution than others. The BAAQMD defines sensitive receptors as "facilities or land uses that include members of the population that are particularly sensitive to the effects of air pollutants, such as children, the elderly and people with illnesses" (BAAQMD 2017). In general, children, senior citizens, and individuals with pre-existing health issues (e.g., asthmatics) are considered sensitive receptors. Both CARB and the BAAQMD consider schools, schoolyards, parks and playgrounds, daycare facilities, nursing homes, hospitals, and residential areas as sensitive air quality land uses and receptors.

In general, sensitive air quality receptors near Milpitas High School include:

- Students and staff at Milpitas High School;
- Students and staff at Marshall Pomeroy Elementary School, which borders the high school to the north;
- Students and staff at San Jose Evergreen Community College, which is located approximately 190 feet northwest of Milpitas High School, across Escuela Parkway[1];
- Students and staff at Thomas Russell Middle School, which is located approximately 360 feet northwest of Milpitas High School, across Escuela Parkway;
- The single-family residential area located approximately 140 feet east of the high school, across Escuela Parkway (including homes on Escuela Parkway, Cirolero Street, and Manzano Street);
- The single-family homes located approximately 130 feet southeast of the high school, on Sandalwood Lane;
- The single-family residential area that borders the high school to the west, across Arizona Avenue; and
- The single-family residential area that borders the high school to the northwest (including homes on Garcia Court and Duarte Court.

3.3.2 Regulatory Setting

In-Use Off-Road Diesel Vehicle Regulation

On July 26, 2007, CARB adopted a regulation to reduce DPM and NO_x emissions from in-use (existing) off-road heavy-duty diesel vehicles in California. Such vehicles are used in construction, mining, and industrial operations. This regulation applies to all off-road diesel vehicles over 25 horsepower (hp) used in California and most two-engine vehicles (except on-road two-engine sweepers), which are subject to the *Regulation for In-Use Off-Road Diesel Fueled Fleets (Off-Road regulation).* Additionally, vehicles that are rented or leased are included in this regulation.

The Off-Road regulation:

- Imposes limits on idling, requires a written idling policy, and requires a disclosure when selling vehicles;

1 Unless otherwise noted, all distances are as measured between Milpitas High School property line and receptor property line.

- Requires all off-road diesel vehicles over 25-horsepower be reported to CARB (using the Diesel Off-Road Online Report System DOORs) and labeled;
- Restricts the adding of older vehicles into fleets; and,
- Requires fleets to reduce their emissions by retiring, replacing, or repowering older engines, or installing Verified Diesel Emission Control Strategies, VDECS (i.e., exhaust retrofits).

Bay Area Air Quality Management District

The BAAQMD is the agency primarily responsible for maintaining air quality and regulating emissions of criteria and toxic air pollutants within the SFBAAB. The BAAQMD carries out this responsibility by preparing, adopting, and implementing plans, regulations, and rules that are designed to achieve attainment of state and national air quality standards.

The BAAQMD is the agency primarily responsible for maintaining air quality and regulating emissions of criteria and toxic air pollutants within the SFBAAB. The BAAQMD carries out this responsibility by preparing, adopting, and implementing plans, regulations, and rules that are designed to achieve attainment of state and national air quality standards. The BAAQMD currently has 13 regulations containing more than 100 rules that control and limit emissions from sources of pollutants. Table 3 summarizes the major BAAQMD rule and regulation that may apply to the proposed project.

Table 3. Potentially Applicable BAAQMD Rules and Regulations

Regulation	Rule	Description
1 – General Provisions	1 – General Provisions and Definitions	301- Public Nuisance: Establishes that no person shall discharge quantities of air contaminants or other materials which cause injury, detriment, nuisance or annoyance to any considerable number or person or the public; or which endangers the comfort, repose, health or safety of any such person or the public.
6 – Particulate Matter	1 – General Requirements	Limits visible particulate matter emissions.
6 – Particulate Matter	6 – Prohibition of Trackout	Limits the quantity of particulate matter through control of trackout of solid materials on paved public roads from construction sites that are greater than one acre in size.
11 – Hazardous Pollutants	2 – Asbestos Demolition, Renovation, and Manufacturing	Controls emissions of asbestos to the atmosphere during demolition.
Source: BAAQMD 2021		

On April 19, 2017, the BAAQMD adopted the *2017 Clean Air Plan: Spare the Air, Cool the Climate* (*Clean Air Plan*), which updates the District's *2010 Clean Air Plan*, and continues to provide the

framework for assuring that the NAAQS and CAAQS would be attained and maintained in the Bay Area in compliance with state and federal requirements. The BAAQMD's 2017 *Clean Air Plan* is a multi-pollutant plan focused on protecting public health and the climate. Specifically, the primary goals of the 2017 Clean Air Plan are to:

- Attain all state and national quality standards;
- Eliminate disparities among Bay Area communities in cancer health risk from toxic air contaminants; and
- Reduce Bay Area greenhouse gas emissions to 40 percent below 1990 levels by 2030, and 80 percent below 1990 levels by 2050.

The *Clean Air Plan* includes 85 distinct control measures to help the region reduce air pollutants and has a long-term strategic vision which forecasts what a clean air Bay Area will look like in the year 2050. The control measures aggressively target the largest sources of greenhouse gas (GHG) emissions, ozone pollutants, and particulate matter emissions (transportation). The 2017 *Clean Air Plan* includes more incentives for electric vehicle infrastructure, off-road electrification projects such as Caltrain and shore power at ports, and reducing emissions from trucks, school buses, marine vessels, locomotives, and off-road equipment.

3.3.3 Discussion

Would the proposed project:

a) Conflict with or obstruct implementation of the applicable air quality plan?

No Impact. The proposed project would not conflict with nor obstruct implementation of the BAAQMD *2017 Clean Air Plan*. The *2017 Clean Air Plan* includes increases in regional construction, area, mobile, and stationary source activities and operations in its emission inventories and plans for achieving attainment of air quality standards. Chapter 5 of the *2017 Clean Air Plan* contains the BAAQMD's strategy for achieving the plan's climate and air quality goals. This control strategy is the backbone of the *2017 Clean Air Plan*. The BAAQMD's implementation of the control strategies employs a wide range of tools and resources, and many of the control strategies are not intended or designed to be directly implemented or achieved by local government or a school district. The proposed new facilities would not change school enrollment or result in significant new sources of emissions that would conflict with the *2017 Clean Air Plan.* The proposed project would be consistent with the control measures contained in the *2017 Clean Air Plan*. It would also not disrupt or hinder implementation of any control measure or create any disparities in air quality effects or impacts. The proposed project, therefore, would not conflict with the *2017 Clean Air Plan*. No impact would occur.

b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?

Less Than Significant Impact with Mitigation. The proposed project would generate short-term construction emissions. The project's potential emissions were estimated using the California Emissions Estimator Model (CalEEMod), Version 2020.4.0. As described in more detail below, the proposed project would not generate short-term emissions that exceed BAAQMD-recommended criteria air pollutant thresholds with the incorporation of standard mitigation measures for the control of fugitive dust emissions.

Regarding operational emissions, the proposed project would not change in enrollment at Milpitas High School or alter or modify other maintenance, landscaping, and administrative activities. The transportation analysis prepared for the proposed project by Hexagon Transportation Consultants, Inc. indicates the new PAC would result in an additional 23 daily vehicle trips. These vehicle trips would most likely originate and end in the school's service territory and would not generate a substantial amount of vehicle miles travelled (VMT) or emissions associated with VMT. The proposed project, therefore, would not result in substantial long-term emissions levels. Operational emissions would be considered a less than significant impact.

Construction Emissions

The proposed project involves the construction of a PAC, a second gym, and a fitness center at Milpitas High School. As described in Section 2.4, construction activities are anticipated to begin in May 2022 and last approximately 18 months. Construction would include site preparation, grading/excavation, building foundation (including utility work), vertical building construction, building finishing (i.e., mechanical, electrical, and plumbing work and other interior finishing), and paving/landscaping activities. The project is expected to result in the import of 600 tons of asphalt and 5,000 tons of base rock, and the export of 20,300 cubic yards of soil. Construction emissions would be generated onsite during the use of heavy-duty, off-road construction equipment (e.g., excavators, graders, forklifts, etc.) and off-site during worker, vendor, and hauling trips.

The project's potential construction emissions were estimated using CalEEMod Version 2020.4.0 based on the construction schedule and equipment provided by the MUSD and are presented in Table 4 (see Appendix A: Air Quality/GHG Calculations).

Table 4. Estimated Project Construction Criteria Air Pollutant Emissions

Year / Scenario	Pollutant Emissions (Tons Per Year)[A]						
	ROG	NOx	CO	PM10		PM2.5	
				Dust[B]	Exhaust	Dust[B]	Exhaust
UNMITIGATED							
June 2022 to May 2023	0.5	4.4	3.9	0.5	0.2	0.2	0.2
June 2023 to January 2024	0.5	1.2	1.5	0.1	0.1	0.0	0.1
MITIGATED							
June 2022 to May 2023	0.5	4.4	3.9	0.3	0.2	0.1	0.2
June 2023 to January 2024	0.5	1.2	1.5	0.1	0.1	0.0	0.1
Year / Scenario	**Pollutant Emissions (Average Pounds per Day)[C]**						
	ROG	**NOx**	**CO**	**PM10**		**PM2.5**	
				Dust[B]	**Exhaust**	**Dust[B]**	**Exhaust**
UNMITIGATED							
June 2022 to May 2023	3.5	33.0	29.3	3.5	1.5	1.6	1.4
June 2023 to January 2024	5.7	14.0	16.5	0.5	0.6	0.1	0.6
MITIGATED							
June 2022 to May 2023	3.5	33.0	29.3	2.0	1.5	0.9	1.4
June 2023 to January 2024	5.7	14.0	16.5	0.4	0.6	0.1	0.6
BAAQMD CEQA Threshold	**54**	**54**	**--**	**BMPs**	**82**	**BMPs**	**82**
Potentially Significant Impact?	**No**	**No**	**No**	**No**	**No**	**No**	**No**

BAAQMD 2017b and MIG 2021 (see Appendix A).

(A) As a conservative approach and to facilitate emissions reporting, construction activities were modeled starting in January 2022 and ending in September 2023. In actuality, construction is anticipated to occur from June 2022 to approximately January 2024. Construction equipment in anticipated to become cleaner over time as older, dirtier, construction equipment is phased out and replaced with newer, cleaner burning pieces of equipment.
(B) For all projects, the BAAQMD recommends implementing eight basic construction best management practices (BMPs) to control fugitive dust from construction activities, which the MUSD has incorporated into the proposed project (see Table 2).
(C) Average daily emissions assume 264 total active construction days from June 2022 to May 2023 and 176 active construction days from June 2023 to January 2024 (22 construction days per month).

As shown in Table 4, construction emissions associated with the proposed project would be below all BAAQMD significance thresholds for criteria air pollutant emissions; however, as indicated in the BAAQMD's *CEQA Guidelines*, fugitive dust emissions are considered potentially significant, regardless of the quantity of PM_{10} or $PM_{2.5}$ emitted unless the BAAQMD's eight recommended fugitive dust BMPs are implemented during construction activities. Accordingly, the MUSD has incorporated the BAAQMD's recommended BMPs into the proposed project (see Table 2). With these BMPs, the proposed project's construction emissions would be a less than significant impact.

Impact AIR-1: The project could result in fugitive dust emissions.

Mitigation Measure AIR-1: To reduce fugitive dust that would be generated during Project construction activities, the Milpitas Unified School District (MUSD) and/or its designated contractors, contractor's representatives, or other appropriate personnel shall implement the following Bay Area Air Quality Management District (BAAQMD) basic dust control measures during all project construction activities.

- Water all exposed surfaces (e.g., staging areas, soil piles, graded areas, and unpaved access roads) two times per day during construction and adequately wet demolition surfaces to limit visible dust emissions.
- Cover all haul trucks transporting soil, sand, or other loose materials off the Project site.
- Use wet power vacuum street sweepers at least once per day to remove all visible mud or dirt track-out onto adjacent public roads (dry power sweeping is prohibited) during construction of the proposed Project.
- Vehicle speeds on unpaved roads/areas shall not exceed 15 miles per hour.
- Complete all areas to be paved as soon as possible and lay building pads as soon as possible after grading unless seeding or soil binders are used.
- Minimize idling time of diesel-powered construction equipment to five minutes and post signs reminding workers of this idling restriction at access points and equipment staging areas during construction of the proposed Project
- Maintain and properly tune all construction equipment in accordance with manufacturer's specifications and have a CARB-certified visible emissions evaluator check equipment prior to use at the site.
- Post a publicly visible sign with the name and telephone number of the construction contractor and MUSD staff person to contact regarding dust complaints. This person shall respond and take corrective action within 48 hours. The publicly visible sign shall also include the contact phone number for the BAAQMD to ensure compliance with applicable regulations.

Effectiveness: This measure would prevent impacts from fugitive dust during construction.

Implementation: MUSD shall implement this measure with their contractors.

Timing: During construction activities.

Monitoring: MUSD

c) Expose sensitive receptors to substantial pollutant concentrations?

Less Than Significant Impact. During project construction, the heavy-duty, diesel-powered off-road construction equipment, as well as diesel-powered vendor and haul trucks, would emit DPM, a TAC, as part of their exhaust emissions; however, these emissions would not result in pollutant concentrations that could generate substantial adverse health risks to sensitive receptors for several reasons. First, as shown in Table 4, the proposed project's emissions would be below all BAAQMD construction emissions thresholds. Second, project construction would involve the largest equipment and the highest daily emissions levels during the site preparation and grading phases in summer 2022, when students are generally out of class and not on campus. Finally, construction activities would only occur intermittently, between the hours of 7:00 A.M. and 7:00 P.M. Monday through Friday, consistent with the City's Municipal Code, and last approximately 18 months. The intermittent nature of project construction activities would provide time for emitted pollutants to disperse on an hourly and daily basis according to the prevailing wind in the area. As such, the project does not have the potential to expose sensitive receptors to substantial pollutant concentrations. This impact would be less than significant.

d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

Less Than Significant Impact. Construction of the project would generate typical odors associated with construction activities, such as fuel and oil odors. The odors generated by the project would be intermittent and localized in nature and would disperse quickly. There are no other anticipated odorous emissions. Therefore, the project would not create emissions or odors that adversely affect a substantial number of people. This impact would be less than significant.

3.3.4 References

Bay Area Air Quality Management District (BAAQMD) 2017a. Air Quality Standards and Attainment Status. BAAQMD. January 5, 2017. Web. Accessed October 21, 2021. <http://www.baaqmd.gov/research-and-data/air-quality-standards-and-attainment-status>

_____2017b. California Environmental Quality Act Air Quality Guidelines. San Francisco, CA. June 2010, updated May 2017.

_____2017c. 2017 Clean Air Plan: Spare the Air, Cool the Climate. BAAQMD, Planning, Rules, and Research Division. San Francisco, CA. April 19, 2017.

_____2021. "Current Rules". August 2, 2019. Web. Accessed October 21, 2021. <https://www.baaqmd.gov/rules-and-compliance/current-rules>

California Air Resources Board (CARB) 2005. Air Quality and Land Use Handbook: A Community Health Perspective. Sacramento, CA. 2005. Available online at: <https://www.arb.ca.gov/ch/handbook.pdf>

Hexagon Transportation Consultants, Inc. (Hexagon) 2021. Transportation Analysis for the Milpitas Union High School Expansion. September 2021.

3.4 BIOLOGICAL RESOURCES

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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 Wildlife or U.S. Fish and Wildlife Service?	☐	☒	☐	☐
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 Wildlife or U.S. Fish and Wildlife Service?	☐	☐	☐	☒
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒
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?	☐	☐	☐	☒
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☒	☐
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?	☐	☐	☐	☒

3.4.1 Environmental Setting

The project site is in an urban area surrounded by residential and public facilities (school) uses to the north and east, residential and commercial uses to the south, and residential uses to the west. There is dense urban development for at least a half mile radius around the site, including major regional highways such as I-680, located approximately 0.4 mile to the east and I-880, approximately 0.9 mile to the west, and railroad tracks about 0.4 mile to the west. The Coast Ranges are approximately 1.5 miles east of the site and the San Francisco Bay is approximately two miles to the west.

The project site is an existing high school campus developed with buildings, parking lots, and sports facilities. The proposed PAC building is proposed in the northeast corner of the campus, where a paved parking lot is currently located. The proposed second gym building would be located on the southeast side of an existing track, also at the location of an

existing paved parking lot. The new fitness center is proposed on the southwest side of the track, where there is currently a grassy area (small lawn).

Trees and Other Vegetation

The only vegetation in or near the project site is landscape vegetation such as ornamental trees and lawns. Within the project footprint, there is a mowed lawn at the site of the new fitness center, and the proposed area for the ADA ramp east of the bleachers and south of the bleachers that contains ornamental shrubs and weedy species such as Bermuda grass (*Cynodon dactylon*), and cat's ear (*Hypochaeris* sp.).

An arborist's report was prepared for the project by West Coast Arborists Inc. to assess trees near proposed the proposed new building sites (WCA 2020, Appendix A). Twenty-four trees were identified near the proposed building sites during the assessment, as listed in Table 5 below and shown in Figure 9. Eight trees would require removal due to planned grading or due to preexisting decline or structural issues. The remaining trees would be retained and would require basic maintenance and sufficient tree protection zones/measures to minimize impacts from construction activities. Basic tree protection guidelines were provided in the report.

Table 5. Trees On or Near the Project Site

#	Species	DBH	Condition	Remove?
1	Allepo pine (*Pinus halepensis*)	33	Fair	Yes
2	American sweetgum (*Liquidambar styraciflua*)	14	Good	Yes
3	Holly oak (*Quercus ilex*)	17	Good	Yes
4	Canary Island pine (*Pinus canariensis*)	27	Fair	Yes
5	Holly oak (*Quercus ilex*)	14	Fair	No
6	Holly oak (*Quercus ilex*)	19	Fair	No
7	Holly oak (*Quercus ilex*)	6	Good	No
8	Chinese pistache (*Pistacia chinensis*)	16	Poor	Yes
9	Chinese pistache (*Pistacia chinensis*)	14	Fair	Yes
10	Holly oak (*Quercus ilex*)	22	Fair	No
11	Holly oak (*Quercus ilex*)	14	Good	No
12	Coast redwood (*Sequoia sempervirens*)	26	Poor	Yes
13	Coast redwood (*Sequoia sempervirens*)	27	Poor	Yes
14	Coast redwood (*Sequoia sempervirens*)	40	Good	No
15	American sweetgum (*Liquidambar styraciflua*)	8	Good	No
16	American sweetgum (*Liquidambar styraciflua*)	12	Good	No
17	American sweetgum (*Liquidambar styraciflua*)	9	Good	No
18	American sweetgum (*Liquidambar styraciflua*)	12	Good	No
19	Holly oak (*Quercus ilex*)	23	Good	No
20	Southern magnolia (*Magnolia grandiflora*)	24	Fair	No
21	Southern magnolia (*Magnolia grandiflora*)	16	Fair	No
22	Southern magnolia (*Magnolia grandiflora*)	14	Fair	No
23	Southern magnolia (*Magnolia grandiflora*)	22	Fair	No
24	Southern magnolia (*Magnolia grandiflora*)	14	Fair	No

Wildlife

Wildlife species observed at the site on September 27, 2021 by MIG Biologist, Megan Kalyankar, included several species of birds, including American crow, black phoebe, California

towhee, European starling, killdeer, oak titmouse, white-crowned sparrow, and an unidentified species of gull. Mammal species observed included fox squirrel. Other wildlife common in urban environments are also likely present in the project area. Some examples may include California slender salamander, American robin, California scrub jay, northern raccoon, striped skunk, and Virginia opossum.

3.4.2 Regulatory Setting

Federal Regulations

U.S. Migratory Bird Treaty Act

The U.S. Migratory Bird Treaty Act (MBTA; 16 USC §§ 703 et seq., Title 50 Code of Federal Regulations [CFR] Part 10) states it is "unlawful at any time, by any means or in any manner, to pursue, hunt, take, capture, kill; attempt to take, capture or kill; possess, offer for sale, sell, offer to barter, barter, offer to purchase, purchase, deliver for shipment, ship, export, import, cause to be shipped, exported, or imported, deliver for transportation, transport or cause to be transported, carry or cause to be carried, or receive for shipment, transportation, carriage, or export any migratory bird, any part, nest, or egg of any such bird, or any product, whether or not manufactured, which consists, or is composed in whole or in part, of any such bird or any part, nest or egg thereof…" In short, under MBTA it is illegal to disturb a nest that is in active use, since this could result in killing a bird, destroying a nest, or destroying an egg. The U.S. Fish and Wildlife Service (USFWS) enforces MBTA. The MBTA does not protect some birds that are non-native or human-introduced or that belong to families that are not covered by any of the conventions implemented by MBTA. In 2017, the USFWS issued a memorandum stating that the MBTA does not prohibit incidental take; therefore, the MBTA is currently limited to purposeful actions, such as directly and knowingly removing a nest to construct a project, hunting, and poaching.

State Regulations

California Environmental Quality Act (CEQA)

CEQA (Public Resources Code Sections 21000 et. seq.) requires public agencies to review activities which may affect the quality of the environment so that consideration is given to preventing damage to the environment. When a lead agency approves a development project that could affect the environment, it must disclose the potential environmental effects of the project. This is done with an "Initial Study and Negative Declaration" (or Mitigated Negative Declaration) or with an "Environmental Impact Report". Certain classes of projects are exempt from detailed analysis under CEQA if they meet specific criteria and are eligible for a Categorical Exemption.

CEQA Guidelines Section 15380 defines endangered, threatened, and rare species for purposes of CEQA and clarifies that CEQA review extends to other species that are not formally listed under the state or federal Endangered Species acts but that meet specified criteria. The state maintains a list of sensitive, or "special-status", biological resources, including those listed by the state or federal government or the California Native Plant Society (CNPS) as endangered, threatened, rare or of special concern due to declining populations. During CEQA analysis for a proposed project, the California Natural Diversity Data Base (CNDDB) is usually consulted. CNDDB relies on information provided by the California Department of Fish and Wildlife (CDFW), USFWS, and CNPS, among others. Under CEQA, the lists kept by these and any other widely recognized organizations are considered when determining the impact of a project.

California Migratory Bird Protection Act

California Fish and Game Code section 3513 states that federal authorization of take or possession is no longer lawful under the state Fish and Game Code if the federal rules or regulations are inconsistent with state law. The California Migratory Bird Protection Act (MBPA) was passed in September 2019 to provide a level of protection to migratory birds in California consistent with the U.S. MBTA prior to the 2017 rule change limiting protection of migratory birds under the U.S. MBTA to purposeful actions (i.e., directly and knowingly removing a nest to construct a project, hunting, and poaching). Thus, under the MBPA, protections for migratory birds in California are consistent with rules and regulations adopted by the United States Secretary of the Interior under the U.S. MBTA before January 1, 2017. The MBPA reverts to existing provisions of the U.S. MBTA on January 20, 2025.

Nesting Birds

Nesting birds, including raptors, are protected under California Fish and Game Code Section 3503, which reads, "It is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by this code or any regulation made pursuant thereto." In addition, under California Fish and Game Code Section 3503.5, "it is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto". Passerines and non-passerine land birds are further protected under California Fish and Game Code 3513. As such, CDFW typically recommends surveys for nesting birds that could potentially be directly (e.g., actual removal of trees/vegetation) or indirectly (e.g., noise disturbance) impacted by project-related activities. Disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes nest abandonment and/or loss of reproductive effort is considered "take" by CDFW.

Non-Game Mammals

Sections 4150-4155 of the California Fish and Game Code protects non-game mammals, including bats. Section 4150 states "A mammal occurring naturally in California that is not a game mammal, fully protected mammal, or fur-bearing mammal is a nongame mammal. A non-game mammal may not be taken or possessed except as provided in this code or in accordance with regulations adopted by the commission". The non-game mammals that may be taken or possessed are primarily those that cause crop or property damage. Bats are classified as non-game mammals and are protected under the California Fish and Game Code, in addition to being protected if they are a listed species (e.g., CSSC, CFP, state or federal threatened, or state or federal endangered).

Local

Milpitas Municipal Code Chapter 2. Tree Maintenance and Protection

The City of Milpitas requires a permit from the Public Works Department before any person[2] can remove any street tree, protected tree, or heritage tree (Section X-2-4.02). According to Section X-2-7.01, a protected tree is any of the following:

2 "Person" means any individual co-partnership, association, corporation, governmental body or unit, or agency (other than the City of Milpitas) or any other entity.

(a) All trees which have a fifty six-inch (56") or greater circumference of any trunk measured 4 ½ feet from the ground and located on developed residential property.

(b) All trees which have a thirty seven-inch (37") or greater circumference of any trunk measured 4 ½ feet from the ground and located on developed commercial or industrial property.

(c) All trees which have a thirty seven-inch (37") or greater circumference of any trunk measured 4 ½ feet from the ground, when removal relates to any transaction for which zoning approval or subdivision approval is required.

(d) Any tree existing at the time of a zoning or subdivision approval and was a specific subject of such approval or otherwise covered by subsection (b) above.

(e) All trees which have a thirty seven-inch (37") or greater circumference of any trunk measured 4 ½ feet from the ground and located on a vacant, undeveloped or underdeveloped property.

(f) All heritage trees or groves of trees as defined in Section X-2-2.10.

Although MUSD meets the City Municipal Code's definition of a person, none of the trees that could be impacted by the project meet the definition of a protected tree, because the high school campus is not a developed residential property, commercial or industrial property, subdivision, or vacant, undeveloped or underdeveloped property, and there are no known heritage trees on the campus.

3.4.3 Discussion

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 Wildlife or U.S. Fish and Wildlife Service?

Less than Significant with Mitigation. There is no potential for special-status species to occur in or near the project site because there is no suitable habitat for such species in the project area. A search of the California Natural Diversity Database (CNDDB) revealed that there are records of numerous special-status species within five miles of the project site. However, all of these records occur near the San Francisco Bay or in the Coast Ranges located two and 1.5 miles from the site, respectively, and all of these species have specialized habitat requirements that are not present in the project area, such as aquatic habitat (wetlands, marsh, streams or riparian habitat), specialized soils (alkaline or serpentine, etc.), natural vegetation communities (grasslands, scrub, woodlands, etc.), or geologic features (coastal bluff, etc.).

Nesting birds may occur in trees and buildings adjacent to the project site. All migratory bird species are protected under the Migratory Bird Treaty Act, the California Migratory Bird Protection Act, and the California Fish and Game code. If construction activities occur during the avian breeding season (February 1 to September 15), injury to individuals or nest abandonment could occur. Noise and increased construction activity could temporarily disturb nesting or foraging activities, potentially resulting in the abandonment of nest sites. However, with the implementation of mitigation measure BIO-1, potential impacts from the project to nesting birds would be less than significant.

The project site was assessed for roosting bat habitat during the September 27, 2021, site visit by MIG Biologist, Megan Kalyankar. The onsite trees proposed for removal do not have large

cavities, peeling bark, or deep crevices that could support roosting bats, and are located in a busy area at the front of the campus, away from Calera Creek and at the site of abundant human activity. The existing portable building to be removed for the proposed PAC building is currently occupied, and there are no abandoned or vacant buildings in the project area. Therefore, the potential for the project site and adjacent areas to support roosting bats is considered to be low, and the project is unlikely to impact roosting bats. Therefore, no mitigation is required.

Impact BIO-1: Project construction could impact nesting birds if construction takes place during the nesting season.

Measure BIO-1: To avoid impacts to nesting birds and avoid potential violation of state and federal laws pertaining to birds, all construction-related activities (including but not limited to mobilization and staging, clearing, grubbing, tree removal, fence installation, demolition, and grading) should occur outside the avian nesting season (that is, prior to February 1 or after September 15) if possible. If construction-related activities and construction noise occur within the avian nesting season (from February 1 to September 15), all suitable habitats located within the project's area of disturbance, including staging and storage areas, plus a 250-foot (non-raptor nests) and 1,000-foot (raptor nests) buffer around these areas shall be thoroughly surveyed, as feasible, for the presence of active nests by a qualified biologist no more than five days before commencement of any site disturbance activities and equipment mobilization. If project activities are delayed by more than five days, an additional nesting bird survey shall be performed. Active nesting is present if a bird is building a nest, sitting in a nest, a nest has eggs or chicks in it, or adults are observed carrying food to the nest. The results of the surveys shall be documented by a qualified biologist.

If pre-construction nesting bird surveys result in the location of active nests, no site disturbance and mobilization of heavy equipment (including but not limited to equipment staging, fence installation, clearing, grubbing, vegetation removal, fence installation, demolition, and grading), shall take place within 250 feet of non-raptor nests and 1,000 feet of raptor nests, or as determined by a qualified biologist in consultation with the California Department of Fish and Wildlife, until the chicks have fledged. Monitoring shall be required to ensure compliance with Migratory Bird Treaty Act (MBTA) and relevant California Fish and Game Code requirements. Monitoring dates and findings shall be documented by a qualified biologist.

Effectiveness: This measure would prevent impacts to nesting birds.

Implementation: MUSD shall implement this measure with a qualified biologist.

Timing: Prior to, and within five days of initial ground disturbance including tree removal, grubbing, grading, installation of fencing, and construction by a qualified biologist.

Monitoring: MUSD and a qualified biologist.

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 Wildlife or US Fish and Wildlife Service?

No Impact. No riparian habitat or other sensitive habitat occurs on or adjacent to the project site. Calera Creek is located approximately 450 feet south of the proposed location for the second gym at its closest point to the project site, along the southern border of the high school campus. The creek is channelized at this location, and the creek was dry at the time of the September 27, 2021 site visit. The project is not expected to impact riparian habitat on Calera Creek due to the distance of the creek from the project site.

c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

No Impact. There are no state or federally protected wetlands on or near the project site. As stated in response to Question b above, Calera Creek is located along the southern border of the high school campus but is a minimum of 450 feet away from the project site and is not expected to be impacted by the project. There are no other aquatic features or potentially jurisdictional habitats in the project area.

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?

No Impact. The proposed project would not impact wildlife movement or nursery sites. The project site is in a highly urbanized area and there are no established native resident or migratory wildlife corridors or native wildlife nursery sites in the project area. The proposed project would construct three new buildings on an existing high school campus already developed with buildings, parking lots, and sports facilities. Wildlife movement is already restricted in the project area by roads, buildings, and other development. Although common birds and small mammals adapted to urban areas may move through the project area, the area does not generally support species typically found in more natural areas and movement opportunities for large mammals or species with specialized habitat requirements are very limited. After project implementation wildlife movement conditions are expected to be similar to existing conditions.

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance (including the County Heritage and Significant Tree Ordinances)?

Less Than Significant Impact. The proposed project would not conflict with the City's tree ordinance (Milpitas Municipal Code Chapter 2. Tree Maintenance and Protection) because none of the trees that could be impacted by the project are protected trees under the ordinance (see Section 3.4.2 under Local above for more information), and project tree removal would be offset by tree planting. The project would likely include the removal of eight trees. However, the project Planting Plan includes twenty-four new trees near the proposed Performing Arts Center. In addition, the proposed project will comply with the recommendations in the Arborist Report prepared for the project, such as the establishment and monitoring of a Tree Protection Zone (TPZ) around trees near the new building sites that will be retained.

Local policies such as general plan policies do not apply to MUSD. However, as explained in response to Questions a-d above, the proposed project would not impact special-status species, sensitive habitats, wetlands or other aquatic features, or wildlife movement or nursery sites because the project site is in a highly urbanized area where such resources are not present. In addition, potential impacts to nesting birds would be avoided by the implementation of Mitigation Measure BIO-1. Therefore, the proposed project would not conflict with any local policies or ordinances protecting biological resources.

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?

No Impact. There is no adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan that applies to the project site. Thus, the proposed project would not conflict with such a plan.

3.4.4 References

[CNDDB] California Natural Diversity Data Base. 2021. Results of electronic records search. Rarefind 5. California Department of Fish and Wildlife, Biogeographic Data Branch. Accessed September 2021 from http://www.dfg.ca.gov/biogeodata/cnddb/mapsanddata.asp.

City of Milpitas. 2007 (October 16). Milpitas Municipal Code Chapter 2. Tree Maintenance and Protection.

Google Earth Pro. 2021 (September 14). 1450 Escuela Parkway, Milpitas, California.

LPA. 2021 (August 10). Milpitas HS- P.A.C., Second Gym, and Fitness Center DSA Submittal. 1285 Escuela Parkway, Milpitas CA95035. Planting Plan, Sheets L7.01 and L7.02.

[WCA] West Coast Arborists, Inc. 2020 (October 19). Arborist Report. Milpitas Unified School District: Tree Protection Plan- Milpitas HS- P.A.C., Second GYM, and Fitness Center. Prepared by Glenn O. Whitlock-Reeve, Registered Consulting Arborist #704.

[USFWS] U.S. Fish and Wildlife Service. 2021. National Wetlands Inventory. Accessed September 14, 2021 at: https://www.fws.gov/wetlands/data/mapper.html

3.5 CULTURAL RESOURCES

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5?	☐	☐	☐	☒
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	☐	☒	☐	☐
c) Disturb any human remains, including those interred outside of dedicated cemeteries?	☐	☒	☐	☐

The following discussion is based on an archaeological record search with the California Historical Resources Information System at Sonoma State University (October 05, 2021) and a Sacred Lands File Search with the Native American Heritage Commission (October 15, 2021). The information was subsequently reviewed by MIG Archaeologist, Adrienne Furniss.

3.5.1 Environmental Setting

Prehistoric

Prior to the arrival of the Spanish missions, Santa Clara County was home to many tribes of Native Americans of diverse ethnic and linguistic backgrounds. The area of Milpitas, California, was predominantly inhabited by the Tamien (sometimes spelled Tamyen) group of the Ohlone Tribe. Often living in semi-permanent or seasonal housing organized around large extended family groups, local inhabitants utilized the abundant natural resources to survive, with special emphasis placed on the role of the acorn, fish, wild game, and plant matter (Levy 1978). Groups would spend the warm summers closer to the Bay, and the colder winter months farther inland. This not only would allow for more comfortable living conditions, but also allow for the local plant and animal population to be regenerated for the next season. Common artifacts that may be found from this time period include: stone mortars and pestles, flat stones used for grinding, stone or shell beads, bone or antler tools or jewelry, obsidian or natural stone points used for hunting (and flakes from their production), as well as BRMs (bedrock mortars), often found near streams or other waterways.

Historic

Early Europeans explorers, including the Spanish, English, and Russians, arrived in California in the 16th and 17th centuries. In 1769, Spain began its colonization efforts by establishing missions in the Spanish territory in Alta California. Members of the Ohlone Tribe, including the Tamien, were forced into the Mission system and used as labor, made to create items to sell to Spanish settlers like candles or textiles, among others. Additionally, many were made to work the land, tending to crops or livestock. The Catholic Church that was tasked with overseeing the work of the missions sought to "reeducate" the native peoples by Christianizing them and forcibly integrating them into Spanish society and culture. Those thought suitably Christian in religion, as well as Spanish in culture and language, were called *gente de razón*--men of reason.

Following Mexican independence from Spain in 1821, the Mexican government secularized the Spanish missions and offered land grants to citizens in Alta California. The land that the missions occupied was often converted into cattle ranches, termed *ranchos.* The native peoples who had been forced off their land were almost entirely disenfranchised and unable to return to their ancestral homes. As a result, many continued working on these cattle ranches, or taking other low-paying jobs, while living on the margins of society.

Following the conclusion of the Mexican American War in 1848 with the signing of the Treaty of Guadalupe-Hidalgo, California was ceded to the United States.

Modern

The city of Milpitas (originating from the term *milpas*, referring to corn fields) began to be settled in earnest by the 1850s, with enclaves of English, German, Irish, and Portuguese settlers (Munzel 2017). Used as a stopover area for travelers in the Bay Area, it began to develop a prominent business district, including several hotels and saloons. Development and increased population continued, booming after the 1950s creation of a local Ford Motor assembly plant. This trend has continued into present-day, with the total current population estimated at 84,000 as of 2019 (United States Census Bureau 2020).

Project Site at the Present Time

The project site has been developed with a public high school since 1969, co-existing with the now-defunct Samuel Ayer High School, which closed its doors in 1980. The site currently supports over 3,000 students. See Chapter 2. Project Description for additional information.

Records Search Results and Native American Outreach

On September 14, 2021, MIG conducted a California Historical Resources Information System (CHRIS) record search of the project site and a 0.25-mile buffer area through the Northwest Information Center (NWIC). MIG also consulted the National Register of Historic Places (NRHP 2021), California Inventory of Historical Resources/CRHR, the Built Environment Resource Directory (BERD 2021), and the OHP Archaeological Determinations of Eligibility.

The results of the CHRIS search indicated no known recorded resources within the potential impact area of the project work. However, there is one historic resource within a quarter-mile of the project: P-43-003553. It is the old Santa Clara County Fire House # 3.

Several surveys and excavations have taken place over the years in the nearby area, none of which have been published, indicating that Native American artifacts and remains are present.

The Native American Heritage Commission (NAHC) was contacted for a record search of the Sacred Lands File (SLF). The results, returned on October 15, 2021, were positive, indicating that known Tribal Cultural Resources exist within the project vicinity. The NAHC also provided 11 Native American tribal contacts with local knowledge of cultural and tribal cultural resources in the project vicinity. MIG contacted the 11 tribes on October 25, 2021. On October 29, 2021, MIG received a response from Katherine Perez of the Northern Yokuts tribe, who provided recommended mitigation language regarding the potential to encounter unknown tribal resources. Refer to Section 3.18 Tribal Cultural Resources for additional information regarding potential Tribal Cultural Resources on the site.

3.5.2 Regulatory Setting

California Environmental Quality Act

Pursuant to CEQA, a historical resource is a resource listed in, or eligible for listing in, the California Register of Historical Resources (CRHR). In addition, resources included in a local register of historic resources or identified as significant in a local survey conducted in accordance with state guidelines are also considered historic resources under CEQA, unless a preponderance of the facts demonstrates otherwise. Per CEQA, the fact that a resource is not listed in or determined eligible for listing in the CRHR or is not included in a local register or survey shall not preclude a Lead Agency from determining that the resource may be a historic resource as defined in California Public Resources Code (PRC) Section 5024.1. CEQA applies to archaeological resources when (1) the archaeological resource satisfies the definition of a historical resource or (2) the archaeological resource satisfies the definition of a "unique archaeological resource." A unique archaeological resource is an archaeological artifact, object, or site that has a high probability of meeting any of the following criteria:

1. The archaeological resource contains information needed to answer important scientific research questions and there is a demonstrable public interest in that information.

2. The archaeological resource has a special and particular quality such as being the oldest of its type or the best available example of its type.

3. The archaeological resource is directly associated with a scientifically recognized important prehistoric or historic event or person.

Health and Safety Code, Sections 7050 and 7052

Health and Safety Code Section 7050.5 declares that, in the event of the discovery of human remains outside a dedicated cemetery, all ground disturbances must cease, and the county coroner must be notified. Section 7052 establishes a felony penalty for mutilating, disinterring, or otherwise disturbing human remains, except by relatives.

Penal Code Section 622.5

Penal Code Section 622.5 provides misdemeanor penalties for injuring or destroying objects of historic or archaeological interest located on public or private lands but specifically excludes the landowner.

Government Code Section 6254(r)

Government Code explicitly authorizes public agencies to withhold information from the public relating to Native American graves, cemeteries, and sacred places maintained by the Native American Heritage Commission.

Government Code Section 6250 et. seq.

Records housed in the Information Centers of the California Historical Resources Information System (CHRIS) are exempt from the California Public Records Act.

Milpitas General Plan

The following relevant policies are from the Milpitas General Plan Conservation Element:

- **Policy CON 4-1:** Review proposed developments and work in conjunction with the California Historical Resources Information System, Northwest Information Center at Sonoma State University, to determine whether project areas contain known archaeological resources, either prehistoric and/or historic-era, or have the potential for such resources.
- **Policy CON 4-2:** If found during construction, ensure that human remains are treated with sensitivity and dignity, and ensure compliance with the provisions of California Health and Safety Code Section 7050.5 and California Public Resources Code Section 5097.98.
- **Policy CON 4-3:** Work with Native American representatives to identify and appropriately address, through avoidance or mitigation, impacts to Native American cultural resources and sacred sites during the development review process.
- **Policy CON 4-4:** Consistent with State, local, and tribal intergovernmental consultation requirements such as SB 18 and AB 52, the City shall consult as necessary with Native American tribes that may be interested in proposed new development and land use policy changes.
- **Policy CON 5-1:** Protect significant historic resources and use these resources to promote a sense of place and history in Milpitas through implementation of the Milpitas Cultural Resources Preservation Program (Municipal Code, Title XI, Chapter 4), the Conceptual Historic Resources Master Plan, the conservation and preservation of the City's historical collection at the Milpitas Community Museum, and other applicable codes, regulations, and area plans.

3.5.3 Discussion

Would the project:

a) Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5?

No Impact. No structures over 50 years old would be impacted by project activities. The closest known historical site, the old Santa Clara County Fire House #3, is located within 0.25 miles of the project site, however it would not be altered by project activities.

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?

c) Disturb any human remains, including those interred outside of dedicated cemeteries?

Less than Significant Impact with Mitigation Incorporated (Responses b – c). There are no previously known archaeological resources, as identified in the CHRIS search from the NWIC, within the project site and none within the ¼ mile search area around the school site. The area has already been disturbed by the construction of the high school present on the land today, therefore the potential for any inadvertent finds remains small.

Mitigation Measures CUL-1a, and CUL-1b, provided below, include provisions to stop work in the event of an archaeological discovery, and include additional measures if considered appropriate by the archaeologist, as well as a measure to address inadvertent discovery of human remains. These are considered sufficient mitigations to protect archaeological resources and tribal resources from construction activities and would reduce the impact to less than significant. Additionally, mitigation measures TRIB-1a through TRIB-1d (see Section 3.18 Tribal Cultural

Resources) address the potential for tribal cultural resource impacts. These measures ensure that tribal cultural resources (TCRs) will be treated appropriately and according to tribal practices.

Impact CUL-1: Project excavation could disturb previously unknown buried archaeological resources and/or human remains.

Mitigation Measure CUL-1a: Inadvertent Discovery of Archaeological Resources. In the event that archaeological resources (sites, features, or artifacts) are exposed during project construction activities for the Project, immediately stop all construction work occurring within 100 feet of the find until a qualified archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards, can evaluate the significance of the find. The archaeologist will determine whether additional study is warranted. Should it be required, the archaeologist may install temporary flagging around a resource to prevent any disturbances from construction equipment. Depending upon the significance of the find under CEQA (14 CCR 15064.5[f]; California Public Resources Code, Section 21082), the archaeologist the archaeologist may determine it is appropriate to record the find (thereby addressing any data potential) and allow work to continue. If the archaeologist observes the discovery to be potentially significant, preservation in place or additional treatment may be required.

Mitigation Measure CUL-1b: Inadvertent Discovery of Human Remains. In accordance with Section 7050.5 of the California Health and Safety Code, if potential human remains are found, the lead agency (City of Milpitas) staff and the Santa Clara County Coroner shall be immediately notified of the discovery. The coroner would provide a determination regarding the nature of the remains within 48 hours of notification. No further excavation or disturbance of the identified material, or any area reasonably suspected to overlie additional remains, can occur until a determination has been made. If the County Coroner determines that the remains are, or are believed to be, of Native American ancestry, the coroner would notify the Native American Heritage Commission within 24 hours. In accordance with California Public Resources Code, Section 5097.98, the Native American Heritage Commission must immediately notify those persons it believes to be the Most Likely Descendant from the deceased Native American. Within 48 hours of this notification, the Most Likely Descendant would recommend to the lead agency their preferred treatment of the remains and associated grave goods.

Effectiveness: This measure would minimize and/or avoid impacts to unknown archaeological resources and human remains.

Implementation: By the contractor and by the MUSD.

Timing: Measures to be implemented during construction.

Monitoring: MUSD. In the event archaeological resources are discovered, an archaeologist shall write a report detail their findings and submit it to the Northwest Information Center and MUSD.

3.5.4 References

California State Parks. 2021. Office of Historic Preservation. Built Environment Resource Directory. Accessed November 2, 2021, at http://ohp.parks.ca.gov/pages/1068/files/Santa%20Clara.csv

Levy, Richard. "Costanoan." Handbook of North American Indians, edited by William Surtevant, Smithsonian Institution, Washington DC, 1978, p. 485.

De Novo Planning Group. 2020. Milpitas General Plan Draft EIR. November 2. Accessed on September 2, 2021, at: https://static1.squarespace.com/static/57277b461d07c02f9c2f5c2c/t/5fa094bab97246713f3e4e9a/1604359401370/Milipitas_Public_Draft_EIR_reduced.pdf

Munzel, Steve. The Milpitas Community Museum, 2017. Accessed November 2, 2021, at http://milpitashistory.org/home/.

National Park Service. 2021. National Register of Historic Places NPGallery Database. Accessed on September 28, 2021, at https://npgallery.nps.gov/nrhp.

3.6 ENERGY

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	☐	☐	☐	☒
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	☐	☐	☐	☒

3.6.1 Environmental Setting

Energy consumption is closely tied to the issues of air quality and GHG emissions, as the burning of fossil fuels and natural gas for energy has a negative impact on both, and petroleum and natural gas currently supply most of the energy consumed in California.

Energy is primarily categorized into three areas: electricity, natural gas, and fuels used for transportation. According to the U.S. Energy Information Administration (U.S. EIA), California is the most populous state in the U.S., representing 12 percent of the total national population, has the largest economy, and is second only to Texas in total energy consumption. However, California has one of the lowest per capita energy consumption levels in the U.S. This is a result of California's mild climate, extensive efforts to increase energy efficiency, and implementation of alternative technologies. California leads the nation in electricity generation from solar, geothermal, and biomass resources (U.S. EIA 2021).

In 2020, almost half of California's net electricity generation was from renewable resources, including hydropower[3]. In 2020 the California electric system used 272,576GWh of electricity, down two (2) percent, or 5,356 GWh, from 2019. Santa Clara County consumed 16,435 GWh of electricity, about 6 percent of the state's electricity consumption in 2020[4]. In 2018, California consumed about 12,638 million therms of natural gas. Approximately 35 percent of this natural gas was consumed by the residential sector. Santa Clara County consumed approximately 440 million therms of natural gas in the same year, accounting for approximately 3.5 percent of statewide consumption. The residential and non-residential sectors made up approximately 53 percent and 47 percent of county-wide consumption[5].

According to the Board of Equalization (BOE), statewide taxable sales figures indicate a total of 15,339 million gallons of gasoline and 3,074 million gallons of diesel fuel were sold in 2018[6]. Although exact estimates are not available by County, retail fuel outlet survey data indicates

[3] https://www.energy.ca.gov/data-reports/energy-almanac/california-electricity-data/2020-total-system-electric-generation

[4] https://www.eia.gov/state/analysis.php?sid=CA

[5] http://www.ecdms.energy.ca.gov/elecbycounty.aspx

[6] https://www.energy.ca.gov/almanac/transportation_data/gasoline/piira_retail_survey.html and http://www.cdtfa.ca.gov/taxes-and-fees/spftrpts.htm

Santa Clara County accounted for approximately 4.2 percent and 2.7 percent of total statewide gasoline and diesel sales, respectively, in 2018[7].

3.6.2 Regulatory Setting

Since increased energy efficiency is closely tied to the State's efforts to reduce GHG emissions and address global climate change, the regulations, policies, and action plans aimed at reducing GHG emissions also promote increased energy efficiency and the transition to renewable energy sources. The U.S. EPA and the State address climate change through numerous pieces of legislation, regulations, planning, policy-making, education, and implementation programs aimed at reducing energy consumption and the production of GHG.

The proposed project would not involve the development of facilities that include energy intensive equipment or operations. While there are numerous regulations that govern GHG emissions reductions through increased energy efficiency, the following regulatory setting description focuses only on regulations that: 1) provide the appropriate context for the proposed project's potential energy usage; and 2) may directly or indirecly govern or influence the amount of energy used to develop and operate the proposed improvements.

Senate Bill 350 (Clean Energy and Pollution Reduction Act) and Senate Bill 100

SB 350 was signed into law in September 2015 and establishes tiered increases to the state's Renewable Portfolio Standard (RPS). The bill requires 40 percent of the state's energy supply to come from renewable sources by 2024, 45 percent by 2027, and 50 percent by 2030. SB 350 also set a new goal to double the energy efficiency savings in electricity and natural gas through energy efficiency and conservation measures. The state's RPS program was further strengthened by the passage of SB 100 in 2018. SB 100 revised the state's RPS Program to require retail sellers of electricity to serve 50 percent and 60 percent of the total kilowatt-hours sold to retail end-use customers be served by renewable energy sources by 2026 and 2030, respectively, and requires 100 percent of all electricity supplied come from renewable sources by 2045.

CARB Low Carbon Fuel Standard Regulation (LCFS)

CARB initially approved the LCFS regulation in 2009, identifying it as one of the nine discrete early action measures in the *2008 Scoping Plan* to reduce California's GHG emissions. The LCFS regulation defines a Carbon Intensity, or "CI," reduction target (or standard) for each year, which the rule refers to as the "compliance schedule." The LCFS regulation requires a reduction of at least 10 percent in the CI of California's transportation fuels by 2020 and maintains that target for all subsequent years. In 2018, CARB approved amendments to the LCFS regulation, which included strengthening and smoothing the carbon intensity benchmarks through 2030 in-line with California's 2030 GHG emission reduction target enacted through SB 32, adding new crediting opportunities to promote zero emission vehicle adoption, alternative jet fuel, carbon capture and sequestration, and advanced technologies to achieve deep decarbonization in the transportation sector. Under the 2018 amendment, the LCFS regulation now requires a reduction of at least 20 percent in CI by 2030 and beyond.

[7] 2019 California Annual Retail Fuel Outlet Report Results (CEC-A15)

3.6.3 Discussion

Would the project:

a) Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?

b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

No Impact. The proposed project would add new buildings to the Milpitas High School campus. Project construction would require the use of construction equipment and generate construction-related vehicle trips that would combust fuel, primarily diesel and gasoline. The use of this fuel energy would be required to construct necessary student support facilities (the project) and would not be considered wasteful, inefficient, or unnecessary. Once constructed, the new facilities would consume electricity and natural gas to power building lighting, space heating, and water heating facilities. The construction of buildings at an existing high school campus is inherently energy efficient because it avoids new school construction and maximizes use of existing school grounds. In addition, all public school projects are submitted to the Division of the State Architect (DSA) for plan review and must comply with DSA and California Energy Commission (CEC) requirements for energy efficiency, currently the 2019 Building Energy Efficiency Standards. DSA reviews all applications for compliance to these standards. Thus, the project would not result in the wasteful, inefficient, or unnecessary consumption of resources during operation and would not conflict with any plan or policy for renewable energy or energy efficiency.

3.6.4 References

California Department of Tax and Finance. Net Taxable Gasoline Gallons 2008 – 2017. Sacramento, CA. 2018. Accessed October 21, 2021. Available at http://www.cdtfa.ca.gov/taxes-and-fees/spftrpts.htm.

California Energy Commission (CEC) 2021. 2020 Total System Electric Generation in Gigawatt Hours. June. Accessed November 19, 2021. Available at https://www.energy.ca.gov/data-reports/energy-almanac/california-electricity-data/2020-total-system-electric-generation.

_____2021b. Electricity Consumption by County. Accessed November 22, 2021 at https://www.eia.gov/state/analysis.php?sid=CA

_____2019b. "California Retail Fuel Outlet Annual Reporting (CEC-A15) Results." Retail Fuel Outlet Survey Results. CEC, Energy Almanac, Gasoline Data, Facts, and Statistics. 2019. Accessed February 26, 2019. Available at https://www.energy.ca.gov/almanac/transportation_data/gasoline/piira_retail_survey.html

_____2019c. 2019 California Annual Retail Fuel Outlet Report Results (CEC-A15). Excel File. Sacramento, CA. July 1, 2019.

United States Energy Information Administration (U.S. EIA).

2021. "Profile Analysis – California". February 18, 2021. Web. Accessed October 21, 2021. Available at https://www.eia.gov/state/analysis.php?sid=CA.

3.7 GEOLOGY AND SOILS

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
Would the project:				
a) Directly or indirectly cause 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? *Note: Refer to Division of Mines and Geology Special Publication 42.*	☐	☐	☒	☐
ii) Strong seismic ground shaking?	☐	☐	☒	☐
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐
iv) Landslides?	☐	☐	☒	☐
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☒	☐
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	☐	☐	☒	☐
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	☐	☐	☐	☒
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☐	☒

3.7.1 Environmental Setting

The information contained in the following section is summarized from a site-specific Geotechnical Investigation and Geologic Hazards Evaluation prepared for the project by Cornerstone Earth Group and included here as Appendix C.

Regional Geologic Setting

The Coast Ranges geomorphic province of California stretches from the Oregon border south almost to Point Conception. In the San Francisco Bay Area, most of the Coast Ranges developed on a basement of tectonically mixed Cretaceous- and Jurassic-aged (70 to 200 million years old)

rocks of the Franciscan Complex. Younger sedimentary and volcanic units locally cap these basement rocks. Younger superficial deposits reflecting the geologic conditions of the last million years or so cover most of the Coast Ranges.

The San Andreas Fault system has produced the dominant north-west oriented structural and topographic trend seen throughout the Coast Ranges today. It reflects the boundary between the North American tectonic plate to the east and the Pacific tectonic plate to the west. The San Andreas fault system is about 40 miles wide in the Bay Area and extends from the San Gregorio fault near the coastline to the Coast Ranges-Central Valley blind thrust fault at the western edge of the Great Central Valley. The San Andreas Fault is the dominant structure within the system, capable of producing the highest magnitude earthquakes. Many other subparallel or branch faults within the system are equally active and nearly as capable of generating large earthquakes.

Local Geology

The site underlain by Holocene age (11,000 years or less before present) alluvial fan deposits originating from the northwest-trending East Bay Hills located in the eastern portion of the Milpitas and nearby Calaveras Reservoir quadrangles. These deposits are described as “brown gravelly sand and sandy and clayey gravel, grading upward to sandy and silty clay, moderately dense to dense, coarser near the fan heads and upstream, deposited by flooding streams where they emerge from constrained channels of the uplands.

Regional Seismicity

The San Francisco Bay Area is one of the most seismically active regions in the United States. Significant earthquakes occurring in the Bay Area are generally associated with crustal movement along well-defined, active fault zones of the San Andreas Fault system. The closest active faults in the San Andreas Fault system are the Hayward fault, about 0.5 mile to the east, and the Calaveras fault, about 4.9 mile to the east.

The faults considered capable of generating significant earthquakes are generally associated with the well-defined areas of crustal movement, which trend northwesterly. The San Andreas Fault generated the great San Francisco earthquake of 1906 and the Loma Prieta earthquake of 1989, and passes approximately 17.4 miles west of the school site. Other major active faults in the Bay Area include the Hayward, Calaveras, and the San Gregorio Fault Zone.

3.7.2 Regulatory Setting

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Fault Zoning Act regulates development in California near known active faults due to hazards associated with surface fault ruptures. There are no Alquist-Priolo earthquake fault zones on the project site (California Geological Survey, 1974).

Seismic Hazard Mapping Act

The Seismic Hazard Mapping Act was passed in 1990 following the Loma Prieta earthquake to reduce threats to public health and safety and to minimize property damage caused by earthquakes. The act directs the U.S. Department of Conservation to identify and map areas prone to the earthquake hazards of liquefaction, earthquake-induced landslides, and amplified ground shaking. The act requires site-specific geotechnical investigations to identify potential seismic hazards and formulate mitigation measures prior to permitting most developments designed for human occupancy within the Zones of Required Investigation.

California Building Code

The 2019 California Building Codes (CBC) cover grading and other geotechnical issues, building specifications, and non-building structures.

California Public Resources Code

Section 5097 of the Public Resources Code specifies the procedures to be followed in the event of the unexpected discovery of historic, archaeological, and paleontological resources, including human remains, historic or prehistoric resources, paleontological resources on nonfederal land. The disposition of Native American burials falls within the jurisdiction of the California Native American Heritage Commission (NAHC). Section 5097.5 of the Code states the following:

> *No person shall knowingly and willfully excavate upon, or remove, destroy, injure or deface any historic or prehistoric ruins, burial grounds, archaeological or vertebrate paleontological site, including fossilized footprints, inscriptions made by human agency, or any other archaeological, paleontological or historical feature, situated on public lands, except with the express permission of the public agency having jurisdiction over such lands. Violation of this section is a misdemeanor.*

3.7.3 Discussion

Would the project:

a) Directly or indirectly cause 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 significant evidence of a known fault?

Less Than Significant Impact. No faults are mapped trending through or immediately adjacent to the site. Review of aerial imagery did not reveal any patterns of features indicative of active faulting. Additionally, subsurface explorations did not reveal stratigraphic or groundwater patterns that would suggest disruption of the water table by fault offset (Cornerstone 2021).

ii) Strong seismic ground shaking?

Less Than Significant Impact. The project is located in the seismically active San Francisco Bay Region. Significant earthquakes have occurred in the San Francisco Bay Area and are believed to be associated with crustal movements along a system of subparallel fault zones that generally trend in a northwesterly direction. Strong ground-shaking at the project site will probably occur during the design life of the project as a result of a major earthquake on one of the active faults in the region.

The project would construct three new buildings on an existing high school campus. The project plans reference that all pavement, subgrade, and grading shall follow the requirements of the site-specific Geotechnical Investigation and Geologic Hazards Evaluation prepared by Cornerstone for the project. Adherence to the recommendations of the site-specific report would result in a less than significant seismic impacts.

iii) Seismic-related ground failure, including liquefaction?

Less Than Significant Impact. Liquefaction occurs when loose, saturated sandy soils lose strength and flow like a liquid during earthquake shaking. Ground settlement often accompanies liquefaction. Soils most susceptible to liquefaction are saturated, loose, silty sands, and uniformly graded sands.

The proposed project is an identified liquefaction zone. The Geotechnical Investigation included an analysis of the liquefaction potential which found that the four areas studied could experience total settlement due to liquefaction ranging from about ¼- inch to ¾ -inch, which would result in differential settlement ranging from ¼ -inch to ½ -inch over a horizontal distance of 30 feet.

The report concluded that foundations should be designed to tolerate the anticipated total and differential settlements. Based on the assumed foundation loads, the report found it feasible to support the proposed buildings on shallow foundations, but that the foundations would need to be designed to tolerate total and differential settlement due to static loads and liquefaction-induced settlement. Detailed recommendations are included in the Foundations section of the report, and as noted above are included in the project design plans. For these reasons, the impact is considered less than significant.

iv) Landslides?

No Impact. The project site is located in a flat area sounded by other flat topography. The site is not located in or adjacent to any mapped landslides and is not located within a county or state regulatory zone for landsliding (Cornerstone 2021). Due to the flat-lying nature of the site and the absence of slopes within a few miles of the site the potential for landslides is negligible.

b) Result in significant soil erosion or the loss of topsoil?

Less Than Significant Impact. The project site is in a relatively flat area and would not be exposed to substantial slope instability, erosion, or landslide related hazards. The project would be subject to the National Pollutant Discharge Elimination System (NPDES) General permit for construction (Construction General Permit) which requires the preparation and implementation of a stormwater pollution prevention plan (SWPPP). Additionally, the project plans include an erosion control plan to minimize soil erosion during construction. The plan includes erosion control measures including the placement of mulch, hydroseeding, use of soil binders and geotextiles and mats. It also includes installation of sediment control measures such as fiber rolls, gravel bag berms, sand bag barriers and storm drain inlet protection and street sweeping/vacuuming. All previously disturbed areas not covered by pavement or new buildings would be landscaped to prevent significant erosion. Compliance with these requirements would ensure the project would not result in substantial soil erosion or the loss of topsoil.

c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?

Less Than Significant Impact. Subsidence is the sinking of the Earth's surface in response to geologic or man-induced causes. Lateral spreading involves the lateral movement of a liquefied soil layer (and overlying layers) toward a free face. Lateral spreading is typically associated with liquefaction of one or more subsurface layers near the bottom of an exposed slope. The potential for lateral spreading to impact the project is considered low and the potential for landslides is negligible (Cornerstone 2021). As noted above, the project was evaluated for liquefaction induced subsidence and specific recommendations were made in the project's Geotechnical Investigation

and Geologic Hazards Evaluation prepared by Cornerstone to address the potential hazard. The impact is considered less than significant.

d) Be located on expansive soil, as noted in the 2010 California Building Code, creating substantial direct or indirect risks to life or property?

Less Than Significant Impact. Highly expansive surficial soils cover the site. The site-specific geotechnical report includes recommendations that slabs on grade should have sufficient reinforcement and be supported on a layer of non-expansive fill, and that footings should extend below the zone of seasonal moisture fluctuation. Positive drainage away from buildings and limited landscaping irrigation were also noted to limit moisture changes in surficial soils. Detailed grading and foundation recommendations addressing this hazard are contained in the "Earthwork" and "Foundation" sections of the Cornerstone report. The impact is considered less than significant.

e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

No Impact The proposed project consists construction of a new PAC and gym facilities at an existing school. These new buildings would connect to the existing sewer facilities in the area. Septic tanks or alternative wastewater facilities are not included as part of the proposed project.

f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

No Impact. Paleontological resources are the mineralized (fossilized) remains of prehistoric plant and animal life exclusive of human remains or artifacts. Pleistocene alluvium (deposited sediments) is considered sensitive for vertebrate fossils, which are considered a significant paleontological resource (City of Milpitas 2007). Representative soil samples obtained from boring and test pit conducted as part of the site-specific geotechnical report found that site soils consist of Holocene alluvium and undocumented fill (Cornerstone 2021). Pleistocene alluvium was not encountered, therefore the project does not have the potential to destroy unique paleontological resource because Pleistocene era alluvium is not present on the site. Additionally, the project occurs at an existing high school campus. There are no known unique geological features in the project vicinity.

3.7.4 References

City of Milpitas. 2007. Milpitas Transit Area Specific Plan: Draft Environmental Impact Report. October. Prepared by Dyett & Bhatia. Accessed September 8, 2021 at https://www.ci.milpitas.ca.gov/_pdfs/plan_eir_tasp_draft.pdf

Cornerstone. 2021. Update Geotechnical Investigation and Geologic Hazards Evaluation, Milpitas High School – Performing Arts Center, Gymnasium, Fitness Center and Solar-Parking Canopies. 1285 Escuela Parkway, Milpitas CA, Project Number 578-6-4. July 6.

3.8 GREENHOUSE GAS EMISSIONS

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐
b) Conflict with an applicable, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☐	☒

3.8.1 Environmental Setting

Gases that trap heat in the atmosphere and affect regulation of the Earth's temperature are known as greenhouse gases (GHGs). Many chemical compounds found in the earth's atmosphere exhibit the GHG property. GHGs allow sunlight to enter the atmosphere freely. When sunlight strikes the earth's surface, it is either absorbed or reflected back toward space. Earth that has absorbed sunlight warms up and emits infrared radiation toward space. GHGs absorb this infrared radiation and "trap" the energy in the earth's atmosphere. Entrapment of too much infrared radiation produces an effect commonly referred to as "Global Warming", although the term "Global Climate Change" is preferred because effects are not just limited to higher global temperatures.

GHGs that contribute to climate regulation are a different type of pollutant than criteria or hazardous air pollutants because climate regulation is global in scale, both in terms of causes and effects. Some GHGs are emitted to the atmosphere naturally by biological and geological processes such as evaporation (water vapor), aerobic respiration (carbon dioxide), and off-gassing from low oxygen environments such as swamps or exposed permafrost (methane); however, GHG emissions from human activities such as fuel combustion (e.g., carbon dioxide) and refrigerant use (e.g., hydrofluorocarbons) significantly contribute to overall GHG concentrations in the atmosphere, climate regulation, and global climate change.

Human production of GHG has increased steadily since pre-industrial times (approximately pre-1880) and atmospheric carbon dioxide concentrations have increased from a pre-industrial value of 280 parts per million (ppm) in the early 1800's to 413 ppm in September 2021 (NOAA 2021). The effects of increased GHG concentrations in the atmosphere include climate change (increasing temperature and shifts in precipitation patterns and amounts), reduced ice and snow cover, sea level rise, and acidification of oceans. These effects in turn will impact food and water supplies, infrastructure, ecosystems, and overall public health and welfare.

The 1997 United Nations' Kyoto Protocol international treaty set targets for reductions in emissions of four specific GHGs – carbon dioxide, methane, nitrous oxide, and sulfur hexafluoride – and two groups of gases – hydrofluorocarbons and perfluorocarbons. These GHGs are the primary GHGs emitted into the atmosphere by human activities. The six common GHGs are described below.

- Carbon Dioxide (CO_2). CO_2 is released to the atmosphere when fossil fuels (oil, gasoline, diesel, natural gas, and coal), solid waste, and wood or wood products are burned.

- Methane (CH_4). CH_4 is emitted during the production and transport of coal, natural gas, and oil. Methane emissions also result from the decomposition of organic waste in municipal solid waste landfills and the raising of livestock.
- Nitrous oxide (N_2O). N_2O is emitted during agricultural and industrial activities, as well as during combustion of solid waste and fossil fuels.
- Sulfur hexafluoride (SF_6). SF_6 is commonly used as an electrical insulator in high voltage electrical transmission and distribution equipment such as circuit breakers, substations, and transmission switchgear. Releases of SF_6 occur during maintenance and servicing as well as from leaks of electrical equipment.
- Hydrofluorocarbons (HFCs) and perfluorocarbons (PFCs). HFCs and PFCs are generated in a variety of industrial processes.

GHG emissions from human activities contribute to overall GHG concentrations in the atmosphere and the corresponding effects of global climate change (e.g., rising temperatures, increased severe weather events such as drought and flooding). GHGs can remain in the atmosphere long after they are emitted. The potential for a GHG to absorb and trap heat in the atmosphere is considered its global warming potential (GWP). The reference gas for measuring GWP is CO_2, which has a GWP of one. By comparison, CH_4 has a GWP of 25, which means that one molecule of CH_4 has 25 times the effect on global warming as one molecule of CO_2. Multiplying the estimated emissions for non-CO_2 GHGs by their GWP determines their carbon dioxide equivalent (CO_2e), which enables a project's combined global warming potential to be expressed in terms of mass CO_2 emissions. GHG emissions are often discussed in terms of Metric Tons of CO_2e, or $MTCO_2e$.

Existing GHG Emission Sources at the Project Site

As described in Section 3.3, Air Quality, the proposed project would be located at Milpitas High School, which includes mobile, small stationary, and area sources of emissions. The high school also generates indirect GHG emissions from electrical energy consumption, water use, and solid waste generation.

3.8.2 Regulatory Setting

California Global Warming Solutions Act (AB32) and Related Legislation

California Air Resources Board (CARB) is the lead agency for implementing Assembly Bill (AB) 32, the California Global Warming Solutions Act adopted by the Legislature in 2006. AB 32 requires the CARB to prepare a Scoping Plan containing the main strategies that will be used to achieve reductions in GHG emissions in California.

Executive Order B-30-15, 2030 Carbon Target and Adaptation, issued by Governor Brown in April 2015, sets a target of reducing GHG emissions by 40 percent below 1990 levels in 2030. By directing state agencies to take measures consistent with their existing authority to reduce GHG emissions, this order establishes coherence between the 2020 and 2050 GHG reduction goals set by AB 32 and seeks to align California with the scientifically established GHG emissions levels needed to limit global warming below two degrees Celsius.

To reinforce the goals established through Executive Order B-30-15, Governor Brown went on to sign SB-32 and AB-197 on September 8, 2016. SB-32 made the GHG reduction target to reduce GHG emissions by 40 percent below 1990 levels by 2030 a requirement as opposed to a goal. AB-197 gives the Legislature additional authority over CARB to ensure the most successful strategies for lowering emissions are implemented, and requires CARB to, "protect the state's

most impacted and disadvantaged communities …[and] consider the social costs of the emissions of greenhouse gases."

On December 14, 2017 CARB adopted the second update to the Scoping Plan, the *2017 Climate Change Scoping Plan Update* (*2017 Scoping Plan Update*). The primary objective of the *2017 Scoping Plan Update* is to identify the measures needed to achieve the mid-term GHG reduction target for 2030 (i.e., reduce emissions by 40 percent below 1990 levels by 2030), as established under Executive Order B-30-15 and SB 32. To achieve these goals, the *2017 Scoping Plan Update* includes a recommended plan-level efficiency threshold of six metric tons or less per capita by 2030 and no more than two metric tons by 2050.

BAAQMD 2017 Clean Air Plan

As discussed in Section 3.3, Air Quality, the BAAQMD's *2017 Clean Air Plan* is a multi-pollutant plan focused on protecting public health and the climate. The *2017 Clean Air Plan* lays the groundwork for a long-term effort to reduce Bay Area GHG emissions 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050, consistent with GHG reduction targets adopted by the state of California.

3.8.3 Discussion

Global climate change is the result of GHG emissions worldwide; individual projects do not generate enough GHG emissions to influence global climate change. Thus, the analysis of GHG emissions is by nature a cumulative analysis focused on whether an individual project's contribution to global climate change is cumulatively considerable.

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

Less Than Significant Impact. The proposed project would generate GHG emissions primarily from short-term construction activities, but also from increased vehicle trips associated with the use of the new, larger PAC. Construction activities would generate GHG emissions from equipment fuel combustion as well as worker, vendor, and haul trips to and from the project area during active construction phases. Construction activities would cease to emit GHGs upon completion. The BAAQMD has not adopted a threshold of significance for construction-related GHG emissions. The BAAQMD's CEQA Air Quality Guidelines do, however, encourage lead agencies to quantify and disclose construction-related GHG emissions, determine the significance of these emissions, and incorporate BMPs to reduce construction-related GHG emissions. Accordingly, construction-related GHG emissions are amortized over the lifetime of the proposed project (presumed to be a minimum of 30 years). This normalizes construction emissions so that they can be grouped with operational emissions and compared to appropriate thresholds, plans, etc. GHG emissions from construction and operation of the proposed project were estimated using CalEEMod, version 2020.4.0. As estimated using CalEEMod (see Appendix A), the construction of the proposed project is estimated to generate a total of 1,026 metric tons of carbon dioxide equivalents ($MTCO_2e$) over the approximately 18-month construction period, or approximately 34 $MTCO_2e$ per year when amortized over the assumed standard 30-year project lifetime.

Once operational, the proposed project would generate GHG emissions from building energy use and increased vehicle trips associated with the new, larger PAC (estimated to be 23 trips per day).

These operational sources would not represent a substantial or significant source of GHG emissions.[8]

The BAAQMD maintains a 1,100 $MTCO_2e$ operational GHG threshold for non-stationary sources (BAAQMD 2017b). The 1,100 $MTCO_2e$ GHG threshold was established by the BAAQMD to align project's GHG emissions with state-wide goals for 2020. Since the proposed project is estimated to become operational in late 2023 or early 2024 (i.e., after 2020), the 1,100 $MTCO_2e$ threshold may not be directly applicable to the proposed project. Rather, an interpolated threshold of 660 $MTCO_2e$, which takes the BAAQMD's recommended 2020 threshold and adjusts it downward for the State's next codified GHG reduction goal for 2030 (i.e., 40% below 1990 levels by 2030), may provide more appropriate context for evaluating the project's potential GHG emissions.[9]

For the reasons described above, the proposed project is estimated to generate less than 100 $MTCO_2e$ per year, which is below the BAAQMD 2020 GHG threshold and derived 2030 GHG emissions goal. Therefore, this impact would be less than significant.

b) Conflict with an applicable, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

No Impact. The proposed project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing GHG emissions, including the and the *BAAQMD Clean Air Plan*. The policies contained in these plans generally apply to larger projects and uses that result in high trip generation (e.g., commercial buildings, residential structures, etc.), and not to school/student support projects. No impact would occur.

3.8.4 References

Bay Area Air Quality Management District (BAAQMD) 2017b. California Environmental Quality Act Air Quality Guidelines. San Francisco, CA. June 2010, updated May 2017.

National Oceanic and Atmospheric Administration (NOAA) 2021. Trends in Atmospheric Carbon Dioxide Mauna Loa, Hawaii. Earth System Research Laboratory. Global Monitoring Division. October 5, 2021. Web. October 21, 2021. https://www.esrl.noaa.gov/gmd/ccgg/trends/

8. For example, as estimated using CalEEMod 29 construction worker trips during the construction of the PAC foundation would generate .12 $MTCO_2e$ per day, which would equate to approximately 36 $MTCO_2e$ per year. In addition, indirect GHG emissions from building energy use are typically much lower than mobile source emissions.

9 The 660 $MTCO_2e$/yr goal was developed by taking the 1,100 $MTCO_2e$/yr threshold, which was the threshold to reduce emissions back to 1990 level and reducing it by 40 percent (1,100 $MTCO_2e$/yr * (1 - 0.4) = 660 $MTCO_2e$/yr). This demonstrates the progress required under SB 32. This linear reduction approach oversimplifies the threshold development process. The MUSD is not adopting nor proposing to use 660 $MTCO_2e$ as a CEQA GHG threshold for general use; rather, it is only intended to provide project-specific context on the significance of the proposed project's GHG emissions.

3.9 HAZARDS AND HAZARDOUS MATERIALS

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☒	☐
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?	☐	☐	☒	☐
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☒	☐
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?	☐	☐	☐	☒
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport, result in a safety hazard or excessive noise for people residing or working in the project area?	☐	☐	☐	☒
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☒	☐
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	☐	☐	☐	☒

3.9.1 Environmental Setting

The project site is an existing high school campus originally constructed in 1969 and located in a primarily residential area with other nearby school uses. Calera Creek forms the school site's southern boundary. Prior to development of the school (1948-1960), the site was occupied by agricultural fields and orchards (Cornerstone 2021).

School and residential uses do not typically use significant amounts of hazardous materials. No hazardous waste sites are located on or adjacent to the project site. The nearest such locations are several closed leaking underground storage tank (LUST) sites approximately 0.25 mile west of the project site.

3.9.2 Regulatory Setting

Federal

United States Environmental Protection Agency

The United States Environmental Protection Agency (EPA) was created in 1970 to serve as a single source collection of all federal research, monitoring, standard-setting, and enforcement activities to make sure there is appropriate protection of the environment. The EPA's duty is to create and enforce regulations that protect the natural environment and apply the laws passed by Congress. The EPA is also accountable for establishing national criteria for various environmental programs and enforcing compliance.

Comprehensive Environmental Response, Compensation, and Liability Act

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) provides a Federal "Superfund" to clean up uncontrolled or abandoned hazardous waste sites as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment. Through CERCLA, the EPA was given power to seek out those parties responsible for any release and assure their cooperation in the cleanup.

Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act (RCRA) enacted in 1976 governs the disposal of solid waste and hazardous materials. The Resource Conservation and Recovery Act gives the EPA the power to control the generation, transportation, treatment, storage, and disposal of hazardous substances that cannot be disposed of in ordinary landfills. It also allows for each state to apply their own hazardous waste programs instead of implementing the federal program on the condition that the state's program is just as strict in its requirements. This state program must be permitted by the EPA in order to be used.

State

California Environmental Protection Agency

The California Environmental Protection Agency (Cal/EPA) was established in 1991 and is comprised of: the California Air Resources Board, the State Water Resources Control Board, the Regional Water Quality Control Board, CalRecycle, the Department of Toxic Substances Control, the Office of Environmental Health Hazard Assessment, and the Department of Pesticide Regulation. This integrated group amalgamates all of California's environmental authority agencies into one and has led the state of California in developing and applying numerous progressive environmental policies in America. The primary goal of the Cal/EPA is to restore, protect, and enhance the environment.

San Francisco Bay Regional Water Quality Control Board

The San Francisco Bay Regional Water Quality Control Board (RWQCB) is one of nine regional water quality control boards that exercise rulemaking and regulatory activities by basins throughout the state. The boards were created by the landmark Porter-Cologne Act. The San Francisco Bay Regional Water Quality Control Board covers Region 2, which includes Alameda, Contra Costa, San Francisco, Santa Clara (north of Morgan Hill), San Mateo, Marin, Sonoma, Napa, Solano Counties.

The RWQCB oversees cases involving groundwater contamination within the San Francisco Bay Area from Spills, Leaks, Incidents and Clean-up (SLIC) cases. The County of Santa Clara's Department of Environmental Health, however, is charged with oversight of most leaking underground storage tank (LUST) cases. In the incidence of a spill at a project site, the applicant would notify the County of Santa Clara to determine which agency would be the lead regulator - County, RWQCB or Department of Toxic Substance Control (DTSC).

Cortese List

The provisions in Government Code Section 65962.5 are commonly referred to as the "Cortese List" . The Cortese list was authorized by the state legislature in 1985. A list of several types of hazardous materials sites is gathered by several agencies as directed by the statute.

Under Government Code Section 65962.5. (a), tThe Department of Toxic Substances Control shall compile and update as appropriate, but at least annually, and shall submit to the Secretary for Environmental Protection, a list of all of the following:

1. All hazardous waste facilities subject to corrective action pursuant to Section 25187.5 of the Health and Safety Code.

2. All land designated as hazardous waste property or border zone property pursuant to Article 11 (commencing with Section 25220) of Chapter 6.5 of Division 20 of the Health and Safety Code.

3. All information received by the Department of Toxic Substances Control pursuant to Section 25242 of the Health and Safety Code on hazardous waste disposals on public land.

4. All sites listed pursuant to Section 25356 of the Health and Safety Code.

Under Government Code Section 65962.5. (c) the State Water Resources Control Board shall compile and update as appropriate, but at least annually, and shall submit to the Secretary for Environmental Protection, a list of all of the following:

1. All underground storage tanks for which an unauthorized release report is filed pursuant to Section 25295 of the Health and Safety Code.

2. All solid waste disposal facilities from which there is a migration of hazardous waste and for which a California regional water quality control board has notified the Department of Toxic Substances Control pursuant to subdivision (e) of Section 13273 of the Water Code.

3. All cease and desist orders issued after January 1, 1986, pursuant to Section 13301 of the Water Code, and all cleanup or abatement orders issued after January 1, 1986, pursuant to Section 13304 of the Water Code, that concern the discharge of wastes that are hazardous materials.

The proposed project site is not on the Hazardous Waste and Substances Sites (Cortese) List(DTSC 2021).

California Department of Toxic Control

The California Department of Toxic Control, a department of the Cal/EPA, is the primary agency in California for regulating hazardous waste, cleaning up existing contamination, and finding ways to reduce the amount of hazardous waste produced in California. The California Department of Toxic Control regulates hazardous waste primarily under the authority of the

Federal Resource Conservation and Recovery Act and the California Health and Safety Code (primarily Division 20, Chapters 6.5 through 10.6, and Title 22, Division 4.5). Other laws that affect hazardous waste are specific to handling, storage, transportation, disposal, treatment, reduction, cleanup, and emergency planning.

Local

Milpitas Office of Emergency Management

The City of Milpitas Fire Department Office of Emergency Management (OEM) is responsible for coordination of the City's preparedness efforts to mitigate against, respond to, and recover from natural and technological disasters. The OEM prepares updates to the City's multi-hazard emergency plan, maintains the Emergency Operation Center in a state of readiness, trains City employees in disaster planning, manages the Community Emergency Response Team program, supports the amateur radio auxiliary communications service, provides disaster preparedness information to residents and local businesses, and organizes disaster recovery and relief efforts in cooperation with the California Office of Emergency Services and the Federal Emergency Management Agency (FEMA), works closely with the Santa Clara County Office of Emergency Management and special districts such as Valley Water.

3.9.3 Discussion

Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

Less Than Significant Impact. The project proposes the construction of a PAC and gym facilities at an existing high school campus. The project would not involve the routine transport, use or disposal of hazardous materials. Use of hazardous materials would be limited to small quantities of construction fuels and fluids during the short-term construction period as well as small quantities of fertilizers and pesticides for landscaping and household cleansers and other chemicals for cleaning purposes. These materials would be stored and used in accordance with the manufacturer's specifications. The compliance with existing hazardous materials regulations would reduce any chance of upset conditions to less than significant levels.

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?

Less Than Significant Impact. The proposed construction of school facilities including a PAC, and gym facilities that would not include the use of hazardous materials after project completion except for small amounts of cleaning agents or other fluids necessary for building sanitation and maintenance during the operation of these facilities.

Small quantities of fuels or fluids could be accidentally released into the environment during construction. Waste management and materials pollution control BMPs include designated areas for material delivery and storage, materials use, stockpile management, spill prevention and control, solid and hazardous waste management, contaminated soil, concrete waste, sanitary/septic, and liquid waste management. With the compliance of applicable regulations and the implementation of standard construction hazardous materials BMPs, the proposed project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving hazardous materials.

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or hazardous waste within one-quarter mile of an existing or proposed school?

Less Than Significant Impact. The proposed project site is the site of an existing high school and is located adjacent to Marshall Pomeroy Elementary School (1505 Escuela Parkway) and Thomas Russell Middle School (1500 Escuela Parkway). The project proposes the construction of additional school facilities to serve the existing high school student population without increasing attendance.

As noted in Section 2.4, Best Management Practices, in the project description, the District routinely tests existing structures for asbestos containing materials (ACM) and lead based paints prior to any demolition or deconstruction activities and will sample materials as necessary during implementation of this project. The BMPs include that the contractor will protect all hazardous containing items during the execution of this project and shall comply with all local, state, and federal regulations regarding the safe handling and disposal of hazardous materials.

No structures are proposed for demolition as part of the project. Proposed project activities occur within areas of the campus that are already developed and covered in pavement. However, a portable classroom is proposed to be removed from the site. The portable was recently constructed and therefore, not expected to contain ACM or lead based paint. The only other structures that would be removed as part of the project would be existing pavement or underground utilities within the project footprint.

The school site was used for agricultural uses prior to development of the high school in 1969. As such, despite the very developed nature of the campus, residual pesticides could be present in native soils at the site. The project BMPs include that prior to construction, the District shall conduct subsurface soil testing for agricultural chemicals at the project site and will implement further action, as necessary, to comply with applicable state and federal laws, rules, and regulations.

Grading would be limited due to the already flat topography at the site, therefore construction emissions would not significantly affect nearby sensitive receptors (see Section 3.3.3. for additional information). Therefore, the proposed project would not create a significant hazard to schools in the vicinity.

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?

No Impact. The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 (otherwise known as the Cortese List)(CalEPA 2021, DTSC 2021, SWRCB 2021). Additionally, there are no Cortese list sites immediately adjacent to the proposed project. The four nearest sites are located off N. Milpitas Boulevard approximately 0.25 mile west of the project site and are all leaking underground storage tank locations with a cleanup status of “Completed – Case Closed” by the State Water Resources Control Board (SWRCB 2021).

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 or excessive noise for people residing or working in the project area?

No Impact. The project alignment is not within an airport land use plan or within two miles of a public or public use airport. The closest airport to the project site is Norman Y. Mineta San Jose International Airport, located approximately nine miles southwest of the project site.

f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

Less Than Significant Impact. Escuela Parkway and Arizona Avenue are local roadways providing the primary access to the school. The contractor would maintain access for emergency vehicles for the duration of construction and therefore would not significantly impair or physically interfere with an adopted emergency evacuation plan. Fire access was designed to the current Fire Code and is subject to review and approval by DSA. After project construction is completed, there would be no impediment to vehicular or emergency vehicle access. Thus, the proposed project would have a less-than-significant impact to emergency plans.

g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?

No Impact. The project site is not within the wildland-urban interface (ABAG 2021). However, it is located near areas that are designated as being within the wildland-urban interface which is located approximately 0.3 miles east of the site and just east of I-680. The project does not propose new structures within areas designated within the wildland-urban interface and is therefore not subject to wildfire-related building practices. The District's proposed building plans are subject to approval by the Division of the State Architect which includes adherence to current fire code standards. Therefore, the project would not expose people or structures to significant risk of loss due to wildland fires.

3.9.4 References

Association of Bay Area Governments (ABAG). Bay Area Hazards: Wildland-Urban Interface. Accessed September 8, 2021 at https://mtc.maps.arcgis.com/apps/mapviewer/index.html?layers=d45bf08448354073a26675776f2d09cb

California Department of Toxic Substances (DTSC). 2021. EnviroStor Database. Accessed September 8, 2021 at https://www.envirostor.dtsc.ca.gov/public/map/?myaddress=1285+Escuela+Parkway+Milpitas.

California Environmental Protection Agency (CalEPA). 2021. Cortese List Data Resources. Accessed September 8, 2021 at https://calepa.ca.gov/sitecleanup/corteselist/.

City of Milpitas. 2021. Office of Emergency Management website. Accessed September 9, 2021 at https://www.ci.milpitas.ca.gov/milpitas/departments/fire/office-of-emergency-management/.

State Water Resources Control Board (SWRCB). 2021. GeoTracker Database. Accessed September 8, 2021 at https://geotracker.waterboards.ca.gov/map/?CMD=runreport&myaddress=1285+Escuela+Parkway+Milpitas.

3.10 HYDROLOGY AND WATER QUALITY

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality?	☐	☐	☒	☐
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☐	☒
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:				
i) Result in substantial erosion or siltation on- or off-site;	☐	☐	☒	☐
ii) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;	☐	☐	☐	☒
iii) 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; or	☐	☐	☒	☐
iv) Impede or redirect flood flows?	☐	☐	☐	☒
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☐	☐	☒
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☐	☒

3.10.1 Environmental Setting

The project is located in the City of Milpitas where the climate is described as Mediterranean, characterized by warm, dry summers, and cool, wet winters averaging 14 to 18 inches of precipitation per year (De Novo Planning Group 2018). Winter precipitation can cause flooding of local creeks, as well as surcharging of the City's storm drain system. The City lies at the base of the Diablo Range to the east, extending from the foothills to the San Francisco Bay. Drainage patterns have been altered by urbanization, resulting in an increase runoff raes and volumes, and creating an ever-increasing risk of flooding.

The City of Milpitas encompasses approximately 13.5 square miles, all of which are within the 315-square mile Coyote Creek watershed. The closest waterway to the project site is Calera

Creek, which forms the southern boundary of the school site. Overall topography of the campus is relatively flat with a gentle downward slope to the west.

The City's stormwater runoff is collected in a system of nearly 77 miles of storm drain pipelines ranging from 3 inches to 96 inches in diameter, with outfalls and pumping stations along the City's major waterways that ultimately convey runoff to the San Francisco Bay. Each of the city's storm drainage collection systems discharges into one of Coyote Creek's tributaries, whether by gravity or by pumping (De Novo Planning Group 2018).

Local Groundwater Resources

Currently, Milpitas does not use groundwater to meet customer demands under normal conditions and reserves groundwater supply for emergencies in the event that the SFPUC and SCVWD cannot deliver contracted water supplies. The City has two existing groundwater wells, one of which is active. Both wells include chlorine disinfection facilities, but are used solely for emergency water supply purposes (De Novo Planning Group 2020).

3.10.2 Regulatory Setting

In addition to CEQA, other federal and state laws apply to the hydrology and water quality identified in this report. Each of these laws is identified and discussed below.

Storm Water Drainage

The discharge of storm water from the City's municipal storm sewer system is regulated primarily under the federal Clean Water Act (CWA) and California's Porter-Cologne Water Quality Control Act. The RWQCB implements these regulations at the regional level. Under the CWA, the RWQCB has regulatory authority over actions in waters of the United States, through the issuance of water quality certifications.

As authorized by the CWA, the National Pollutant Discharge Elimination System (NPDES) permit program controls water pollution by regulating point and non-point sources that discharge pollutants into waters of the United States. Point sources are discrete conveyances such as pipes or outfalls that convey pollutants directly to surface waters. Non-point sources, such as stormwater runoff, convey pollutants indirectly to these waters. The State and Regional Water Quality Control Boards administer the NPDES permit program in California for general and individual permits. The City is a co-permittee with other members of a regional association known as the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP), which shares a joint municipal permit issued by the RWQCB to municipalities in Bay Area counties to allow the discharge of stormwater runoff into the San Francisco Bay (Order R2-2015-0049) and is also referred to as the Municipal Regional Stormwater Permit (MRP). New and redevelopment projects within these jurisdictions are subject to applicable provisions of the MRP.

In addition the MRP, which includes post-construction requirements for new and redevelopment projects, construction projects that disturb one or more acres of soil are required to obtain coverage under the statewide General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit). To be covered under the Construction General Permit, a project applicant would be required to file a Notice of Intent (NOI) with the SWRCB and prepare a Storm Water Pollution Prevention Plan (SWPPP). The project is required to obtain coverage under this permit as it disturbs more than one acre of soil.

Flood Zone Mapping

The National Flood Insurance Program branch of the Federal Emergency Management Agency (FEMA) maintains maps of floodways and floodplains for the United States. FEMA maps these areas on Flood Insurance Rate Maps or FIRMs. A typical FIRM will show specific flood hazard areas, flood risk zones, and floodplains at a local level of detail. In some identified flood hazard zones, certain types of construction and/or uses are prohibited or property owners are required to carry flood insurance. The majority of the school campus is located within a designated Zone X, which includes areas of 0.2 percent annual chance of flood; areas of one percent annual chance of flood with average depths of less than one foot or with drainage areas less than one square mile; and areas protected by levees from one percent annual chance of flood (FEMA 2021). The southern portion of the school campus adjacent to Calera Creek is within a Special Flood Hazard Area (Zone AE), However, the proposed gym facilities remain just outside of the mapped AE zone areas.

Valley Water (formerly the Santa Clara Valley Water District, SCVWD)

Valley Water is the water resources agency responsible for balancing flood protection needs with the protection of natural water courses and habitat in the Santa Clara Valley. Valley Water serves 16 cities and 1.8 million residents, providing wholesale water supply, operating three water treatment plants, and providing flood protection along the creeks and rivers within Santa Clara County.

City of Milpitas General Plan

The City of Milpitas General Plan contains the following policies that are relevant to the project:

Policy SA 2-3: Require all development projects to demonstrate how stormwater runoff will be detained or retained onsite, treated, and/or conveyed to the nearest drainage facility as part of the development review process. Project applicants shall demonstrate that project implementation would not result in increases in the peak flow runoff to adjacent lands or drainage facilities that would exceed the design capacity of the drainage facility or result in an increased potential for offsite flooding.

Policy UCS 4-2: Require all development projects to demonstrate how stormwater runoff will be detained or retained onsite and/or conveyed to the nearest drainage facility as part of the development review process and as required by the San Francisco Bay Region Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit.

Policy UCS 4-4: Applicable projects shall incorporate Best Management Practices (BMPs) and Low Impact Development measures (LID) to treat stormwater before discharge from the site. The facilities shall be sized to meet regulatory requirements.

Policy UCS 4-5: Applicable projects shall control peak flows and duration of runoff to prevent accelerated erosion of downstream watercourses.

Policy UCS 4-14: Construction sites shall incorporate measures to control erosion, sedimentation, and the generation of runoff pollutants to the maximum extent practicable. The design, scope and location of grading and related activities shall be designed to cause minimum disturbance to terrain and natural features. (Title II, Chapter 13 of the Municipal Code).

3.10.3 Discussion

Would the project:

a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?

Less Than Significant Impact. The proposed project would not violate any water quality standards or waste discharge requirements. The proposed project could impact water quality during the short-term construction period through the accidental release of construction fuels or fluids or through an increase in sedimentation or erosion due to ground disturbance.

The project involves more than one acre of disturbance and is therefore required to obtain coverage under the Construction General Permit, which requires filing an NOI and the preparation of a SWPPP. In addition to the SWPPP, which contains onsite erosion and sedimentation controls as well as other BMPs designed to reduce the exposure of pollutants to stormwater runoff, the project plans include an erosion control plan which includes measures for erosion and sediment control, tracking control, non-stormwater management control (including, but not limited to, dewatering operations, paving and grinding operations, illicit connections/discharge, and non-stormwater discharges), waste management and materials pollution control (spill prevention and control, solid, liquid, and hazardous waste management, etc.). These measures ensure the project would not violate water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality.

b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

Less than Significant Impact. The proposed new buildings would support the existing student population and an increase in enrollment is not anticipated as a result of the project. Therefore, no significant change in water use is anticipated at the campus. The project results in a slight net increase of pervious surfaces and therefore would not have a significant effect on existing groundwater infiltration. The impact is considered less than significant.

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:

i) Result in substantial erosion or siltation on- or off-site;

Less than Significant Impact. The proposed project would not alter the existing drainage pattern of the site or area nor result in substantial erosion or siltation. The project occurs on an existing high school campus and does not alter the course of a stream or river because none are present on site. The project includes and erosion control plan with erosion and sediment control BMPs that would be implemented throughout project construction to prevent erosion or siltation. The project plans include stormwater control features to treat stormwater prior to entering the storm drain system, therefore drainage patterns would be maintained after project completion. The impact is considered less than significant.

ii) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;

No Impact. The project site is an existing high school campus. A limited amount of pervious area would be converted to impervious surfaces following project completion. The vast majority

of the proposed building footprints occur on already paved areas of the site. The project results in a net increase of pervious surfaces compared to existing conditions and therefore would not result in an increase in stormwater runoff from the site. Additionally, the project plans include Low Impact Development (ID)-based stormwater treatment controls that would help reduce runoff rates and volumes prior to discharge in the storm drain system. Therefore, the proposed project would not alter the rate or amount of surface water runoff in a manner which would result in flooding on- or off-site.

iii) 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; or

Less than Significant Impact. As stated above, the project would result in a small net increase in pervious areas on the site, resulting in a slight reduction in stormwater runoff compared to the existing condition. The project plans include LID-based stormwater treatment controls that would further reduce pollutant loads, runoff rates and volumes, minimizing impacts to the existing municipal storm drain system. Therefore, there would be a less than significant impact from additional or polluted runoff.

iv) Impede or redirect flood flows?

No Impact. The project includes the construction of three new buildings on an existing, developed high school campus. These buildings are not located within mapped flood haard zones (FEMA 2021). Therefore, the project would not impede or redirect flood flows.

d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?

No Impact. The terms tsunami or seiche are described as ocean waves or similar waves in large water bodies, usually created by undersea fault movement or by a coastal or submerged landslide. The site is approximately six miles east of the San Francisco Bay shoreline at 21 to 29 feet above mean sea level and over three miles east of the nearest tsunami inundation zone (Cornerstone 2021). Therefore, the project is not at risk to release pollutants in the event of a seiche or tsunami since there is no nearby waterbody. Additionally, the project does not propose outdoor activities such as work or storage areas or other areas that are potential sources for polluted water could be released in the event of a flood.

e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

No Impact. The project does not include new uses that pose water quality hazards. The project includes the use of stormwater treatment controls to treat stormwater runoff, in compliance with RWQCB (MRP) requirements. The City of Milpitas does not utilize groundwater to meet customer potable demands under normal conditions. Groundwater supplies are only used in emergencies in the event that the SFPUC and Valley Water cannot deliver contracted water supplies. In addition, the project results in a net increase of pervious surfaces. Therefore, the project would not affect groundwater supplies, quality, or management.

3.10.4 References

FEMA 2021. FEMA Flood Map Service Center. FIRM panel 06085C0059J. Accessed September 10, 2021 at: https://msc.fema.gov/portal/search?AddressQuery=1285%20Escuela%20Parkway%2C%20Milpitas#searchresultsanchor

De Novo Planning Group. 2018. City of Milpitas Existing Conditions Report. June. Accessed September 9, 2021 at: https://drive.google.com/uc?export=download&id=1XYV84_4cY2GsWfUBg35vfG4ISJJp-zwV

Valley Water. 2021 Coyote Watershed (Complete). Accessed September 10, 2021 at: https://www.valleywater.org/accordion/coyote-watershed-complete.

3.11 LAND USE AND PLANNING

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Physically divide an established community?	☐	☐	☐	☒
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☒

3.11.1 Environmental Setting

The project site is located in the City of Milpitas at an existing high school campus. According to the City of Milpitas General Plan, the site has a land use designation of Public Facilities. The site has a zoning designation of Institutional. (City of Milpitas 2021).

3.11.2 Discussion

Would the project:

a) Physically divide an established community?

No Impact. The project site has been used as a school since 1969. The project does not include any physical barriers such as new roads or fences such that existing land use patterns would change resulting in a division of an established community.

b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

No Impact. The project would result in the addition of new or replacement facilities at an existing high school campus. The project is consistent with the existing General Plan and zoning designations for the site, and the new proposed buildings support the existing campus enrollment and include uses that are already present on the site. No new uses are proposed. Mitigation is included as necessary in this Initial Study to reduce potential environmental effects of the project to less than significant levels.

3.11.3 References

Milpitas, City of. Land Use and Zoning Map. Accessed on August 11, 2021 at: https://milpitas.maps.arcgis.com/apps/webappviewer/index.html?id=89ef3a70704844d18fd61f6e49b26715

3.12 MINERAL RESOURCES

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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?	☐	☐	☐	☒
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?	☐	☐	☐	☒

3.12.1 Environmental Setting

The State Geologist identifies four areas within Milpitas that contain Regionally Significant Construction Aggregate Resources. These areas, located in the foothills outside City limits, are part of the South San Francisco Bay Production-Consumption Region and contain sandstone deposits. Three of the sites are located west of the Ed Levin Park along Tularcitos and Loa Caches creeks, and the fourth is along Scott Creek at the County line. All of the areas are being currently quarried (De Novo Planning Group 2020).

3.12.2 Discussion

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?

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?

No Impact (Responses a – b). There are no known mineral resources of regional value or local importance on or adjacent to the project site. Therefore, the project would not result in the loss of availability of known mineral resources.

3.12.3 References

De Novo Planning Group. 2020. Draft Environmental Impact Report for the Milpitas General Plan Update. November 2. Accessed on August 31, 2021 at https://milpitas.generalplan.org/s/Milipitas_Public_Draft_EIR_reduced.pdf.

3.13 NOISE

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project result in:				
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or in other applicable standards of other agencies?	☐	☐	☒	☐
b) Generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☒	☐
c) For a project located within the vicinity of a private airstrip or 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 expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒

3.13.1 Environmental Setting

Noise may be defined as loud, unpleasant, or unwanted sound. The frequency (pitch), amplitude (intensity or loudness), and duration of noise all contribute to the effect on a listener, or receptor, and whether the receptor perceives the noise as objectionable, disturbing, or annoying.

The Decibel Scale (dB)

The decibel scale (dB) is a unit of measurement that indicates the relative amplitude of a sound. Sound levels in dB are calculated on a logarithmic basis. An increase of 10 dB represents a tenfold increase in acoustic energy, while 20 dBs is 100 times more intense, 30 dBs is 1,000 more intense, and so on. In general, there is a relationship between the subjective noisiness, or loudness of a sound, and its amplitude, or intensity, with each 10 dB increase in sound level perceived as approximately a doubling of loudness.

Sound Characterization

There are several methods of characterizing sound. The most common method is the “A-weighted sound level,” or dBA. This scale gives greater weight to the frequencies of sound to which the human ear is typically most sensitive. Thus, most environmental measurements are reported in dBA, meaning decibels on the A-scale.

Human hearing matches the logarithmic A-weighted scale, so that a sound of 60 dBA is perceived as twice as loud as a sound of 50 dBA. In a quiet environment, an increase of three dB is usually perceptible, however, in a complex noise environment such as along a busy street, a noise increase of less than three dB is usually not perceptible, and an increase of five dB is usually perceptible. Normal human speech is in the range from 50 to 65 dBA. Generally, as environmental noise exceeds 50 dBA, it becomes intrusive and above 65 dBA noise becomes excessive.

Nighttime activities, including sleep, are more sensitive to noise and are considered affected over a range of 40 to 55 dBA. Table 6 lists typical outdoor and indoor noise levels in terms of dBA.

Table 6. Typical Outdoor and Indoor Noise Levels

Common Outdoor Activities	Noise Level (dBA)	Common Indoor Activities
	-110-	Rock Band
Jet flyover at 1,000 feet		
	-100-	
Gas lawn mower at 3 feet		
	-90-	
Diesel truck at 50 feet at 50 mph		Food blender at 3 feet
	-80-	Garbage disposal at 3 feet
Noise urban area, daytime		
Gas lawnmower, 100 feet	-70-	Vacuum cleaner at 10 feet
Commercial area		Normal speech at 3 feet
Heavy traffic at 300 feet	-60-	
		Large business office
Quiet urban daytime	-50	Dishwasher next room
Quite urban nighttime	-40-	Theater, large conference room (background)
Quiet suburban nighttime		
	-30-	Library
Quite rural nighttime		Bedroom at night
	-20-	
		Broadcast/recording studio
	-10-	
Lowest threshold of human hearing	-0-	Lowest threshold of human hearing

Source: Caltrans 2013

Sound levels are typically not steady and can vary over a short time period. The equivalent noise level (Leq) is used to represent the average character of the sound over a period of time. The Leq represents the level of steady noise that would have the same acoustical energy as the sum of the time-varying noise measured over a given time period. Leq is useful for evaluating shorter time periods over the course of a day. The most common Leq averaging period is hourly, but Leq can describe any series of noise events over a given time period.

Variable noise levels are values that are exceeded for a portion of the measured time period. Thus, L01 is the level exceeded one percent of the time and L90 is the level exceeded 90 percent of the time. The L90 value usually corresponds to the background sound level at the measurement location.

Noise exposure over the course of an entire day is described by the day/night average sound level, or Ldn, and the community noise equivalent level, or CNEL. Both descriptors represent the 24-hour noise impact on a community. For Ldn, the 24-hour day is divided into a 15-hour daytime period (7:00 AM to 10:00 PM) and a nine-hour nighttime period (10:00 PM to 7:00 AM) and a 10 dB "penalty" is added to measure nighttime noise levels when calculating the 24-hour average noise level. For example, a 45 dBA nighttime sound level would contribute as much to the overall day-night average as a 55 dBA daytime sound level. The CNEL descriptor is similar to Ldn, except that it includes an additional five dBA penalty beyond the 10 dBA for sound events that occur during the evening time period (7:00 PM to 10:00 PM). The artificial penalties imposed during Ldn and CNEL calculations are intended to account for a receptor's increased sensitivity to sound levels during quieter nighttime periods.

Sound Propagation

The energy contained in a sound pressure wave dissipates and is absorbed by the surrounding environment as the sound wave spreads out and travels away from the noise generating source. Theoretically, the sound level of a point source attenuates, or decreases, by six dB with each doubling of distance from a point source. Sound levels are also affected by certain environmental factors, such as ground cover (asphalt vs. grass or trees), atmospheric absorption, and attenuation by barriers. Outdoor noise is also attenuated by the building envelope so that sound levels inside a residence are from 10 to 20 dB less than outside, depending mainly on whether windows are open for ventilation or not.

When more than one point source contributes to the sound pressure level at a receiver point, the overall sound level is determined by combining the contributions of each source. Decibels, however, are logarithmic units and cannot be directly added or subtracted together. Under the dB scale, a doubling of sound energy corresponds to a three-dB increase in noise levels. For example, if one noise source produces a sound power level of 70 dB, two of the same sources would not produce 140 dB – rather, they would combine to produce 73 dB.

Under controlled conditions in an acoustical laboratory, the trained, healthy human ear can discern 1-dB changes in sound levels when exposed to steady, single-frequency ("pure-tone") signals in the mid-frequency (1,000–8,000 Hz) range. In typical noisy environments, changes in noise of one to two dB are generally not perceptible. However, it is widely accepted that people can to begin to detect sound level increases of three dB in typical noisy environments. Further, a five-dB increase is generally perceived as a distinctly noticeable increase, and a 10-dB increase is generally perceived as a doubling of loudness.

Noise Effects

Noise effects on human beings are generally categorized as:

Subjective effects of annoyance, nuisance, and/or dissatisfaction
Interference with activities such as speech, sleep, learning, or relaxing
Physiological effects such as startling and hearing loss

Most environmental noise levels produce subjective or interference effects; physiological effects are usually limited to high noise environments such as industrial manufacturing facilities or airports.

Predicting the subjective and interference effects of noise is difficult due to the wide variation in individual thresholds of annoyance and past experiences with noise; however, an accepted method to determine a person's subjective reaction to a new noise source is to compare it to the

existing environment without the noise source, or the "ambient" noise environment. In general, the more a new noise source exceeds the ambient noise level, the more likely it is to be considered annoying and to disturb normal activities.

Under controlled conditions in an acoustical laboratory, the trained, healthy human ear is able to discern one-dB changes in sound levels when exposed to steady, single-frequency ("pure-tone") signals in the mid-frequency (1,000–8,000 Hz) range. In typical noisy environments, changes in noise of one to two dB are generally not perceptible. However, it is widely accepted that people are able to begin to detect sound level increases of three dB in typical noisy environments. Further, a five- dB increase is generally perceived as a distinctly noticeable increase, and a 10 dB increase is generally perceived as a doubling of loudness that would almost certainly cause an adverse response from community noise receptors.

Existing Noise Environment

The proposed project is located at Milpitas High School campus, an active school campus that includes drop off and pick up periods, bells, schools sports, and after school activities, including evening and weekend performances at the existing 350-seat auditorium.

Sensitive Receptors

Noise sensitive receptors are areas where unwanted sound or increases in sound may have an adverse effect on people or land uses. Residential areas, hospitals, schools, and parks are examples of noise receptors that could be sensitive to changes in existing environmental noise levels. The closest noise sensitive receptors in proximity to the project site include:

- The single-family residential area located approximately 140 feet east of the high school, across Escuela Parkway (including homes on Escuela Parkway, Cirolero Street, and Manzano Street);
- The single-family homes located approximately 130 feet southeast of the high school, on Sandalwood Lane;
- The single-family residential area that borders the high school to the west, across Arizona Avenue; and
- The single-family residential area that borders the high school the northwest (including homes on Garcia Court and Duarte Court.

In addition, students at Milpitas High School, Marshall Pomeroy Elementary School, San Jose Evergreen Community College, and Thomas Russell Middle School would also be sensitive to elevated noise levels.

3.13.2 Regulatory Setting

Milpitas Municipal Code

Title V, Public Health, Safety, and Welfare, Chapter 213, Noise Abatement, of the City Municipal Code establishes that is unlawful for any person in any district zoned for residential use to increase noise exposure levels by three dB over the local ambient noise level, or more than 65 dB, measured from the property line of the noise source, whichever is more restrictive (section V-213-3-a). In addition, the code establishes that construction activities, including deliveries, shall be limited to the hours of 7:00 AM to 7:00 PM on weekdays and weekends, and that no construction work shall be conducted or performed on holidays (Section V-213-3-b).

Milpitas General Plan

The City of Milpitas' General Plan Noise Element is intended to attain and maintain acceptable noise levels for varying types of development (Guiding Principle 6-G-1) and minimize unnecessary, annoying, or injurious noise (Guiding Principle 6-G-2). The General Plan sets forth the following policies related to noise and noise control:

- Restrict the hours of operation, technique, and equipment used in all public and private construction activities to minimize noise impact (Policy 6-I-13)

3.13.3 Discussion

Would the project result in:

a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or in other applicable local, state, or federal standards?

Less than Significant Impact. As described in more detail below, the construction and operation of the proposed project would generate less than significant noise levels from a variety of sources.

Short-term, Temporary Construction Noise Levels

The construction of the proposed project is anticipated to begin in June 2022 and last approximately 18 months. Construction activities would include staging, site preparation (e.g., land clearing), grading, utility trenching, foundation work (e.g., excavation, pouring concrete pads, drilling for piers), material deliveries (requiring travel along City roads), building construction (e.g., framing, concrete pouring, welding), paving, coating application, and site finishing work. In general, construction activities would involve the use of worker vehicles, delivery trucks, dump trucks, and heavy-duty construction equipment such as (but not limited to) backhoes, tractors, loaders, graders, excavators, rollers, cranes, material lifts, generators, and air compressors. These types of construction activities would generate noise and vibration from heavy equipment operations at different work areas. Some heavy equipment would consist of mobile equipment such as a loader and excavator that would move around work areas; other equipment would consist of stationary equipment (e.g., cranes or material hoists/lifts) that would generally operate in a fixed location until work activities are complete. Heavy equipment generates noise from engine operation, mechanical systems, and components (e.g., fans, gears, propulsion of wheels or tracks), and other sources such as back-up alarms. Mobile equipment generally operates at different loads, or power outputs, and produces higher or lower noise levels depending on the operating load. Stationary equipment generally operates at a steady power output that produces a constant noise level.

Vehicle trips, including worker, vendor, and haul truck trips are likely to primarily occur on Escuela Parkway and Jacklin Road.

Table 7, Potential Construction Equipment Noise Levels, indicates the anticipated noise levels of construction equipment at difference distances from equipment work areas.

Table 7. Typical Construction Equipment Noise Levels

Equipment	Noise Level at 50 feet (Lmax)[A]	Percent Usage Factor[B]	Predicted Equipment Noise Levels (L_{eq})[C]					
			50 Feet	100 Feet	125 Feet	150 Feet	200 Feet	250 Feet
Backhoe	80	0.4	76	70	68	66	64	62
Bulldozer	85	0.4	81	75	73	71	69	67
Compressor	80	0.4	76	70	68	66	64	62
Concrete Mixer	85	0.4	81	75	73	71	69	67
Crane	85	0.16	77	71	69	67	65	63
Delivery Truck	84	0.4	80	74	72	70	68	66
Excavator	85	0.4	81	75	73	71	69	67
Front End Loader	80	0.4	76	70	68	66	64	62
Generator	82	0.5	79	73	71	69	67	65
Man Lift	85	0.2	78	72	70	68	66	64
Paver	85	0.5	82	76	74	72	70	68
Pneumatic tools	85	0.5	82	76	74	72	70	68
Pumps	77	0.5	74	68	66	64	62	60
Roller	85	0.2	78	72	70	68	66	64
Scraper	85	0.4	81	75	73	71	69	67
Tractor	84	0.4	80	74	72	70	68	66

Sources: Caltrans, 2013; FHWA, 2010

(A) L_{max} noise levels based on manufacturer's specifications.

(B) Usage factor refers to the amount (percent) of time the equipment produces noise over the time period

(C) Estimate does not account for any atmospheric or ground attenuation factors. Calculated noise levels based on Caltrans, 2009: L_{eq} (hourly) = L_{max} at 50 feet – 20log (D/50) + 10log (UF), where: L_{max} = reference L_{max} from manufacturer or other source; D = distance of interest; UF = usage fraction or fraction of time period of interest equipment is in use.

Construction noise impacts generally occur when construction activities occur in areas immediately adjoining noise sensitive land uses, during noise sensitive times of the day, or when construction durations last over extended periods of time. Construction activities associated with the proposed project would occur in distinct phases and may last approximately 18 months in total. The closest that construction activities could occur to sensitive receptors located near Milpitas High School include:

- PAC construction: approximately 200 feet from residences across Escuela Parkway;
- Second gym construction: approximately 480 feet from residences on Sandalwood Lane;
- Fitness center construction: approximately 290 feet from residences across Arizona Avenue;

In addition to these existing noise-sensitive residential land uses, Milpitas High School borders and is near Marshall Pomeroy Elementary School, Thomas Russell Middle School, and San Jose Evergreen Community College.

The City's General Plan Noise Element generally focuses on protecting Milpitas citizens by minimizing construction noise intrusion, and the City's Municipal Code limits construction activities to the hours of 7:00 AM to 7:00 PM daily. Neither the General Plan or the Municipal Code establish a specific, numeric standard for construction noise levels (e.g., 90 dBA L_{eq}). Traffic noise modeling conducted for the City's General Plan indicates transportation noise

levels in the vicinity of Jacklin Road and Milpitas High School are in the range of 60 to 65 L_{dn} (City of Milpitas, 2020, Figure 3.12-1 and Table 3.12-12).

With regard to construction noise, demolition, site preparation, and grading phases typically result in the highest temporary noise levels due to the use of heavy-duty equipment such as dozers, excavators, graders, loaders, scrapers, and trucks. As shown in Table 13-10, the worst-case L_{eq} and L_{max} noise levels associated with the operation of a dozer, excavator, scraper, etc., are predicted to be approximately 82 and 85 dBA, respectively, at a distance of 50 feet from the equipment operating area. At an active construction site, it is not uncommon for two or more pieces of construction equipment to operate at the same time and in close proximity. The concurrent operation of two or more pieces of construction equipment would result in noise levels of approximately 85 L_{eq} at a distance of 50 feet from equipment operating areas.[10] At a distance of 200 feet (the closest distance between heavy equipment operations and residential receptors), noise levels from PAC construction activities would be approximately 73 dBA L_{eq}.

These worst-case noise levels are estimated to be approximately eight to 13 dBA above daytime ambient noise level conditions near Milpitas High School (assumed to be 60 to 65 L_{dn}), and could occur temporarily during site preparation, grading, and initial PAC building foundation work (approximately six months cumulatively). As these activities are completed and vertical building construction begins, work activities would occur further from property lines, require less heavy-duty equipment (e.g., grader), and generate lower construction noise levels. Typical construction activities would generate noise levels that are approximately five to 10 dBA L_{eq} less than worst case noise levels and commensurate with the existing ambient noise environment near Milpitas High School. Typically, sustained construction noise levels of 80 to 85 dBA or higher require the implementation of construction noise control practices such as staging area restrictions (e.g., siting staging areas away from sensitive receptors), equipment controls (e.g., covered engines and use of electrical hook-ups instead of generators), and/or the installation of temporary noise barriers of sufficient height, size (length or width), and density to achieve targeted noise reductions.

While the construction of the PAC would temporarily increase noise levels at residences located across Escuela Parkway, this noise increase would be temporary, with the majority of construction activities generating noise levels commensurate with the existing ambient noise environment. The project's temporary noise level increases would occur during the time periods permitted by the City's Municipal Code (7:00 AM to 7:00 PM), and would not exceed any City or MUSD standard, or otherwise result in a substantial temporary increase in ambient noise levels. The construction of the PAC, therefore, would not generate noise levels that exceed an applicable standard. This impact would be less than significant.

Construction of the second gym and fitness center would occur at least 290 feet from all sensitive residential receptors. In addition, there are several school facilities located between these work areas and nearby residences that would serve to screen the site from view and shield receptors from noise levels. Construction of the second gym and fitness center would not impact adjacent residential land uses.

The proposed project's construction activities would take place at an active school campus. While the most intensive activities are anticipated to begin in the summer of 2022, when students would generally not be on campus, some construction activities would take place while

10 As shown in Table 13-10, a single bulldozer provides a sound level of 87 dBA L_{eq} at a distance of 25 feet; when two identical sound levels are combined, the noise level increases to 90 dBA L_{eq} and when three identical sound levels are combined, the noise level increases to 91 dBA L_{eq}. These estimates assume no shielding or other noise control measures are in place at or near the work areas.

school is in session. Most construction activities would occur away from classroom buildings. In addition, project construction activities are not anticipated to result in interior classroom noise levels that exceed 45 dBA L_{eq} and, therefore, would not interfere with education activities at Milpitas High School. This impact is considered less than significant.

Long-term, Operational Noise Levels

The proposed project would not change student enrollment levels at Milpitas High School. The new second gym and fitness center would be located on the interior of the campus and support existing student enrollment. These facilities would provide indoor athletic and other school support space and would not generate substantial noise levels.

The new PAC (560 seats) would have increased capacity over the existing auditorium (350 seats) where school theater and other productions currently occur. The PAC would replace current parking on the campus and would be located on the northern end of the campus, closer to residences on Escuela Parkway than the existing auditorium. The ticket office and primary lobby entrance would front Escuela Parkway; however, neither the ticket office nor human congregation near the lobby would generate substantial noise levels that could affect residential receptors located at least 150 feet away across Escuela Parkway. PAC activities would occur primarily during daytime hours (i.e., 7:00 AM to 7:00 PM), and not during the nighttime period (i.e., 10:00 PM to 7:00 AM). The increased capacity of the PAC would generate approximately 23 extra vehicle trips per day. Caltrans considers a doubling of traffic volumes to increase traffic noise levels by three decibels (Caltrans 2013). The proposed project would not generate a substantial amount of traffic and would not double traffic volumes on a daily or event basis. For the reasons outlined above, the proposed project would not generate noise levels that exceed City or MUSD standards or otherwise result in a substantial permanent increase in noise levels in the vicinity of Milpitas High School.

b) Generation of excessive groundborne vibration or groundborne noise levels?

Less Than Significant Impact. The potential for ground-borne vibration and noise is typically greatest when vibratory or large equipment such as rollers, impact drivers, or bulldozers are in operation. For the proposed project, these types of equipment would primarily operate during site preparation, grading, and paving work (lasting a total of five months). This equipment would, at worst-case, operate at least 200 feet or more from receptor locations, with intervening elevation differences, roadbeds, and other factors that would reduce direct transmission of ground-borne vibration to residential buildings. The proposed project, therefore, would not generate substantial or excessive ground-borne vibration levels.

c) For a project located within the vicinity of a private airstrip or 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 expose people residing or working in the project area to excessive noise levels?

No Impact. Milpitas High School is not within an airport land use plan nor is it within two miles of a public or private airport. Norman Y. Mineta San Jose International Airport is the closest airport to the project site, approximately nine miles southwest of the campus. Additionally, the proposed project would not increase student or staff enrollment at Milpitas High School. The proposed project, therefore, would not expose school students or staff to excessive airport-related noise levels.

3.13.4 References

California Department of Transportation (Caltrans) 2013. Technical Noise Supplement to the Traffic Noise Analysis Protocol. Sacramento, California. September 2013.

_____2020. Transportation and Construction Vibration Guidance Manual. Sacramento, California. April 2020.

City of Milpitas 2020. Draft Environmental Impact Report for the Milpitas General Plan Update. City of Milpitas, CA. November 2, 2020.

Hexagon Transportation Consultants, Inc. (Hexagon) 2021. Transportation Analysis for the Milpitas Union High School Expansion. September 2021.

U.S. Federal Highway Administration (FHWA) 2010. "Construction Noise Handbook, Chapter 9 Construction Equipment Noise Levels and Ranges": Accessed online at: <https://www.fhwa.dot.gov/environment/noise/construction_noise/handbook/handbook00.cfm>

3.14 POPULATION AND HOUSING

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Induce a substantial unplanned 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)?	☐	☐	☐	☒
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

3.14.1 Discussion

Would the project:

a) Induce substantial unplanned 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)?

b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

No Impact. (Responses a – b). The project provides new facilities for existing students at an existing high school campus. The proposed buildings do not include new classrooms to support increased enrollment. The project provides a second gym that will serve as a practice gym for sports teams and for physical education classes. The fitness center will provide existing students with space to do weightlifting and fitness activities. The proposed PAC will replace the existing auditorium as a space for performances and theater/music classes and provide additional seating for larger attendance. Considering the project area is primarily built out and no changes in surrounding land uses are proposed, the proposed project would not induce population growth, either directly or indirectly.

The proposed project would not remove any existing housing, nor would it displace any people necessitating the construction of replacement housing elsewhere. No impact would occur.

3.15 PUBLIC SERVICES

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) 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:				
i) Fire protection?	☐	☐	☒	☐
ii) Police protection?	☐	☐	☒	☐
iii) Schools?	☐	☐	☒	☐
iv) Parks?	☐	☐	☒	☐
v) Other public facilities?	☐	☐	☒	☐

3.15.1 Environmental Setting

The Milpitas Fire Department serves the residents of Milpitas. In addition to direct fire suppression and prevention, the Milpitas Fire Department performs support functions such as emergency medical services, rescue services, hazardous and toxic materials emergency response, coordination of City-wide disaster response efforts, enforcement of fire and life safety codes, enforcement of state and federal hazardous materials regulations, and investigation of fire cause, arson and other emergency events for cause and origin (City of Milpitas Information and Resources 2021). Milpitas Fire Station #1 is located at 777 South Main Street, approximately 2.15 miles from the project site. Fire Station #2, located at 1263 Yosemite Drive, is approximately 2.0 miles from the site, and Fire Station #3 is located at 45 Midwick Drive, approximately 0.25 miles from the site. Fire Station # 4, located at 775 Barber Lane, is approximately 2.3 miles southeast of the site.

The Milpitas Police Department is responsible for public safety in the project area. The Milpitas Police Department has an office at 1275 North Milpitas Boulevard and is located approximately 0.25 miles from the project site.

3.15.2 Discussion

Would the project:

a) 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:

i) Fire protection?

ii) Police?

iii) Schools?

iv) Parks?

v) Other public facilities?

Less than Significant Impact. The proposed project is the construction of a new performing arts center, second gym and fitness center at an existing high school campus. The new buildings support the existing student body and do not provide for additional enrollment. The buildings do not serve increased enrollment and do not introduce new uses at the site which necessitate the provision of new or physically altered governmental facilities.

The proposed project does not include new housing and would not induce population growth (see Response 3.14a); therefore, it would not increase enrollment at local schools, or require the provision of new or physically altered schools nor increase the use of local and regional parks or require the provision of new or physically altered parks, or other governmental facilities.

3.15.3 References

City of Milpitas Information and Resources. 2021. Accessed August 31, 2021 at https://www.ci.milpitas.ca.gov/milpitas/departments/

3.16 RECREATION

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) 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?	☐	☐	☐	☒
b) Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☒

3.16.1 Discussion

Would the project:

a) Increase the use of existing neighborhood or regional parks or other recreational facilities such that significant physical deterioration of the facility would occur or be accelerated?

b) Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

No Impact. (Responses a – b). The project proposes to construct new buildings on an existing high school campus, and does not provide for additional enrollment or classrooms. The buildings being constructed consist of gym facilities and a performing arts theater to serve the existing student enrollment. The proposed project would not induce population growth (see Response 3.14a); therefore, it would not increase the use of existing neighborhood and regional parks or other recreational facilities. The project does not include or require the construction or expansion of recreational facilities.

3.17 TRANSPORTATION

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities?	☐	☐	☒	☐
b) Conflict or be inconsistent with CEQA Guidelines section 15064.3(b), which pertains to vehicle miles travelled?	☐	☐	☒	☐
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☒	☐
d) Result in inadequate emergency access?	☐	☐	☒	☐

The information contained in this section is based on a Transportation Analysis prepared for the project by Hexagon Transportation Consultants, dated October 29, 2021. A copy of the report is included as Appendix D to this Initial Study.

3.17.1 Environmental Setting

Regional access to the project site is provided by I- 680I-880 and local access is via Jacklin Road, North Milpitas Boulevard, Escuela Parkway, Arizona Avenue, and Washington Drive. Milpitas High School is the only comprehensive public high school in the City. It is located in the northern part of the City, therefore most students travel north from adjacent access routes to the school.

The closest transit facilities to the project site are bus routes. There is an existing bus stop and pullout on Escuela Parkway at Cirolero Street, which is accessible from the project site via on-street sidewalks and crosswalks, and internal pedestrian walkways within Milpitas High School. This stop serves Valley Transportation Authority (VTA) route 66, as well as school service routes 246 and 247. Route 66 serves northern Milpitas and downtown San Jose, operating on approximately 15-minute headways during weekdays. School routes 246 and 247 are seasonal and oriented towards school bell times. Alameda County Transit (AC Transit) also provides bus service via Route 217 along North Milpitas Boulevard. The nearest stop is near Washington Drive about one-half mile from the project site. This route runs on 60-minute headways during the weekdays and links the Milpitas BART station to the Warm Springs BART station in Fremont. It is accessible from the project site using existing sidewalks.

On-street bike lanes are provided on Jacklin Road and Escuela Parkway with the Hetch Hetchy Trail (in the median of Escuela Parkway) linking to these bike lanes north of Washington Drive and south of Russell Lane. Washington Drive is also a designated bike route.

The project site is located within a neighborhood where nearly all the streets include sidewalks, curb ramps, and crosswalks. In addition, there are existing bike lanes along the school frontage along Escuela Parkway with the Hetch Hetchy Trail linking to these bike lanes north of Washington Drive and south of Russel Lane.

Project activities related to the second gym and fitness center occur on the interior of the campus. The PAC is located in the northeast corner of the campus, adjacent to Escuela Avenue. Primary access for construction activities, equipment, and vehicles is anticipated at the driveway at Escuela Parkway along the northern property boundary adjacent to Marshall Pomeroy Elementary School. Secondary construction access for the fitness center and second gym buildings could be provided via on-campus emergency access routes from Arizona Avenue.

3.17.2 Discussion

Would the project:

a) Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities?

Less Than Significant Impact. The proposed project consists of the construction of three new buildings at an existing high school site. The buildings are a fitness center, second gym, and performing arts center and do not include any new classrooms to support additional enrollment. The new fitness center and gym would be constructed towards the center of the campus on vacant portions of land and would not adversely impact either existing pedestrian pathways or vehicular circulation within or around the site. The project provides new fire access roadways in already paved areas to improve existing emergency access on the campus.

According to the VTA *Transportation Impact Analysis Guidelines*, a project would create an impact on transit if: (1) it would cause a permanent or temporary reduction in transit availability or interference with existing transit users (relocation or closure of a transit stop or vacation of a roadway utilized by transit); or (2) result in significant delays in transit service.

The project would not preclude, modify, or otherwise affect existing or proposed transit projects or policies identified by the VTA. The project would maintain both the existing frontage on Escuela Parkway and the existing bus stop located approximately 250 feet south of the proposed PAC. In addition, the project's trip generation would have a negligible impact on transit delay due to the relative infrequency of events. Based on these criteria, the proposed project would result in a less than significant impact to transit service.

The Guidelines also state that a project would create an impact on pedestrian and bike circulation if: (1) it would reduce, sever or eliminate existing or planned bike/pedestrian access and circulation in the area; (2) it would preclude, modify, or otherwise affect proposed bicycle and pedestrian projects and/or policies identified in an adopted plan; or (3) it would cause a change to existing bike paths such as alignment, width of the trail ROW, or length of the trail.

The proposed PAC is located on the east border of the site, adjacent to Escuela Parkway. The City of Milpitas *Trail, Pedestrian and Bike Master Plan* has identified Escuela Parkway, along the PAC frontage, as a future corridor to extend the Hetch Hetchy Trail. Although the City's plan does not provide a design, it is anticipated that this trail extension would occur within the existing Escuela Parkway landscaped median, which is approximately 60 feet wide. The project design would not modify any existing pedestrian or bikeway facilities, nor would it preclude the extension of the Hetch Hetchy Trail through Escuela Parkway. Thus, the project would result in a less than significant impact to bicyclists and pedestrians.

Project construction would add temporary vehicle trips to project roadways from construction crews, and delivery of equipment and materials. Project construction-related vehicle trips would be temporary and intermittent, occurring throughout the day, but also during the AM (7:00 AM –

9:00 AM) and PM (4:00 PM – 6:00 PM) peak hour time periods. These impacts are temporary for the duration of construction and therefore considered a less than significant impact.

b) Conflict or be inconsistent with CEQA Guidelines section 15064.3(b), which pertains to vehicle miles travelled?

Less Than Significant Impact. The project does not add facilities such as additional classrooms that would support increased enrollment. Therefore, the VMT impact of the project would be limited to the net expansion of the performing arts center by 210 seats. Due to the unique nature of auditorium type uses, standard sources such as the Institute of Transportation Engineers (ITE) publication *Trip Generation* do not have published trip generation rates.

To estimate the number of trips that would be generated from the new facilities, two sources were considered in the Transportation Analysis. First, the City of Milpitas parking standards, which is based on local experience, stipulates that new theater/auditorium projects provide parking at a rate of one space per every four seats. Second, the Institute of Transportation Engineers (ITE) publication *Parking Generation, 4th Edition*, states that parking demand is 0.38 spaces per attendee for a "Live Theater." Each parked vehicle from theater represents two trips, one trip entering the site and one exiting.

Applying the second parking rate, which is more conservative, yields a total trip rate of 0.76 trips per attendee, or 160 additional roadway trips per event. MUSD staff estimate that the performing arts center would host somewhere between 27 and 52 total events per year. The remaining days, the performing arts theater would be unused or solely used by students and staff already on-site. Assuming 52 events per year, or one event per week, the number of trips added by the project, on average, would be approximately 23 daily trips. This is far below the 110 trips per day threshold stipulated by state guidelines, and for this reason, the proposed project may be assumed to result in a less than significant VMT impact.

c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

Less Than Significant. The proposed project would involve the addition of new buildings to support existing uses and enrollment at an existing high school. The Transportation Analysis included a review of site circulation and access. The new fitness center and gym buildings are located on the interior of the campus and would not adversely impact either existing pedestrian pathways or vehicular circulation within or around the site.

The PAC would be located in an existing parking area, northeast of Building K. Parking spaces would be removed from the site to accommodate the building footprint. Other than this, the vehicular circulation and access, bus stops, walkways, and drop-off areas would remain unchanged. Access to the site would remain at the existing driveways, and drop-off and pick-up during school hours would not be affected. Vehicles would continue to circulate through the main east-west drive aisle onsite that links Escuela Parkway to Arizona Avenue. This internal roadway is one-way, westbound, and generally provides two travel lanes with access to the surrounding parking areas and student loading area. Sight distance on this roadway and its intersections were inspected in the field and determined to be adequate. The existing onsite infrastructure would be sufficient to accommodate the relatively low traffic generation from the additional seats provided within the PAC. It is anticipated that events occurring during school hours would be attended by students and faculty, resulting in little or no additional traffic to and from the site.

For events that occur after school hours and would not solely serve the on-campus population, the incoming traffic for a capacity performing arts event would be approximately 213 vehicle trips,

with 80 of these representing new (additional) trips from the performing arts theater expansion. This could be accommodated by the site's existing roadways. Each internal lane typically has a maximum capacity of hundreds of vehicles per hour (depending on the traffic control).

Therefore, the project would not substantially increase hazards due to new design features such as sharp curves, dangerous intersection, or incompatible uses at the site.

d) Result in inadequate emergency access?

Less than Significant Impact. Road or lane closures are not anticipated during construction. Fire lane access shall be maintained within the campus throughout construction. The school has existing fire access roads throughout the campus and adjacent to the proposed buildings. In addition, the project would extend existing internal, 20-foot wide fire access roadways by approximately 350 feet to further facilitate emergency access within the campus. Fire access is subject to review and approval by DSA. Therefore, the proposed project would not result in inadequate emergency access.

3.17.3 Non-CEQA Transportation Related Issues

The Transportation Analysis prepared for the project included an analysis of non-CEQA related transportation issues including parking and local roadway performance as a result of the project. These issues are not addressed as part of the CEQA Initial Study analysis, however, the analyses are presented here to benefit the community and interested agencies, such as the City of Milpitas.

Congestion

The Transportation Analysis noted that traffic around the school site can be congested during existing peak pick-up and drop-off periods. This congestion during school drop-off and pick-up times could be exacerbated by theater events drawing outside attendees (people other than current students and staff) if the PAC arrivals and departures occurring at the same time as drop-off and pick-ups. Therefore, the following recommendation was made:

- **Recommendation 1:** Theater events which primarily serve visitors from off-campus should be scheduled such that arrivals or departures for the performing arts center do not coincide with peak school pick-up and drop-off times.

Parking

As previously described, the proposed fitness center and gym would have no effect on project trip generation, and therefore, no measurable effect on parking as well. The proposed PAC would have two effects on parking within and around the site. First, it would remove parking spaces from the northeast portion of the site, potentially affecting existing parking conditions at the high school. Second, it would increase the demand for parking during capacity events at the theater. These are effects are described below.

Parking Removal

Field observations of school parking were conducted on August 19th and August 26th of 2021. The existing school parking supply onsite was observed as mostly full, but vacant spaces were available within each of the school's parking lots. In addition, there was plenty of on-street parking capacity available nearby on Arizona Avenue, indicating that the school's parking demand is currently being accommodated by the on-street and off-street parking supply.

According to the proposed project site plan, the project would remove approximately 113 parking spaces from the northeast portion of the campus. However, the project plans also show future parking expansion on the existing paved basketball courts, which is estimated to accommodate 142 parked vehicles. This would result in the addition of 29 parking spaces. Given that the existing parking supply is sufficient to accommodate the school parking demand and there are plans to add parking spaces to the site, implementation of the project would not cause school parking to overflow into the adjacent neighborhood on typical school days.

Parking Demand

The proposed PAC would increase the parking demand at the site. According to the ITE publication *Parking Generation, 4th Edition*, parking demand could be expected to increase at a rate of 0.38 spaces per seat, which in the case of the 210-seat theater expansion, equates to 80 new parked vehicles. Overall, the 560-seat theater could be expected to generate parking demand of up to 213 spaces during a capacity event. The effects of theater parking demand at the site depends on when, and what type of events, would occur. Various scenarios are described below.

1) School Events During School Hours. Some events at the Performing Arts Theater will be attended solely by students and faculty during school hours. Because students and faculty are already onsite, there would be little or no effective increase in the parking demand at the site.

2) Events After School Hours. Some events would occur during the evening hours or after school. In such cases, there is little or no student or faculty parking demand at the school, and its existing parking lots can be utilized to accommodate theater demand. Immediately west of the performing arts center is an existing parking lot with 148 parking spaces, and to the south there is another existing parking lot with 42 spaces. In addition, the project plans show future parking supply expansion on the existing paved basketball courts, which is estimated to accommodate 142 parked vehicles. There are also more than 120 parking spaces in a gated lot directly north of the proposed theater, and south of Marshall Pomeroy Elementary School. Thus, there are more than 450 parking spaces nearby to service the theater use. This available parking capacity far exceeds the 213 spaces required by the theater use.

3) Events Held During School Hours or During Other Events. Should theater events attended by outside visitors be held during school hours, or during other events at the school after hours (such as a school football game), the available onsite parking supply could be insufficient to accommodate the theater parking demand. In these situations, parking demand would likely overflow onto neighborhood streets, with the most likely locations being Escuela Parkway, Manzano Street, Cirolero Street, Arizona Avenue, Rose Drive, and Vienna Drive. All of these streets currently have permit parking restrictions during school hours (8:00 AM to 3:00 PM, Monday through Friday). Parking on the east side of Arizona Avenue, adjacent to Milpitas High School, is unrestricted.

- **Recommendation 2:** Because overflow parking on neighborhood streets can be a frequent source of neighborhood complaints, events which primarily serve visitors from off-campus should be scheduled outside school hours and not concurrently with other school events, to the greatest extent feasible.

Bicycle Parking

The proposed gym and fitness center would be used by existing students, therefore bike parking would be accommodated by the school's existing facilities. For theaters, the applicable parking

rates recommend one Class I (long term) space per 30 employees and one Class II (short term) space for every 1,500 feet of building space. Because the employees of the performing arts theater are part of the existing school (not an independent use) no additional bike parking would be needed to support employees. However, the PAC should consider adding Class II parking to support visitors. Based on VTA's recommended rates, the 39,300 square foot facility would need 26 additional short-term spaces. These should be placed near the building entrances to promote biking.

- **Recommendation 3:** The PAC should consider adding 26 Class II bike parking spaces to be placed in a convenient location near building entrances.

As mentioned previously, the recommendations contained in this section are not related to the CEQA Initial Study Analysis of Impacts and are provided to inform the MUSD and reviewers of ways to address potential neighborhood concerns. The MUSD can elect to follow the recommendations as they see fit.

3.17.4 References

Hexagon Transportation Consultants. 2021. Transportation Analysis. October 29, 2021.

Valley Transportation Authority. 2021. VTA System Maps: Main Map. Accessed on September 21, 2021 at: https://www.vta.org/sites/default/files/2021-07/VTA_MainMap_061421.pdf

3.18 TRIBAL CULTURAL RESOURCES

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
Cause a substantial adverse change in the significance of a tribal cultural resources, defined in Public Resources Code section 21074 as either a site, feature, place cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k)?	☐	☐	☐	☒
ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American Tribe.	☐	☐	☐	☒

3.18.1 Environmental Setting

The Native American peoples that have inhabited Milpitas since prehistory are primarily the Tamien (also spelled Tamyen) of the Ohlone Tribe. Living in large groups of extended family members, from 50 to 500 individuals, the Tamien peoples inhabited the area in semi-permanent and seasonal housing. Utilizing the abundant natural resources of the area, the local peoples thrived in the area between the estuaries and the Bay itself (Levy 1978).

In 1769, Spain began its colonization efforts by establishing missions in the Spanish territory in Alta California. The Ohlone peoples, along with other local native groups, were forced into service of the Missions, made to tend to crops and livestock, create buildings, and manufacture products to sell to Spanish settlers.

Following Mexican independence from Spain in 1821, the Mexican government secularized the Spanish missions and offered land grants to citizens in Alta California. After this, much of the area formerly occupied by the missions was converted into cattle ranches or *ranchos*. The native peoples who had no land to return home to, often were left no choice but to continue their work as ranch hands, farm laborers, or other low-paying jobs on the margins of society.

As early as the 1850s, Milpitas became a developing business area, with many hotels, saloons, and restaurants for the travelers and immigrants coming to the Bay Area. In the 1950s, Ford Motor Company developed a local production plant, leading to a massive increase in development and immigration. This trend continued into the 1960s and 1970s, leading to a highly developed area

in the present-day (Munzel 2017). The current population of Milpitas is estimated around 84,000 as of the 2020 United States Census.

3.18.2 Regulatory Setting

Native American Graves Protection and Repatriation Act of 1990

The Native American Graves Protection and Repatriation Act (NAGPRA) of 1990 sets provisions for the intentional removal and inadvertent discovery of human remains and other cultural items from federal and tribal lands. It clarifies the ownership of human remains and sets forth a process for repatriation of human remains and associated funerary objects and sacred religious objects to the Native American groups claiming to be lineal descendants or culturally affiliated with the remains or objects. It requires any federally funded institution housing Native American remains or artifacts to compile an inventory of all cultural items within the museum or with its agency and to provide a summary to any Native American tribe claiming affiliation.

Native American Heritage Commission, Public Resources Code Sections 5097.9 – 5097.991

Section 5097.91 of the Public Resources Code (PRC) established the Native American Heritage Commission (NAHC), whose duties include the inventory of places of religious or social significance to Native Americans and the identification of known graves and cemeteries of Native Americans on private lands. Under Section 5097.9 of the PRC, a state policy of noninterference with the free expression or exercise of Native American religion was articulated along with a prohibition of severe or irreparable damage to Native American sanctified cemeteries, places of worship, religious or ceremonial sites or sacred shrines located on public property. Section 5097.98 of the PRC specifies a protocol to be followed when the NAHC receives notification of a discovery of Native American human remains from a county coroner. Section 5097.5 defines as a misdemeanor the unauthorized disturbance or removal of archaeological, historic, or paleontological resources located on public lands.

California Native American Graves Protection and Repatriation Act of 2001

Codified in the California Health and Safety Code Sections 8010–8030, the California Native American Graves Protection Act (NAGPRA) is consistent with the federal NAGPRA. Intended to "provide a seamless and consistent state policy to ensure that all California Indian human remains and cultural items be treated with dignity and respect," the California NAGPRA also encourages and provides a mechanism for the return of remains and cultural items to lineal descendants. Section 8025 established a Repatriation Oversight Commission to oversee this process. The act also provides a process for non–federally recognized tribes to file claims with agencies and museums for repatriation of human remains and cultural items.

Assembly Bill 52

Assembly Bill (AB) 52 specifies that a project that may cause a substantial adverse change in the significance of a tribal cultural resource, as defined, is a project that may have a significant effect on the environment. AB 52 requires a lead agency to begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project, if the tribe requests in writing to the lead agency, to be informed by the lead agency of proposed projects in that geographic area and the tribe requests consultation, prior to determining whether a negative declaration, mitigated negative declaration, or environmental impact report is required for a project.

No Native American tribes contacted the MUSD under AB52, and thus AB52 consultation was not required as part of the project.

Milpitas General Plan

The following relevant policies are from the Milpitas General Plan Mitigation Measures:

- **Policy CON 4-1:** Review proposed developments and work in conjunction with the California Historical Resources Information System, Northwest Information Center at Sonoma State University, to determine whether project areas contain known archaeological resources, either prehistoric and/or historic-era, or have the potential for such resources.
- **Policy CON 4-2:** If found during construction, ensure that human remains are treated with sensitivity and dignity, and ensure compliance with the provisions of California Health and Safety Code Section 7050.5 and California Public Resources Code Section 5097.98.
- **Policy CON 4-3:** Work with Native American representatives to identify and appropriately address, through avoidance or mitigation, impacts to Native American cultural resources and sacred sites during the development review process.
- **Policy CON 4-4**: Consistent with State, local, and tribal intergovernmental consultation requirements such as SB 18 and AB 52, the City shall consult as necessary with Native American tribes that may be interested in proposed new development and land use policy changes.

3.18.3 Discussion

Would the project:

a) Cause a substantial adverse change in the significance of a tribal cultural resources, defined in Public Resources Code section 21074 as either a site, feature, place cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k)?

ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American Tribe?

a) Less Than Significant with Mitigation. Under CEQA, a significant resource is one that is listed in a California or local historic register or is eligible to be listed. As such, lead agencies have a responsibility to evaluate such resources against the California Register criteria prior to making a finding as to a proposed project's impacts to historical resources (PRC § 21084.1, 20174, 14 CCR § 15064.5(3).

It is possible for a lead agency to determine that an artifact, site, or feature is considered significant to a local tribe, without necessarily being eligible for the CRHR. A determination of such by a lead agency would make an artifact a significant resource under CEQA.

No recorded Tribal Cultural Resources are known to be present at the area of proposed work or within a quarter-mile of said area, according to the aforementioned CHRIS record search via the NWIC at Sonoma State University.

The Sacred Lands File Search was positive for tribal resources in the project area. Subsequent outreach was made to the tribal contacts provided by the NAHC for information on the location and nature of the resource(s) to determine if the project would impact known resources. No specific information was provided regarding the location and nature of tribal resources in the area, therefore, there is no confirmed potential for impacting known tribal cultural resources. North Valley Yokuts Tribe Chairwoman Katherine Perez did, however, provide suggested mitigation measure language to avoid impacts to unknown tribal cultural resources.

Tribal Cultural Resource mitigation measures TRIB-1a through TRIB-1d (outlined below) include a requirement to conduct tribal cultural resource awareness training prior to ground disturbing activities and a provision to stop work in the event of a Tribal Cultural Resource discovery, and include additional measures if considered appropriate by a tribal representative.. These are considered sufficient mitigations to protect tribal cultural resources from construction activities. These measures ensure that TCRs will be treated appropriately and according to tribal practices.

The implementation of Mitigation Measures CUL-1a and CUL-1b (see Section 3.5.3) and TRIB-1a through TRIB-1b, below, would safeguard any TCRs if they are found to be present.

Impact TRIB-1: Project construction could disturb or damage unknown tribal cultural resources.

Mitigation Measure TRIB-1a: Tribal Cultural Resources Awareness Training. Construction personnel involved in ground disturbing activities within native soils shall attend a Tribal Cultural Resources Awareness Training prior to initiating ground disturbing activities within native soils at the site.

Effectiveness: This measure would minimize or avoid impacts to potential Tribal Cultural Resources.

Implementation: By a tribal representative.

Timing: Before ground disturbing work is conducted.

Monitoring: Before any ground disturbing work is conducted, the tribal representative shall discuss with the crew members what, if any, potential impacts they expect work to have on nearby resources. Workers should be instructed on state and federal laws, as well as ethical considerations when dealing with potential artifacts and/or remains. Workers should also be given information as to what potential artifacts or remains may look like, in order to help identify potentially sensitive areas. In this case, if any resources or remains are thought to have been discovered, it can be brought to the attention of the tribal representative.

Mitigation Measure TRIB-1b: Inadvertent Discovery of Tribal Cultural Resources. If any previously unrecorded resources (including, but not limited to: historic building features, chipped or ground stone, or other debris) are discovered during ground-disturbing work, the work will

cease at that location and within 100 feet, until the tribal representatives are consulted and MUSD determines how to proceed.

It is possible for a lead agency to determine that an artifact is considered significant to a local tribe, and thus considered a significant resource under CEQA, even if it would not otherwise be considered significant under CEQA. As such, all Native American tribal finds are to be considered significant until the lead agency has enough evidence to make a determination of significance. In the event that Native American archaeological resources are discovered, or suspected to have been discovered, tribal representatives and qualified archaeologists will determine how to proceed. These determinations will be written into the project record. If the lead agency chooses not to follow the recommended mitigation measures, this refusal will also be written into the project record, along with its reasoning.

Effectiveness:	This measure would minimize or avoid impacts to potential Tribal Cultural Resources.
Implementation:	By the contractors and MUSD
Timing:	During all ground-disturbing work
Monitoring:	MUSD

3.18.4 References

California State Parks. 2021. Office of Historic Preservation. Built Environment Resource Directory. Accessed November 2, 2021 at http://ohp.parks.ca.gov/pages/1068/files/Santa%20Clara.csv

De Novo Planning Group. 2020. Milpitas General Plan Draft EIR., 2 Nov

Levy, Richard. “Costanoan.” Handbook of North American Indians, edited by William Surtevant, Smithsonian Institution, Washington DC, 1978, p. 485.

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National Park Service. 2021. National Register of Historic Places NPGallery Database. Accessed on September 28, 2021 at” https://npgallery.nps.gov/nrhp

Perez, Katherine. Personal Communication via email to A. Furniss: Subject: Milpitas High School. October 29, 2021.

3.19 UTILITIES AND SERVICE SYSTEMS

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunication facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	☒	☐
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☒	☐
c) 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?	☐	☐	☒	☐
d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	☐	☐	☒	☐
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☐	☒

3.19.1 Discussion

Would the project:

a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunication facilities, the construction or relocation of which could cause significant environmental effects?

Less than Significant Impact. The proposed project consists of the construction of new buildings on an existing high school campus. The project increases the amount of pervious area at the site therefore, there are no new or expanded stormwater facilities are required off-site. The project will utilize recycled water for outdoor irrigation thereby minimizing potable water needs. The project includes the provision of new buildings, but the overall student capacity is not increasing beyond the existing capacity. No off-site utility improvements are anticipated to serve the proposed buildings. Therefore, the project would have a less than significant impact on utilities.

b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?

c) 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?

Less than Significant Impact. (Responses b - c). No additional water supply is being sought as part of the project. Although the project includes new buildings, the new buildings are intended to serve the existing enrollment and do not include new classrooms that would increase overall student capacity at the school. Therefore, no significant change in water or wastewater rates are anticipated.

Water demand by construction workers and construction uses would be negligible. During project construction, portable toilets would be provided by the contractor which would be processed at a local facility, in accordance with State and local regulations. The wastewater created from portable toilets used during project constriction would be negligible.

d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

Less than Significant Impact. Some construction waste would be generated by the project over the short-term. Construction waste is expected to be minimal and would not exceed the capacity of the landfill that serves the area. Solid waste rates are not anticipated to increase significantly after construction as the buildings are intended to serve the existing student population. Disposal rates for recyclable materials such as concrete, mixed concrete, and soil are typically cheaper than disposal rates for landfill waste, therefore there are inherent incentives for contractors to minimize solid waste during construction. The impact is considered less than significant.

e) Comply with Federal, State, and local management and reduction statutes and regulations related to solid waste?

No Impact. The project would not conflict with any federal, state or local statutes and regulations related to solid waste.

3.20 WILDFIRE

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Is the project located near state responsibility areas or lands classified as very high fire hazard severity zones?	☐ Yes		☒ No	
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:				
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	☐	☐	☐	☒
c) Require the installation of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	☐	☐	☐	☒
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	☐	☐	☐	☒

3.20.1 Environmental Setting

The project site is situated within the City of Milpitas and is not located in an area designated as a very high fire hazard severity zone (CAL Fire 2008). The nearest area with a very high fire hazard designation is located in Alum Rock Park in eastern San Jose, located approximately 6 miles southeast of the project site. The project site is in an area mapped as a “Non-Very High Fire Hazard Severity Zone” (CalFire 2008).

3.20.2 Discussion

If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:

a) Substantially impair an adopted emergency response plan or emergency evacuation plan?

b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?

c) Require the installation of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?

d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

No Impact (a through d). As discussed in the Environmental Setting provided above, the project is not located in a very high fire hazard severity zone. The nearest such zone is located over six miles to the southeast of the project site.

3.20.3 References

CalFire. 2008. Santa Clara County Very High Fire Severity Zones in LRA as Recommended by CALFIRE. October 8. Accessed on September 14, 2021 at https://osfm.fire.ca.gov/media/6536/fhszl_map43.jpg

3.21 MANDATORY FINDINGS OF SIGNIFICANCE

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Does the project have the potential to substantially 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, threaten to eliminate a plant or animal community, substantially 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 the incremental effects of a project are considerable when viewed in connection with the efforts of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☒	☐
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☒	☐	☐

3.21.1 Discussion

a) Does the project have the potential to substantially 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, threaten to eliminate a plant or animal community, substantially 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?

Less Than Significant with Mitigation. The proposed project would not 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, 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. There are sensitive biological resources (nesting birds) that would be protected through Mitigation Measure BIO-1. Mitigation is incorporated into the project to prevent potentially significant impacts to Cultural Resources and Tribal Cultural Resources (Mitigation Measures CUL-1a and CUL-1b and TRIB-1a and TRIB-1b) for unanticipated discoveries.

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means the incremental effects of a project are considerable when viewed in connection with the efforts of past projects, the effects of other current projects, and the effects of probable future projects)?

Less Than Significant. The project will not have environmental effects that are individually limited but cumulatively considerable because it does not cause any long term or growth-related impacts. The project will construct new buildings at an existing high school. The new facilities would serve the existing students and would not provide for increased enrollment. The uses provided by the buildings are uses that are already accommodated on site. Past and subsequent projects to update MUSD facilities would not result in cumulative impacts because the projects would be implemented incrementally as MUSD budget allows and as planned in the Capital Improvement Program. School facilities are a function of the housing supply in the school district area and improvements occur within already developed school sites. Therefore, the cumulative impacts are considered less than significant.

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Less Than Significant with Mitigation. The project could have potentially significant impacts on biological resources, and cultural and tribal cultural resources. However, mitigation measures have been identified and included in the project (BIO-1a, CUL-1a, CUL-1b and TRIB-1a and TRIB-1b) to reduce these impacts to less-than-significant levels. The project would have a less than significant impact on all other resource areas. The project also includes MUSD's standard measures for dust and erosion control during construction, Arborist Report and Geotechnical Report recommendations, is subject to DSA review and approval and would adhere to the City's Municipal Code requirements for construction noise.

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