
Initial Study

1000 Gibraltar Drive

CITY OF MILPITAS

City of Milpitas
Planning Department
455 E Calaveras Blvd
Milpitas, CA 95035-5479
Contact: Rozalynne Thompson



Date: June 2020



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Initial Study

- 1. Project Title:** 1000 Gibraltar Drive
- 2. Lead Agency:** City of Milpitas Planning Department
455 East Calaveras Boulevard
Milpitas, CA 95035-5411
Rozalynne Thompson, Senior Planner
(408) 586-3278
rthompson@ci.milpitas.ca.gov
- 3. Project Applicant:** Overton Moore Properties
Michael Johnson, Vice President -
Development
- 4. Project Location:** 1000 Gibraltar Drive, City of Milpitas
APN: 086-42-033
- 5. General Plan Designation:** Manufacturing (MFG)
- 6. Zoning:** Industrial (M2)
- 7. Description of Project**

The proposed project consists of a new 491,040-square foot tilt-up concrete creative industrial building with two supporting offices at the northwest and southeast corners and surface parking on all sides of the building (Figure 9). Approximately 486,130 square feet of warehouse and 4,910 square feet of office space is proposed. The proposed building has been designed to accommodate up to two separate tenants with proposed uses including Advanced Manufacturing, E-Commerce, Light Assembly, Warehouse/Distribution, and possibly other uses permitted within the City's Industrial (M2) zone.

Flexibility has become a key issue as companies transform their business operations and technology pushes change at an ever-increasing pace. The proposed creative industrial building provides large unobstructed spaces that accommodate many types of activities and that support changing operations in a changing business landscape.

7a. Project Site and Surrounding Land Uses:

The 28.96-acre project site is located within the south-central portion of the City of Milpitas and is surrounded by light industrial and commercial uses. The project site is currently developed with a vacant corporate campus (vacant since 2015) including four office buildings and research/development facilities ranging from one to two stories in height, representing 416,000 square feet with approximately 490,000 square feet of surface parking lots along the site periphery (Figure 3). The street frontage and site are landscaped with a large number and variety of ornamental trees including valley oak, olive, paloverde, pittosporum, coast redwood, coast live oak, queen palm, spruce, crape myrtle, zelkova, strawberry tree, plum/cherry, yellow birch, Chinese pistache, London plane tree, sweetgum, Chinese fringe tree, and shamel ash. Existing views of the project site are provided in Figures 4 and 5, and views of surrounding land uses are provided in Figures 6 and 7. The full set of site plans is provided in Appendix A and a tree survey of the site is provided in Appendix B. Building heights within the surrounding areas vary by land use.

The project site is bounded by South Milpitas Boulevard to the east, Gibraltar Drive to the south and west, and by a multi-tenant office building to the north (Figures 1 and 2) approximately ½ mile from Montague Expressway, 1 mile from Interstate 680, 2 miles from SR-237 and 2 miles from Interstate 880. Montague Expressway is an 8 lane Expressway running east-west to the south of the project site. Interstate 680 is a 10-lane freeway running north-south to the east of the project. Interstate 880 is an 8-lane freeway running north-south west of the project site. SR-237/Calaveras Boulevard is an east/west arterial that links I-880 and I-680 and generally provides six travel lanes (four on the overcrossing over the Union Pacific Railroad tracks).

Bay Area Rapid Transit VTA is currently constructing an extension of the Bay Area Rapid Transit (BART) system from Warm Springs (Fremont) to Berryessa (San Jose). The BART tracks would be located approximately 2,500 feet southwest of the project site, paralleling the east side of the Union Pacific Railroad Milpitas Yard. Also, Union Pacific Railroad operates several rail facilities in the project vicinity.

7b. General Plan Land Use Designation and Zoning

The project and surrounding uses are located within the City's Industrial Zone M2, under the General Plan land use designation of Manufacturing (MFG). The project is bounded by Milpitas Boulevard to the east, Gibraltar Drive on the south and west and the north by a multi-tenant office building. The project does not require a change to land use or zoning designation, nor does it require a Conditional Use Permit. There is no height limit in the Milpitas Municipal Code for structures in any of the Industrial zones, but the Code requires that "any structure that exceeds three (3) stories or thirty-five (35) feet must make the following finding: That any such excess height will not be detrimental to the light, air or privacy of any other structure or use currently existing or anticipated."¹ The maximum floor area ratio for the M2 zone is .40.

Proposed Project Summary

1000 Gibraltar Drive Project Development Summary	
Total Site Area	28.96 acres
Gross Building Area	491,040 square feet
Warehouse	486,130 square feet
Office Space	4,910 square feet
Vehicle Parking Spaces Required/Provided	338 Spaces Required / 346 Spaces Provided

¹ Milpitas Municipal Code. Section 7 - Industrial Zones and Standards. Table XI-10-7.03-1. Accessed April 15, 2020. https://library.municode.com/ca/milpitas/codes/code_of_ordinances?nodeId=TITXIZOPLAN_CH10ZO_S7INZOST_XI-10.7.03INZOGEDST

Project Design

The forward-looking configuration of the proposed creative industrial building includes two-story lanterns of glass that accentuate the office corners of the facility creating solid and void in the massing of the 42-foot tall facilities. Clearstories of glazing are proposed high on the concrete tilt up panels between the transparent corners providing natural light deep into the building footprint. Concrete panel elements are proposed to be used as accents and multi-colored paint compositions to break down the scale of the concrete tilt up walls. Each office area would also have an operable garage door that would open to a private patio. At 36 feet clear, the tall envelope of the building has been designed to accommodate a wide range of users that require efficient facilities. Proposed exterior elevations are illustrated in Figures 10 and 11.

Open Space and Landscaping

The Tree Survey (Appendix B) found 183 protected trees within the project site. Of these protected trees, approximately 88 would be removed by the proposed project. The project would comply with the City's Tree Ordinance, including the replacement of protected trees. Deep setbacks with landscaping along South Milpitas Boulevard and Gibraltar Drive are proposed to provide a consistent visual identity for the project. The enhanced landscaping combines existing trees with new trees and would have varied tree species and shrubs with plant species that are consistent with the surrounding area and meet drought tolerant requirements. Green screens would also be providing living visible barriers that would adequately screen views into the truck courts from South Milpitas Boulevard and Gibraltar Drive.

Lighting

The proposed project is required to comply with the City's requirements for outdoor lighting. The project's lighting plan would include night lighting for parking areas, walkways, and driveways. Outdoor lights would cast downward and would be shrouded to prevent glare. The project site lighting would be designed to comply with Leadership in Energy and Environmental Design (LEED) light pollution reduction requirements.

Access, Circulation, and Parking

The circulation for the proposed project has been designed to ensure the safe and efficient movement of cars and trucks throughout the project site. Five driveways ranging in widths of 30 to 50 feet would be provided along South Milpitas Boulevard and Gibraltar Drive. Parking is proposed to be located in surface parking lots that would surround or be adjacent the proposed creative industrial building. Based upon a total of 491,040 square feet of creative industrial floor area, 338 parking spaces are required, whereas the proposed project includes 346 parking spaces, thus exceeding the City's parking requirements. The proposed creative industrial building is proposed to be parked at two parking stalls per 1,000 square feet with the elimination of some dock doors, allowing for more job intensive operations on-site. The truck dock yards are proposed to be wider than typical at 125 feet, allowing for interior maneuverability within the truck courts. Provided will be 101 trailer parking stalls within the truck courts. Level 2 EV Charging stations will be install at a count of 4% of the total parking spaces (approximately 14). Additionally, 25% of the truck dock doors will be provided as Level 2 EV Capable for future EV truck charging.

Grading and Drainage

Approximately 100,800 cubic yards of soil would be moved around the site, and grading of the site would be balanced. No export or import of soil is anticipated, minimizing impacts to air quality and truck trips.

The proposed project includes the construction of low impact development (LID) stormwater management systems, including proposed bio-retention treatment areas (Figure 8), which would

allow stormwater runoff from the project site to infiltrate the ground surface resulting in a net reduction of runoff from the site). Under existing conditions, stormwater runoff from impervious areas of the project site is captured in storm drain systems with no opportunity to infiltrate the ground surface. The proposed project's stormwater quality control plan is provided in Figure 12.

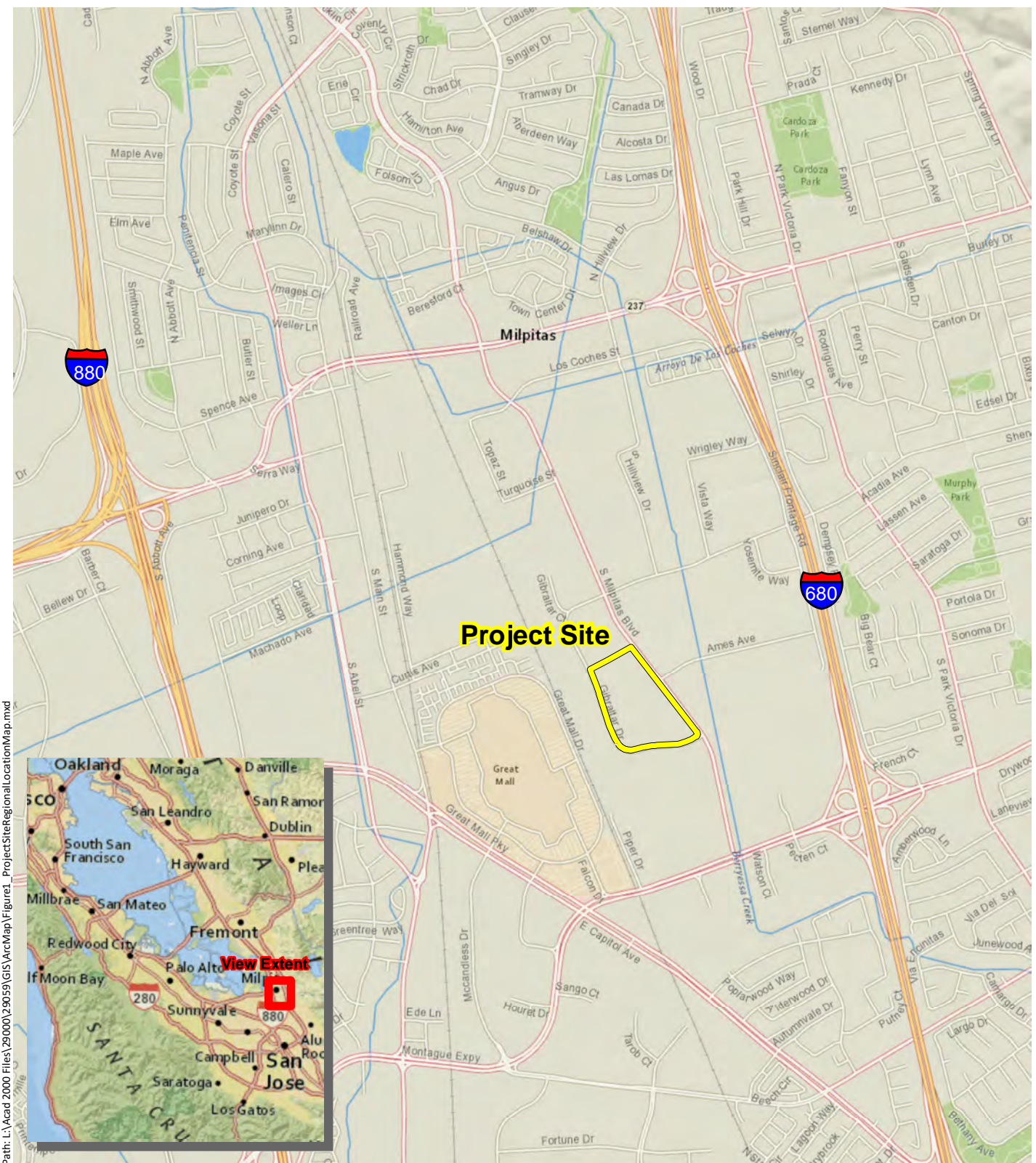
Demolition and Construction

The proposed project would result in the demolition of the existing buildings and all surface pavements on the site. The demolition and construction phases of the proposed project are anticipated to take approximately 13 to 15 months. A preliminary demolition plan is included in Figure 8. All demolished building components will be separated and recycled on site as fill (concrete, asphalt paving and trees as mulch in landscape areas and bioswales) or to offsite recycling facilities (steel, aluminum, copper, glass). Construction will be to CalGreen Tier I or Tier II standards including all Title 24 requirements

8. Permits and Approvals:

The information contained in this Initial Study will be used by the Lead Agency (the California Environmental Quality Act [CEQA] Lead Agency) as it considers whether or not to approve the proposed project. These actions include, but may not be limited to, the following approvals by the agencies indicated:

- City of Milpitas
 - Site Development Permit P-SD19-0008
 - Tree Removal Permit P-TR19-0017



Sources: National Geographic, WRA | Prepared By: JSChuster, 4/1/2020

Figure 1. Project Area Regional Location Map

1000 Gibraltar Drive
City of Milpitas, California

0 0.5 1 Miles





Sources: Esri World Imagery, WRA | Prepared By: JSChuster, 3/26/2020

Figure 2. Aerial Photograph of Project Site

1000 Gibraltar Drive
City of Milpitas, California

0 250 500
Feet

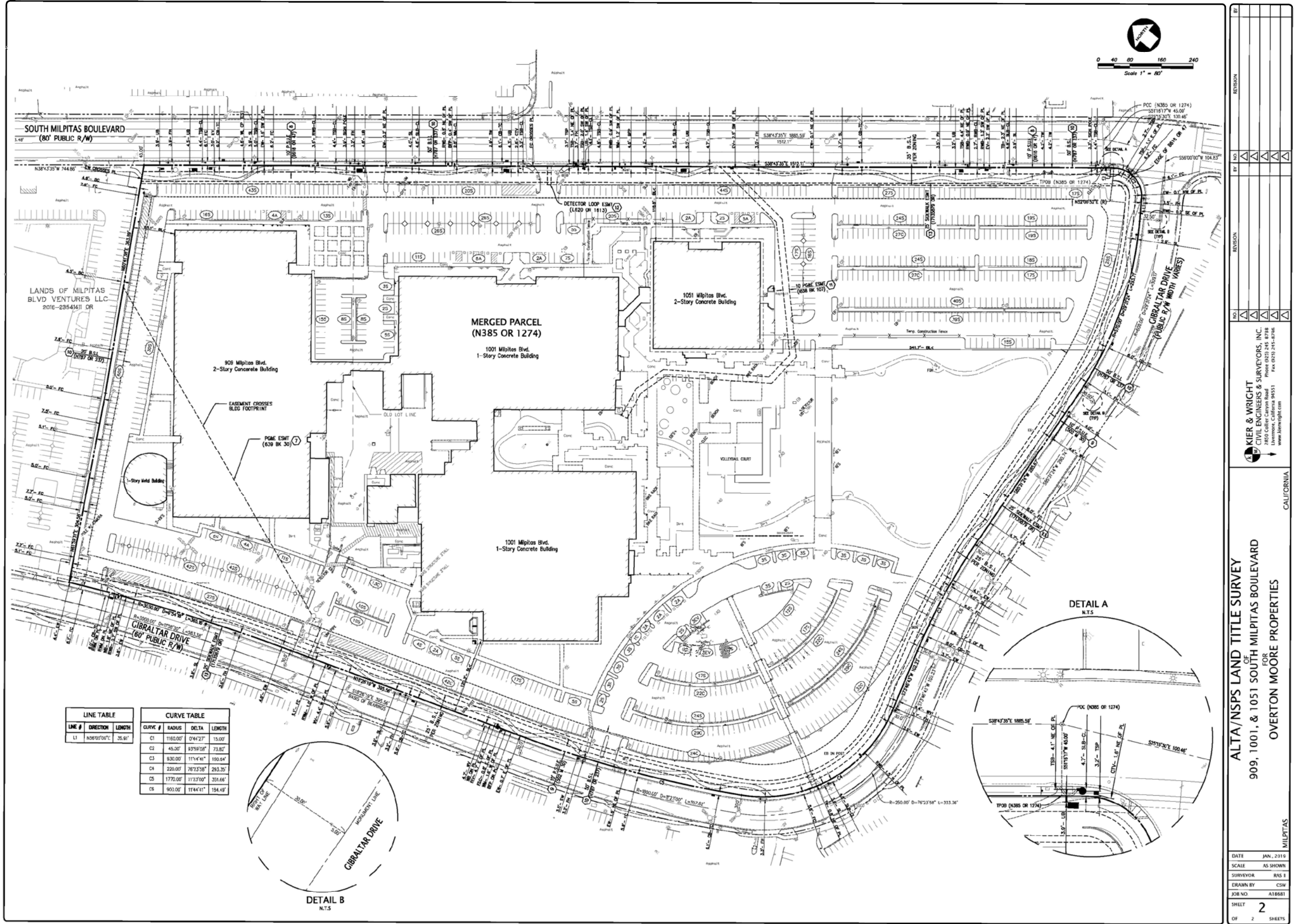


Figure 3.
ALTA/NSPS Land Title Survey

1000 Gibraltar Drive
City of Milpitas, California

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© 2016 WRA Environmental Consultants, Inc. All rights reserved. 1/28/16 04:32:38 PM rchster



0 100 200 400 Feet



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View of existing on-site structure and parking lot on the northern portion of the Project site.



Southern view of existing on-site building and parking lot on the northwestern portion of the Project site.



View looking down the western portion of the Project site at Gibraltar Drive with on-site trees.



View of existing on-site building and parking lot on the western portion of the Project site.



View of existing parking lot to the south on the eastern portion of the Project site.



View of existing building on the eastern portion of the Project site.



View of existing building on the northeastern portion of the Project site.



View of existing building and parking lot to the north on the eastern portion of the Project site.



View of existing off-site office building to the west of the project site.



View of existing off-site industrial building to the east of the project site



View of existing off-site industrial building to the east of the project site.



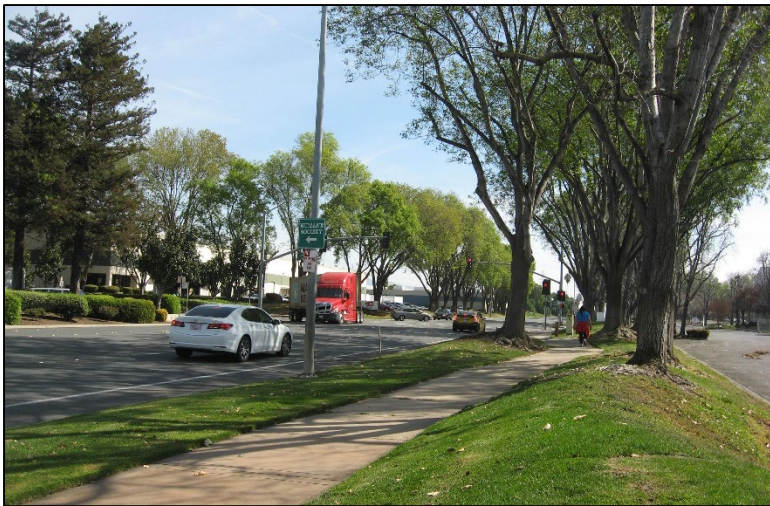
View of the off-site project area which supports a variety of commercial businesses and light industrial uses, separated by wide streets, landscaping, and parking lots.



Off-site view of an industrial complex northeast of the project site.



Off-site view of a street with the project site in the background.



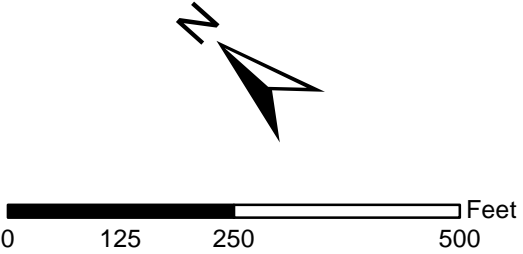
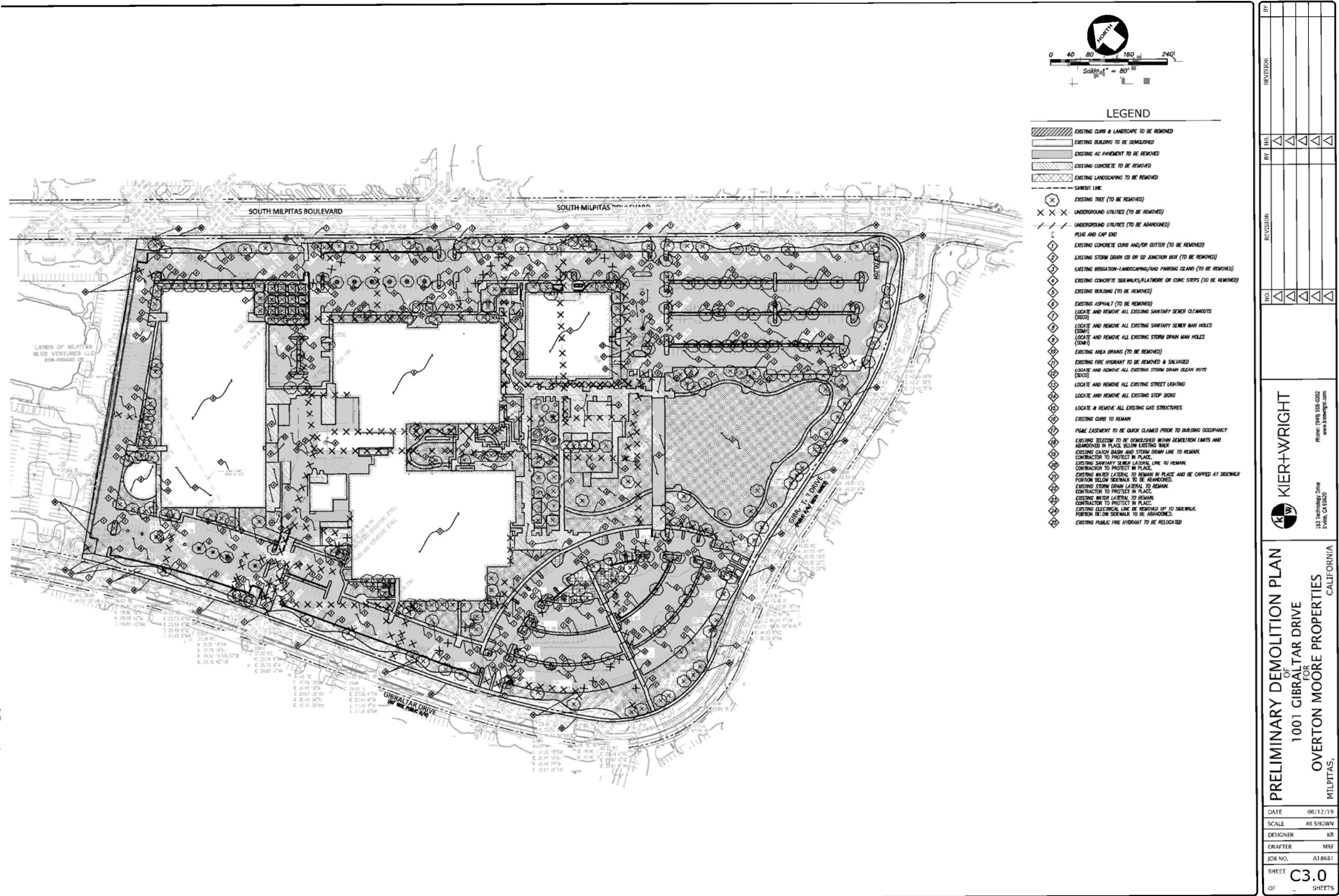
Off-site view of a street running adjacent to the project area.



The project area supports a variety of commercial businesses and light industrial uses, separated by wide streets, landscaping, and parking lots.

Figure 8.
Preliminary Demolition Plan

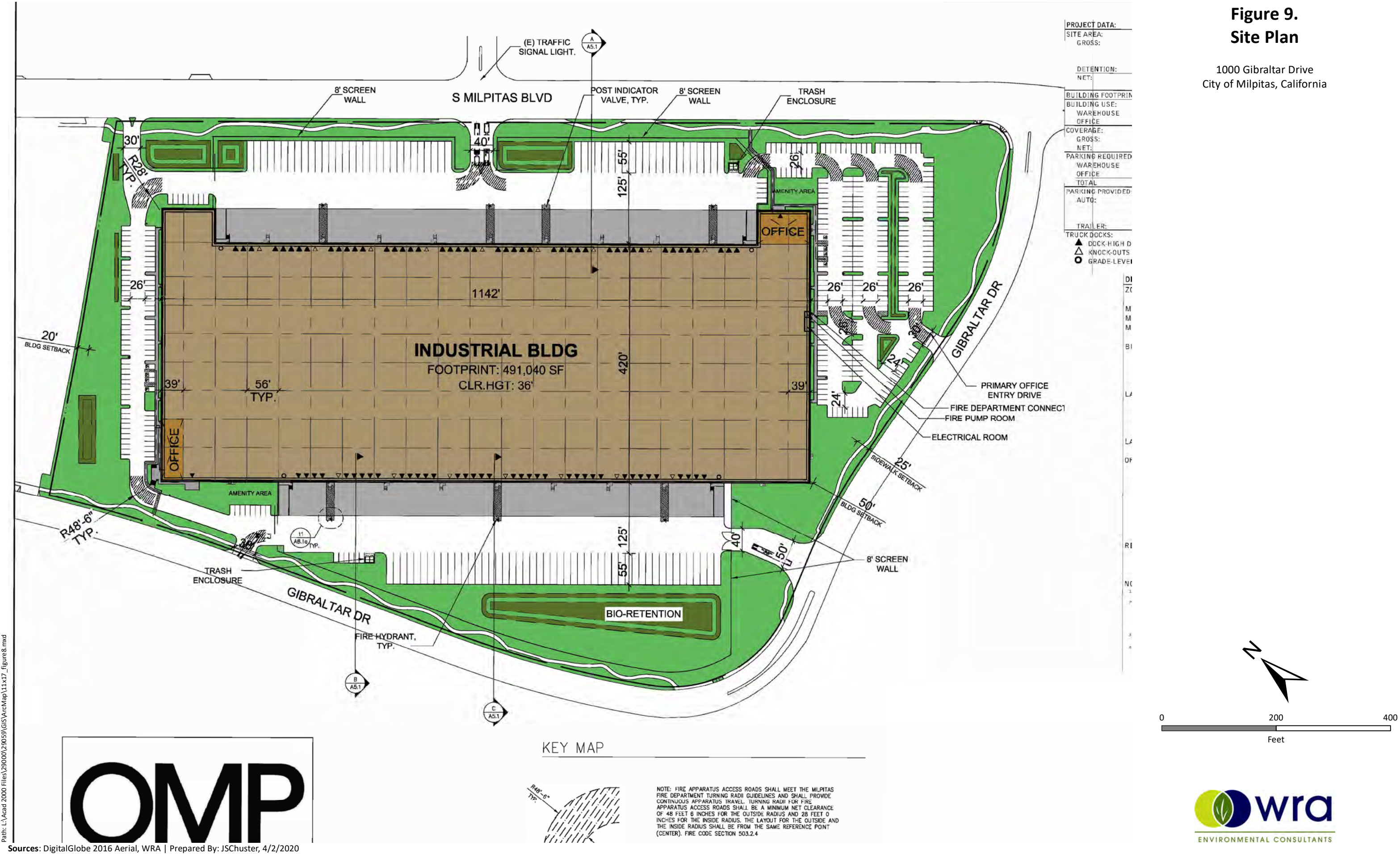
1000 Gibraltar Drive
City of Milpitas, California



Sources: DigitalGlobe 2016 Aerial, WRA | Prepared By: JSChuster, 4/17/2020

Figure 9.
Site Plan

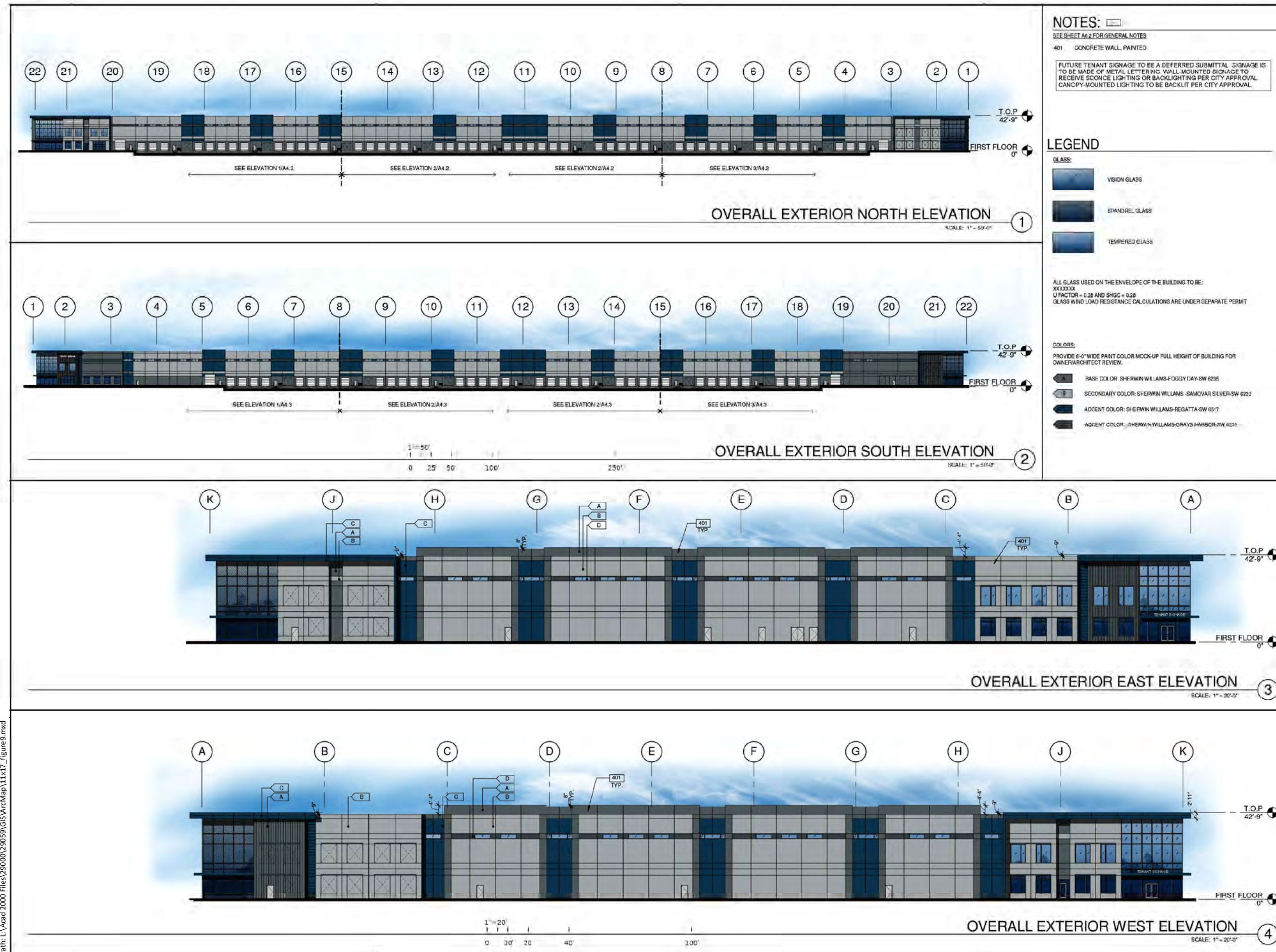
1000 Gibraltar Drive
City of Milpitas, California



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Sources: DigitalGlobe 2016 Aerial, WRA | Prepared By: JSChuster, 4/2/2020

Figure 10.
Exterior Elevations
1000 Gibraltar Ave
City of Milpitas, California



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Sources: DigitalGlobe 2016 Aerial, WRA | Prepared By: JSChuster, 4/2/2020

Exterior Elevations



Figure 12.
Stormwater Quality Control Plan

1000 Gibraltar Drive
City of Milpitas, California

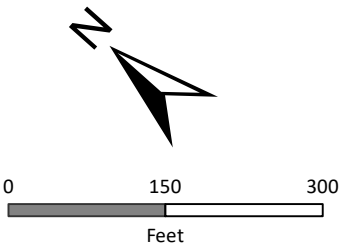
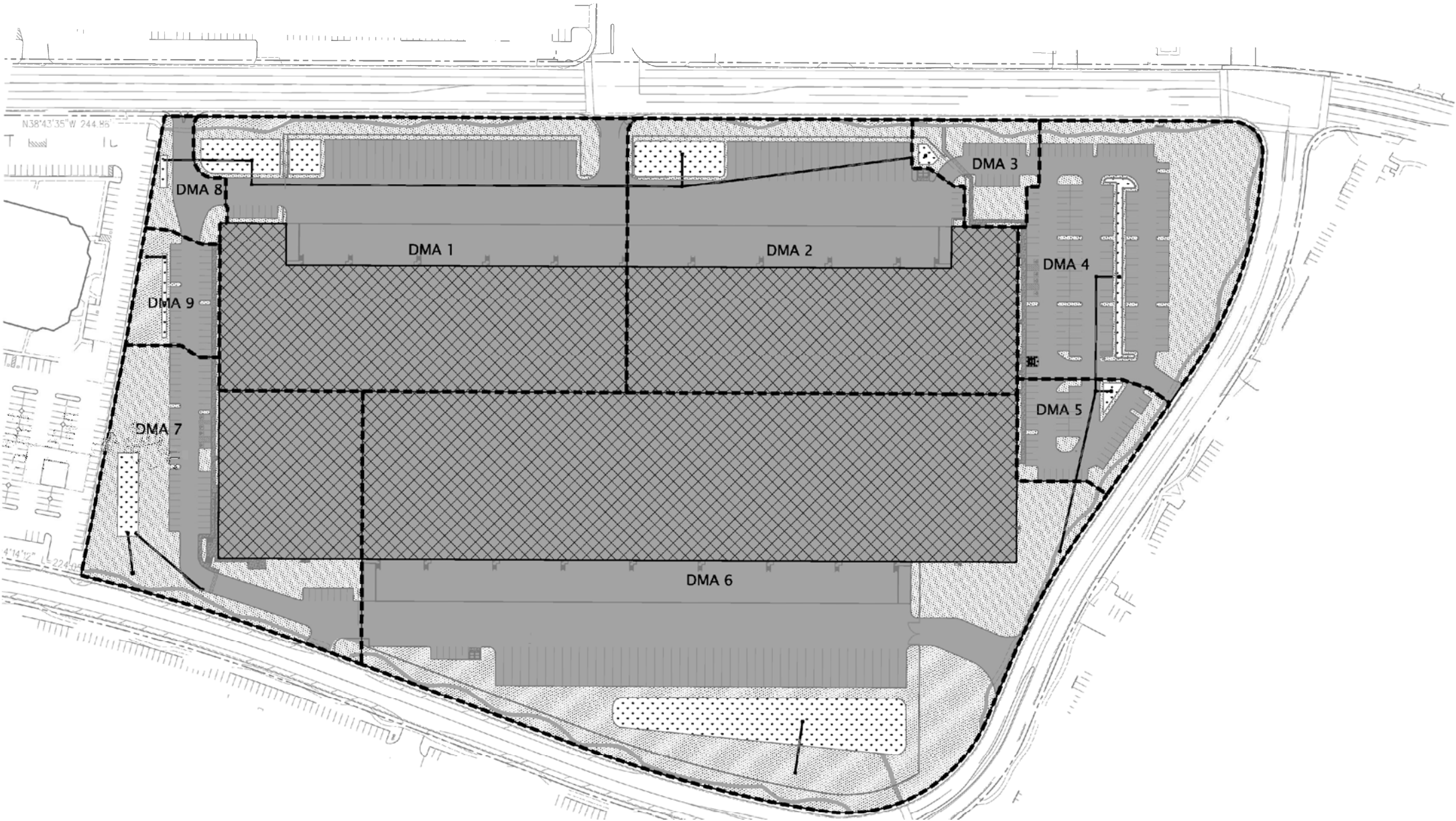
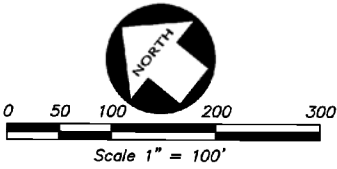
BIO-RETENTION SIZING CALCULATIONS

Area No.	Area (SF)	Area (AC)	Landscape (SF)	Landscape (AC)	Imperv. (SF)	Imper. (AC)	Treatment Area* (SF)	Treatment Provided (SF)	Sizing Ratio (%)	Type of Planter
1	231,593	5.317	20,921	0.480	210,672	4.836	212,764	7,589	0.036	Bio-Retention Planter
2	201,860	4.634	13,584	0.312	188,276	4.322	189,634	6,451	0.034	Bio-Retention Planter
3	21,468	0.493	11,756	0.270	9,712	0.223	10,888	630	0.058	Bio-Retention Planter
4	115,136	2.643	46,360	1.064	68,776	1.579	73,412	2,941	0.040	Bio-Retention Planter
5	26,961	0.619	6,763	0.155	20,198	0.464	20,874	643	0.031	Bio-Retention Planter
6	499,576	11.469	102,094	2.344	397,482	9.125	407,691	25,844	0.063	Bio-Retention Planter
7	131,410	3.017	44,187	1.014	87,223	2.002	91,642	3,600	0.039	Bio-Retention Planter
8	13,686	0.314	5,260	0.121	8,426	0.193	8,952	458	0.051	Bio-Retention Planter
9	19,688	0.452	9,509	0.218	10,179	0.234	11,130	780	0.070	Bio-Retention Planter

*: Total Treatment Area is equal to impervious Area + 0.10 * Landscape Area.

LEGEND

- TRIBUTARY AREA LIMITS
- LANDSCAPE AREA
- IMPERVIOUS ROOFTOP DRAINING TO BIO-SWALE
- IMPERVIOUS PAVEMENT
- BIO-RETENTION TREATMENT AREA



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ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project involving impacts that are a "Potentially Significant Impact" as indicated by the checklist on the pages below.

- | | | |
|---|--|--|
| <input type="checkbox"/> Aesthetics | <input checked="" type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Agricultural Resources | <input type="checkbox"/> Hazards / Hazardous Materials | <input type="checkbox"/> Recreation |
| <input checked="" type="checkbox"/> Air Quality | <input type="checkbox"/> Hydrology / Water Quality | <input checked="" type="checkbox"/> Transportation |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Land Use / Planning | <input type="checkbox"/> Tribal Cultural Resources |
| <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Utilities / Service Systems |
| <input type="checkbox"/> Energy | <input checked="" type="checkbox"/> Noise | <input type="checkbox"/> Wildfire |
| <input type="checkbox"/> Geology / Soils | <input type="checkbox"/> Population / Housing | <input checked="" type="checkbox"/> Mandatory Findings of Significance |

DETERMINATION:

On the basis of this initial evaluation:

- ☐ I find that the project COULD NOT have a significant effect on the environment and a NEGATIVE DECLARATION will be prepared.
- ☐ I find that although the 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 project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- ☐ I find that the 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 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 
Name and Title: Rozalynne Thompson

Date: 6/12/20

INITIAL STUDY CHECKLIST

This section describes the existing environmental conditions in and near the project area and evaluates environmental impacts associated with the proposed project. The environmental checklist, as recommended in the CEQA Guidelines (Appendix G), was used to identify environmental impacts that could occur if the proposed project is implemented. The right-hand column in the checklist lists the source(s) for the answer to each question. The cited sources are identified at the end of this section.

Each of the environmental categories was fully evaluated, and one of the following four determinations was made for each checklist question:

- **“No Impact”** means that no impact to the resource would occur as a result of implementing the project.
- **“Less-than-Significant Impact”** means that implementation of the project would not result in a substantial and/or adverse change to the resource, and no mitigation measures are required.
- **“Less than Significant with Mitigation Incorporated”** means that the incorporation of one or more mitigation measures is necessary to reduce the impact from potentially significant to less than significant.
- **“Potentially Significant Impact”** means that there is either substantial evidence that a project-related effect may be significant, or, due to a lack of existing information, could have the potential to be significant.

I. AESTHETICS — Except as provided in Public Resources Code Section 21099, would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Typical scenic vistas would include mountain ranges, ridgelines, or bodies of water as viewed from a highway, public space, or any other area designated for the express purpose of viewing and sightseeing. In general, a project's impact to a scenic vista would occur if development of the project would substantially change or remove a scenic vista. Scenic vistas in Milpitas are generally available from the hills to the east, including Ed Levin Park and adjacent areas. These areas are generally accessed by East Calaveras Boulevard, which is designated as a scenic connector from the City limits to the west to Evans Road, at which point it is designated as a scenic corridor until it terminates in Ed Levin Park. Public views of scenic resources, including the southern part of San Francisco Bay and associated baylands, and urbanized areas, including all of Milpitas, Mountain View, and northern San Jose, are primarily available from this area. There is also a scenic area on the eastern border of Milpitas along the Coyote Creek corridor.² The proposed project is not located within the vicinity of any State scenic highways.

Interstate 680 (I-680), from Mission Boulevard in the City of Fremont to the Contra Costa County line, is listed as an Officially Designated State Scenic Highway.³ Interstate 880 (I-880) and I-680 both run north-south through Milpitas, and are designated Scenic Connectors in the City's General Plan, indicating that they provide access to Scenic Corridors or distant views but do not

² City of Milpitas General Plan 2015. Chapter 4. Open Space and Environmental Conservation Element.

³ California Department of Transportation. Scenic Highway System Lists. Available at: <https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways>. Accessed April 20, 2020.

necessarily traverse an area of scenic value. Lands abutting Scenic Connectors are not subject to Scenic Corridor land use guidelines.

According to Sheet EP1.0 (Photometric Plan) in Appendix A – Site Plans, the forward-looking configuration of the creative industrial building includes two-story lanterns of glass that accentuate the office corners of the facility creating solid and void in the massing of the 42-foot-tall facilities. Clearstories of glazing occur high on the concrete tilt up panels between the transparent corners providing natural light deep into the building footprint. Concrete panel elements are used as accents and multi-colored paint compositions break down the scale of the concrete tilt up walls.

Of these protected trees, approximately 88 would be removed by the proposed project. The project would comply with the City's Tree Ordinance, including the replacement of protected trees. Deep setbacks with landscaping along South Milpitas Boulevard and Gibraltar Drive are proposed to provide a consistent visual identity for the project. The enhanced landscaping combines existing trees with new trees and would have varied tree species and shrubs with plant species that are consistent with the surrounding area and meet drought tolerant requirements. Green screens would also provide living visible barriers that will adequately screen views into the truck courts from South Milpitas Boulevard and Gibraltar Drive.

Discussion of Impacts

- a) ***Less-Than-Significant Impact.*** The City of Milpitas General Plan identifies hilltops, hillsides, and ridgelines within Ed Levin Park as scenic resources. These designated scenic areas are far to the east of the project site. The project site is not located in an area considered to be within view of a scenic vista. The proposed project site does not consist of, nor would it block, any possible City-designated scenic views. The proposed project site is located in an existing industrial area, zoned M2 which is identified as a Heavy Industrial Zoning District. Development of the proposed project would not obscure any views of scenic vistas from surrounding public vantage points. Therefore, the proposed project would not result in a substantial adverse effect on a scenic vista, and this impact would be less than significant.
- b) ***No Impact.*** There are no designated scenic resources such as trees, rock outcroppings or historic buildings on the project site. While the Milpitas General Plan designates Interstate 880 from Dixon Landing Road to Montague Expressway as a "scenic connector", Interstate 880 is not a state-designated scenic highway. The California Department of Transportation's California Scenic Highway Mapping System identifies Interstate 680 to the north of Mission Boulevard as an officially designated state scenic highway. The proposed project is not located within the vicinity of any State scenic highways. Interstate 680 (I-680), from Mission Boulevard in the City of Fremont to the Contra Costa County line is Officially Designated and is located approximately 8.5 miles north of the project site in the City of Fremont. Given this distance, the proposed project would not be visible from this scenic roadway. In addition, the proposed project does not include the removal of any trees, rock outcroppings, or historic buildings. As such, the project would have no impact on scenic resources located within view of a State Scenic highway.
- c) ***Less-Than-Significant Impact.*** The proposed project site is located within an urbanized area. The project site is located within the M2 zoning district, in which heavy industrial uses are permitted. There is the potential for temporary aesthetic impacts to the existing visual quality of the surrounding area during construction. Temporary visual impacts could

result from the presence of construction vehicles or ground disturbance during project demolition and construction activities. However, construction activities would be temporary. The permanent development of the site would be consistent with the existing conditions of the site, as the new creative industrial building would replace the current one, thus maintaining the visual character of the area. The proposed project does not consist of, nor would it block, any of the City-designated scenic resources or viewsheds as described in the City of Milpitas General Plan. Impacts would be less than significant.

- d) ***Less-Than-Significant with Mitigation Incorporated.*** The project site is located in a heavily urbanized area with a variety of existing light sources including street lights, interior and exterior building lighting, and light associated with traffic on nearby roadways. Development of the proposed project would incrementally increase the amount of nighttime lighting in the surrounding area due to new interior and exterior lighting at the creative industrial building, safety lighting in the parking lot, and lighting associated with additional vehicular traffic to and from the project site. The City's Zoning Ordinance includes the following policies related to outdoor lighting that would be applicable to the proposed project:

- ***Section XI-10-54.17 – Lighting Exterior.*** Lighting shall be shielded or recessed so that direct glare and reflections are contained within the boundaries of the parcel, and shall be directed downward and away from adjoining properties and public rights-of-way. Fixtures shall be appropriate in terms of height, style, design, scale and wattage to the use of the property. Fixtures shall be spaced appropriately to maximize pedestrian safety.

To ensure that the proposed project complies with City requirements and that the proposed project's final design avoids all excess light and glare, implementation of Mitigation Measure AES-1, below, would be required to ensure that potentially significant light and glare impacts are reduced to less-than-significant levels.

Mitigation Measure AES-1: Outdoor lighting shall be designed to minimize glare and spillover to surrounding properties. The project design and building materials shall incorporate non-mirrored glass to minimize daylight glare. All lighting elements shall comply with Sections XI-10-45.15-3 of the City's Zoning Ordinance and the proposed lighting plan shall be reviewed and approved by the City's Planning Division prior to issuance of a building permit.

<p>II. AGRICULTURAL AND FORESTRY RESOURCES — (Farmland Mapping and Monitoring Program Website) 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. Would the project:</p>				
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Under the Department of Conservation, the Division of Land Resource Protection (DLRP) serves as the state's leader in conserving California's agricultural lands. The Farmland Mapping and Monitoring Program (FMMP), administered by the DLRP, designates the proposed project site as "Urban and Built-Up Land."⁴ Therefore, the proposed project does not contain any farmland or forestry land and is not designated for agricultural or forestry uses or Prime, Statewide, or Locally Important Farmland. The proposed project site is located in an industrial use area, zoned M2 for industrial use.⁵ The Williamson Act of 1965 allows local governments to enter into contract agreements with local landowners with the purpose of trying to limit specific parcels of land to agricultural or other related open space uses. The project site does not contain any state designated agricultural lands or open space and is therefore not subject to a Williamson Act Contract.

Discussion of Impacts

- a-e) **No Impact.** There are no agricultural or forestry resources within the project site. There are no Prime, Unique, Statewide or Locally Important farmlands in the area. According to the San Mateo County Important Farmland Map the entire project site is considered Urban and Built-Up Land. The project site does not contain any important farmland, land zoned for agricultural use, or land subject to a Williamson Act contract. Similarly, the project site does not contain any forestland or timberland or any land zoned for such uses. Therefore, the proposed project would have no impact on agriculture or forest resources.

⁴ California Division of Land Resource Protection, *Farmland Mapping and Monitoring Program. Santa Clara County Important Farmland 2016*. <https://www.conservation.ca.gov/dlrp/fmmp/Pages/SantaClara.aspx>, Accessed April, 2020.

⁵ City of Milpitas Interactive Zoning Map. *General Plan Map*. <https://milpitas.maps.arcgis.com/apps/webappviewer/index.html?id=89ef3a70704844d18fd61f6e49b26715> Accessed April, 2020.

III. AIR QUALITY — 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. Would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable federal or state ambient air quality standard?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Expose sensitive receptors to substantial pollutant concentrations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Result in other emissions (such as those leading to odors) affecting a substantial number of people?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Milpitas is located in the southern portion of the San Francisco Bay Area Air Basin. The proximity of this location to both the Pacific Ocean and San Francisco Bay has a moderating influence on the climate. The project site is within the jurisdiction of the Bay Area Air Quality Management District (BAAQMD), which regulates air quality in the San Francisco Bay Area. Air quality conditions in the San Francisco Bay Area have improved significantly since the BAAQMD was created in 1955. Ambient concentrations of air pollutants and the number of days during which the region exceeds air quality standards have fallen substantially. In Milpitas, and the rest of the air basin, exceedances of air quality standards occur primarily during meteorological conditions conducive to high pollution levels, such as cold, windless winter nights or hot, sunny summer afternoons.

Within the BAAQMD, ambient air quality standards for ozone, carbon monoxide (CO), nitrogen dioxide (NO₂), sulfur dioxide (SO₂), particulate matter (PM₁₀, PM_{2.5}), and lead (Pb) have been set by both the State of California and the federal government. The State has also set standards for sulfate and visibility. The BAAQMD is under State non-attainment status for ozone and particulate matter standards. The BAAQMD is classified as non-attainment for the federal ozone 8-hour standard and non-attainment for the federal PM_{2.5} 24-hour standard.

Discussion of Impacts

- a-d) **Potentially Significant Impact.** Based on the potential to increase local and regional air pollutants due to development of the proposed project and changes in daily vehicle trips associated with the project site, the proposed project could result in a potentially significant impact to air quality. The analysis of air quality impacts will be presented in more detail in the EIR. No further analysis will be provided in this Initial Study.

IV. BIOLOGICAL RESOURCES — Would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The project site is currently developed with a vacant corporate campus that includes office buildings and research/development facilities. No special-status species or wetlands are known to occur within the project area.

The project site is landscaped with a large number and variety of ornamental trees. A Tree Survey of the project site was conducted by HELIX Environmental Planning, Inc., and is included herein as Appendix B. The Tree Survey found 183 protected trees within the project site. Of these protected trees, approximately 88 would be impacted by the proposed project.

Discussion of Impacts

- a) **No Impact.** There are no special-status species known to occur within the project site.⁶ Due to the developed nature of the project site and the presence of buildings and associated hardscape, it is unlikely that the project site would support any special-status species. Therefore, no impact to special-status species would result from the proposed project.
- b) **No Impact.** The project site is located within a developed area and does not support any riparian or other sensitive natural communities.⁷ Therefore, no impact to riparian habitat or other sensitive natural communities would result from the proposed project.
- c) **No Impact.** The project site is within a developed area and is not located in an area that supports wetlands, drainages, or water bodies as defined by Section 404 of the Clean Water Act.⁸ Moreover, the proposed project would not result in the direct removal, filling, or hydrological interruption of such wetlands. Therefore, no impact to federally protected wetlands would result from the proposed project.
- d) **Less-Than-Significant with Mitigation Incorporated.** The project is located within a developed, landscaped area that supports wildlife species typically associated with urban and suburban areas. Because the project site is within a developed urban area, there are no major wildlife movement corridors that pass through or are adjacent to the site. Existing trees are located throughout and around the project site. Trees and other landscape vegetation generally have the potential to support nests of common native bird species. All native birds, regardless of their regulatory status, are protected under the federal Migratory Bird Treaty Act and California Fish and Wildlife Code. The proposed project would result in the removal of approximately 88 protected trees. If conducted during the breeding season (February through August), vegetation removal and construction activities could directly impact nesting birds by removing trees or vegetation that support active nests. Implementation of the following mitigation measure would reduce potential impacts to nesting birds to a less-than-significant level.

Mitigation Measure BIO-1 Nesting Birds: If feasible, all vegetation removal shall be conducted during the non-breeding season (i.e., September 1 to January 31) to avoid direct impacts to nesting birds. If such work is scheduled during the breeding season, a qualified biologist or ornithologist shall conduct a pre-construction survey to determine if any birds are nesting within the project site. The pre-construction survey shall be conducted within 15 days prior to the start of work from March through May (since there is a higher potential for birds to initiate nesting during this period), and within 30 days prior to the start of work from June through July. If active nests are found during the survey, the biologist or ornithologist shall determine an appropriately sized buffer around the nest in which no work shall be allowed until the young have successfully fledged. The size of the buffer shall be determined by the biologist or ornithologist in consultation with the

⁶ Milpitas, City of, 2018. *Milpitas General Plan Update Existing Conditions Report*. June.

⁷ U.S. Fish and Wildlife Service, 2019. *National Wetlands Inventory (Map)*. Website: www.fws.gov/wetlands/data/mapper.html (accessed April 21, 2020).

⁸ *Ibid.*

California department of Fish and Wildlife, and would be based on the nesting species, its sensitivity to disturbance, and the expected types of disturbance.

e) **Less-Than-Significant Impact.** The City of Milpitas requires a permit for the removal of any trees with the following characteristics:

- All trees which have a 56-inch or greater circumference of any trunk measured 4.5 feet from the ground and located on developed residential property; or
- All trees which have a 37-inch or greater circumference of any trunk measured 4.5 feet from the ground and located on developed commercial or industrial property; or
- All trees which have a 37-inch or greater circumference of any trunk measured 4.5 feet from the ground, when removal relates to any transaction for which zoning approval or subdivision approval is required; or
- 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; or
- All trees which have a 37-inch or greater circumference of any trunk measured 4.5 feet from the ground and located on a vacant, undeveloped, or underdeveloped property; or
- All heritage trees or groves of trees as defined in Section X-2-2.10.

As noted above, approximately 88 protected trees within the project site would be impacted as a part of the proposed project. The project applicant shall obtain a tree removal permit prior to the removal of trees that are determined to be protected. Therefore, the proposed project would not conflict with any local policies or ordinances protecting biological resources, and this impact would be less than significant.

f) **Less-Than-Significant Impact.** The project site does not fall within the Covered Area for the Santa Clara Valley Habitat Plan,⁹ but it does fall within the Plan's Expanded Study Area and Permit Area for Burrowing Owl Conservation. Only activities pertinent to the conservation of burrowing owls are considered to be Covered Activities within this expanded study area. As such, the proposed project is not considered to be a Covered Activity under the Santa Clara Valley Habitat Plan. No other Habitat Conservation Plan, Natural Community Conservation Plan, or other approved habitat conservation plans apply to the project site. Therefore, the proposed project would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan, and this impact would be less than significant.

⁹ ICF International. 2012. *Final Santa Clara Valley Habitat Plan*. Website: scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan (accessed April 21, 2020). August.

V. CULTURAL RESOURCES — Would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
a) Cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Disturb any human remains, including those interred outside of dedicated cemeteries?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

This section examines the potential impacts of the proposed project on cultural resources. Tribal cultural resources are addressed in Section XVIII, Tribal Cultural Resources. For the purposes of this analysis, the term cultural resource is defined as follows:

Indigenous and historic-era sites, structures, districts, and landscapes, or other evidence associated with human activity considered important to a culture, a subculture, or a community for scientific, traditional, religious, or another reason. These resources include the following types of CEQA-defined resources: historical resources, archaeological resources, and human remains.

The term indigenous, rather than prehistoric, is used in this section as a synonym for “Native American–related”.

Records Search

On May 11, 2020, at the request of WRA, staff at the Northwest Information Center (NWIC) at Sonoma State University, Rohnert Park, conducted a cultural resources records search of the project site and vicinity at the NWIC (File No. 19-1823). The NWIC maintains the official CHRIS (California Historical Resources Information System) records of previous cultural resources studies and recorded cultural resources for the project site and vicinity. The study area for the records search consisted of the project site and areas within 0.25 mile.

The NWIC has record of five previously recorded cultural resources within 0.25 mile of the project site, none of which are in the project site. These resources consist of three pre-contact archaeological sites (C-167, P-43-000588, P-43-003005), and two architectural resources (P-43-001816, P-43-002654). Human remains were reported at two of the archaeological sites (P-43-000588 and P-43-003005). C-167 was recorded approximately 0.25 mile south of the project site, P-43-000588 approximately 900 feet southeast of the project site, and P-43-003005 approximately 750 feet southwest of the project site. Shell midden and fire-affected rock were reported at all three archaeological sites, flaked-stone artifacts at P-43-000588 and P-43-003005, and also funerary objects (charmstones, ceremonial projectile point, slate pendants, abalone shell) at P-43-003005. Both P-43-000588 and P-43-003005 include a buried component. The architectural resources consist of the Old Ford Motor Assembly Plant (P-43-001816), approximately 1,200 feet west of the project site, and the Western Pacific Railroad (P-43-002654), approximately 550 feet west of the project site.

The NWIC has record of 34 previous cultural resources reports from studies conducted within 0.25 mile of the project site, two of which included some portion of the project site. Both of the previous studies covering portions of the project site included pedestrian surveys, and one of these covered the entire project site.

Historic Map and Photograph Review

WRA reviewed historic maps and aerial photography of the project site and vicinity to provide additional context and identify any historic-era cultural resources that may have once been or are still in the project area. Reviewed material spanned from 1897 to 2010 and included USGS topographic maps and aerial photographs available at historicaerials.com, provided by Nationwide Environmental Title Research (NETR). The following materials were reviewed:

- USGS topographic maps
 - San Jose, CA (1:62500) – 1897, 1901, 1905, 1913, 1926, 1939, 1943, 1953
 - Milpitas, CA (1:24000) – 1953, 1962, 1969, 1975, 1980, 1983, 2012
- Aerial photographs
 - [NETR] – 1948, 1956, 1960, 1968, 1980, 1982, 1987, 1993, 1998, 2002, 2010

Several roads and buildings are depicted northeast of the project area, across present-day Milpitas Boulevard, as early as 1897. At this time, the project site and vicinity were rural and agricultural in nature. Relatively little development occurred in the area until the mid-20th century. By 1948, the first manmade features appear in the project area; a small agricultural complex, possibly a house, barn, and several outbuildings and roads, is present in the western portion of the project area, situated along present-day Gibraltar Drive. The general vicinity underwent steady commercial and some residential development in the 1950s and 1960s, though the project area itself was used as farmland until at least 1982, at which point aerial photographs show two large commercial buildings in the eastern portion of the project area, as well as general grading of the remainder of the project area, including apparent removal of the earlier agricultural complex in the project area, and construction of Gibraltar Drive along the perimeter of the project area. Sometime between 1987 and 1993, additional commercial buildings and associated parking areas and other features were constructed in the western and southwestern portions of the project area. Between 1993 and 1998 an additional large commercial building and associated parking areas was constructed in the northern portion of the project area; at this point (1998), the entire project area had been developed for commercial purposes. The project area has remained relatively the same since 1998.

Based on the historic map and photograph review, no architectural resources older than 50 years of age appear to be present in the project area. Also based on the review, the potential for presence of historic-era archaeological resources appears to be low, since the only historic-era features depicted on maps or aerial photographs are associated with a small mid-20th-century agricultural complex that was destroyed, likely completely, by the late-20th-century commercial building construction in the project area.

Archaeological Site Sensitivity

Buried site potential presence is inversely correlated to landform age; thus, the potential for buried site presence in landforms from or predating the Late Pleistocene is very low (Meyer and Rosenthal 2008). Additionally, proximity to perennial waterbodies has been shown to correlate to potential presence of pre-contact archaeological sites (see Byrd et al. 2017). In addition to project area-specific surficial geology and soil review, this sensitivity analysis relies on Byrd et al. (2017) for general mapped sensitivity.

The surficial geology of the project area consists of Holocene alluvium (Rogers 1966), and mapped soils in the project area consist of Holocene-aged Urbanland-Flaskan and Urbanland-Hangerone complexes (USDA 2020). Based on the Holocene age of the project area's surficial geology and soils, and project area's general location near the San Francisco Bay, the project area, in an undisturbed context, would have a high potential for the presence of buried and surficial pre-contact archaeological deposits (see Byrd et al. 2017: Figure 28). Despite the above, historic-era and modern development activities, particularly construction of the existing commercial buildings and associated parking areas and other features, appear to have disturbed the entire project area. Though the exact depths of this disturbance are unknown, the areas where buildings were constructed were likely subject to deep disturbance, while other areas (e.g., parking lots, etc.) would have likely experienced shallower disturbance. Regardless, this disturbance reduces the potential presence of both surficial and buried pre-contact archaeological deposits.

The potential significance of any pre-contact archaeological resources in the project area, if present, is difficult to surmise, since the integrity of such deposits is unknown and likely would have been affected by the abovementioned historic-era and modern development activities. The potential significance of any intact pre-contact archaeological resources in the project area would be moderate, since such resources could provide data important to our understanding of the area's prehistory (California Register Criterion 4), or even found to be associated with important events (California Register Criterion 1) or people (California Register Criterion 2). Several nearby pre-contact archaeological sites contained human remains, which also increases the potential significance for similar archaeological resources, if any were present in the project area. However, the disturbance from the historic-era and modern activities may have destroyed or damaged any surficial or buried pre-contact archaeological deposits in the project area, if formerly or still present; since the exact depth of ground disturbance of these activities is not well documented, the potential for intact buried pre-contact archaeological deposits remains higher than for surficial pre-contact deposits. This site disturbance likely affected the integrity of any archaeological deposits. As such, the potential significance of any surficial pre-contact archaeological deposits is likely low, while that of any buried pre-contact archaeological deposits is likely moderate. Given the high potential presence and low potential significance of pre-contact surficial archaeological deposits in the project area, the overall archaeological sensitivity for such deposits is low. Based on the high potential presence and moderate potential significance of pre-contact buried archaeological deposits in the project area, the overall archaeological sensitivity for such deposits is moderate.

Similar to with pre-contact resources, predicting potential presence and significance of historic-era archaeological resources in the project area, if present, is difficult. The historic-era agricultural use of the project area may have resulted in the creation of surficial and buried historic-era archaeological deposits. The only historic-era features identified in the project area through background research of historic-era topographic maps and aerial photographs was a small agricultural complex apparently constructed between 1943 and 1948. However, the construction of the modern commercial buildings and appurtenances in the project area resulted in the removal of these features. This modern construction included grading of the entire project area and substantial excavation throughout the project area, activities that likely destroyed any historic-era features previously present in the project area. Therefore, the potential presence for both surficial and buried historic-era archaeological deposits in the project area is low. Background research of historic topographic maps and aerial photographs did not indicate any clear avenues for California Register-significance for any buried historic-era archaeological deposits in the project area, if present. Based on the above analysis, the project area has a low sensitivity for historic-era archaeological resources, due to both low potential presence and low potential significance.

Summary of Cultural Resources Identification Efforts

Through background research, a NWIC records search, and a desktop archaeological sensitivity analysis, no cultural resources were identified in the project area. Therefore, no historical resources or unique archaeological resources, as defined by CEQA, appear to be present in the project area.

California Environmental Quality Act

CEQA (codified at PRC § 21000 *et seq.*) is the principal statute governing environmental review of projects occurring in the State. CEQA requires lead agencies to determine if a project would have a significant effect on historical resources, unique archaeological resources, or tribal cultural resources.

The State implements provisions in CEQA through its statewide comprehensive cultural resources surveys and preservation programs. Typically, a resource must be more than 50 years old to be considered as a potential historical resource. The State of California Office of Historic Preservation advises recordation of any resource 45 years or older, since there is commonly a five-year lag between resource identification and the date that planning decisions are made.

Historical Resources

CEQA Guidelines recognize that a historical resource includes: 1) a resource in the California Register of Historical Resources (California Register); 2) a resource included in a local register of historical resources, as defined in PRC § 5020.1(k) or identified as significant in a historical resource survey meeting the requirements of PRC § 5024.1(g); and 3) any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California by the lead agency, provided the lead agency's determination is supported by substantial evidence in light of the whole record.

If a lead agency determines that an archaeological site is a historical resource, the provisions of PRC § 21084.1 and PRC § 15064.5 apply. If an archaeological site does not meet the criteria for a historical resource contained in the CEQA Guidelines (codified at California Code of Regulations § 15000 *et seq.*), then the site may be treated in accordance with the provisions of PRC § 21083, pertaining to unique archaeological resources.

Unique Archaeological Resources

As defined in PRC § 21083.2 a "unique archaeological resource" is an archaeological artifact, object, or site, about which it can be clearly demonstrated that without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria:

- Contains information needed to answer important scientific research questions and there is a demonstrable public interest in that information;
- Has a special and particular quality such as being the oldest of its type or the best available example of its type; or,
- Is directly associated with a scientifically recognized important prehistoric or historic event or person.

CEQA Guidelines note that if an archaeological resource is not a unique archaeological, historical resource, or tribal cultural resource, the effects of the project on those cultural resources shall not be considered a significant effect on the environment (CEQA Guidelines § 15064.5[c][4]).

Tribal Cultural Resources

Impacts to tribal cultural resources also are considered under CEQA (PRC § 21084.2, also see Assembly Bill [AB] 52). Under CEQA, a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment (PRC § 21084.2). PRC § 21074(a) defines a tribal cultural resource as any of the following:

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either of the following:
 - included or determined to be eligible for inclusion in the California Register; or
 - included in a local register of historical resources, as defined in PRC § 5020.1(k).
- 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 [PRC] § 5024.1. In applying these criteria, the lead agency would consider the significance of the resource to a California Native American tribe.

A cultural landscape that meets the criteria of PRC § 21074(a) is also a tribal cultural resource if the landscape is geographically defined in terms of the size and scope. A historical resource as described in PRC § 21084.1, a unique archaeological resource as defined in PRC § 21083.2, or a non-unique archaeological resource as defined in PRC § 21083.2 may also be a tribal cultural resource under CEQA if it meets the criteria identified in PRC § 21074(a).

AB 52 requires CEQA lead agencies to analyze the impacts of projects on tribal cultural resources separately from impacts on archaeological resources (PRC § 21074 and 21083.09) because archaeological resources have cultural values beyond their ability to yield data important to prehistory or history. AB 52 also defines tribal cultural resources in a new section of the PRC (§ 21074; see above). Lead agencies must engage in additional consultation with California Native American Tribes (PRC § 21080.3.1, 21080.3.2, and 21082.3).

To determine potential impacts on tribal cultural resources, a project's lead CEQA agency is required to conduct formal consultation with relevant California Native American Tribes who have requested that the lead agency inform them of proposed projects in the geographic area that is traditionally and culturally affiliated with the tribe. When such consultation is conducted, the notification of the project shall be in writing and sent within 14 days of determining that an application for a project is complete or a decision by a public agency to undertake a project, and Native American Tribe recipients shall have 30 days from receipt of the formal notification to request consultation (PRC § 21080.3.1 and 21080.3.2).

CEQA requires that such consultation include project alternatives, mitigation measures, or significant effects, if requested by a California Native American Tribe, and that consultation will be considered concluded when either the parties agree to measures to mitigate or avoid a significant effect, or the agency concludes that mutual agreement cannot be reached concerning appropriate measures to be taken that would mitigate or avoid a significant effect. Any such measures shall be recommended for inclusion in the environmental document and adopted mitigation monitoring program if determined to avoid or lessen a significant impact on a tribal cultural resource, and if it is determined that a project may have a significant impact on a tribal cultural resource the environmental document would be required to discuss whether the project has a significant impact on an identified tribal cultural resource and whether feasible alternatives or mitigation measures avoid or substantially lessen the impact on the identified tribal cultural resource (PRC § 21080.3.2).

The following examples of mitigation for potential impacts on tribal cultural resources are included in CEQA (PRC § 21084.3):

- Avoidance and preservation of the resources in place, including, but not limited to, planning and construction to avoid the resources and protect the cultural and natural context, or planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
- Treating the resource with culturally appropriate dignity taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - Protecting the cultural character and integrity of the resource.
 - Protecting the traditional use of the resource.
 - Protecting the confidentiality of the resource.
- Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
- Protecting the resource.

CEQA states that the preference will be for avoiding damaging effects to tribal cultural resources (PRC § 21084.3[a]).

Note, no California Native American Tribes previously requested notification regarding City projects for potential consultation under California Public Resources Code (PRC) § 21080.3 (i.e., AB 52). Therefore, no formal consultation pursuant to PRC § 21080.3 (see AB 52), was required for the proposed project.

California Register of Historical Resources

The California Register is “an authoritative listing and guide to be used by State and local agencies, private groups, and citizens in identifying the existing historical resources of the State and to indicate which resources deserve to be protected, to the extent prudent and feasible, from substantial adverse change” (PRC § 5024.1[a]). The criteria for eligibility for the California Register are based upon the criteria for listing on the National Register of Historic Places (National Register) (PRC § 5024.1[b]). Certain resources are determined by the statute to be automatically included in the California Register, including California properties formally determined eligible for, or listed in, the National Register.

To be eligible for the California Register, a cultural resource must be significant at the local, State, and/or federal level under one or more of the following four criteria:

1. Is associated with events that have made a significant contribution to the broad patterns of California’s history and cultural heritage;
2. Is associated with the lives of persons important in our past;
3. Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
4. Has yielded, or may be likely to yield, information important in prehistory or history.

A resource eligible for the California Register must be of sufficient age, and retain enough of its historic character or appearance (integrity) to convey the reason for its significance. Additionally, the California Register consists of resources that are listed automatically and those that must be nominated through an application and public hearing process. The California Register automatically includes the following:

- California properties listed on the National Register and those formally Determined Eligible for the National Register;
- California Registered Historical Landmarks from No. 770 onward; and
- Those California Points of Historical Interest that have been evaluated by the OHP and have been recommended to the State Historical Commission for inclusion on the California Register.

Other resources that may be nominated to the California Register include:

- Historical resources with a significance rating of Category 3 through 5 (those properties identified as eligible for listing in the National Register, the California Register, and/or a local jurisdiction register);
- Individual historic resources;
- Historic resources contributing to historic districts; and
- Historic resources designated or listed as local landmarks, or designated under any local ordinance, such as an historic preservation overlay zone.

California Public Resources Code § 5097

PRC § 5097.99, as amended, states that no person shall obtain or possess any Native American artifacts or human remains that are taken from a Native American grave or cairn. Any person who knowingly or willfully obtains or possesses any Native American artifacts or human remains is guilty of a felony, which is punishable by imprisonment. Any person who removes, without authority of law, any such items with an intent to sell or dissect or with malice or wantonness is also guilty of a felony which is punishable by imprisonment.

California Native American Historic Resource Protection Act

The California Native American Historic Resources Protection Act of 2002 imposes civil penalties, including imprisonment and fines up to \$50,000 per violation, for persons who unlawfully and maliciously excavates upon, removes, destroys, injures, or defaces a Native American historic, cultural, or sacred site that is listed or may be listed in the California Register.

California Health and Safety Code § 7050.5

Section 7050.5 of the California Health and Safety Code (HSC) protects human remains by prohibiting the disinterring, disturbing, or removing of human remains from any location other than a dedicated cemetery. PRC § 5097.98 (and reiterated in PRC § 15064.59[e]) also identifies steps to follow in the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery.

Discussion of Impacts

The following analysis discusses archaeological resources, both as historical resources, according to CEQA Guidelines § 15064.5, as well as unique archaeological resources, as defined in PRC § 21083.2(g), in response to checklist question b.

- a) **No Impact.** Through background research, including a records search of the NWIC and review of historic maps and aerial photography, no historical resources were identified in the project area. As such, there are no known historical resources as defined in CEQA Guidelines § 15064.5 in the project area. Therefore, the proposed project is not anticipated to impact any historical resources.

- b) ***Less-Than-Significant with Mitigation Incorporated.*** Through background research, including a records search of the NWIC and review of historic maps and aerial photography, and a desktop archaeological sensitivity analysis, no archaeological resources have been identified in the project area. As such, no known archaeological resources that may qualify as historical resources, as defined in CEQA Guidelines § 15064.5, or unique archaeological resources, as defined in PRC § 21083.2(g), are present in the project area. Therefore, the proposed project would not affect any archaeological resource, pursuant to CEQA Guidelines § 15064.5.

The desktop archaeological sensitivity analysis concluded that the project area has a moderate sensitivity for the presence of buried pre-contact archaeological resources. Because the proposed project would involve ground-disturbing activities that may extend into undisturbed soil, it is possible that such actions could unearth, expose, or disturb subsurface archaeological resources that have not been previously identified. If such archaeological deposits are present in the project area and were found to qualify as archaeological resources pursuant to CEQA Guidelines § 15064, impacts of the proposed project on archaeological resources could be potentially significant. Such potentially significant impacts would be reduced to a less-than-significant with implementation of Mitigation Measures CULT-1

Mitigation Measure CULT-1 – Unanticipated Discovery Protocol for Archaeological Resources:

If indigenous or historic-era archaeological resources are encountered during proposed project development or operation, all activity within 100 feet of the find shall cease and the find shall be flagged for avoidance. The City and a qualified archaeologist, defined as one meeting the U.S. Secretary of the Interior's Professional Qualifications Standards for Archeology, shall be immediately informed of the discovery. The qualified archaeologist shall inspect the find within 24 hours of discovery and notify the City of their initial assessment. If the resource is indigenous, the City shall also contact relevant California Native American Tribes to assist in determining if the resource may qualify as a tribal cultural resource.

If the City determines, based on recommendations from the qualified archaeologist and, if the resource is indigenous, relevant California Native American Tribes, that the resource may qualify as a historical resource or unique archaeological resource (as defined in CEQA Guidelines § 15064.5), or a tribal cultural resource (as defined in PRC § 21074), the resource shall be avoided if feasible. Avoidance means that no activities associated with the proposed project that may affect cultural resources shall occur within the boundaries of the resource or any defined buffer zones. If avoidance is not feasible, the City shall consult with appropriate Native American tribes (if the resource is indigenous), and other appropriate interested parties to determine treatment measures to avoid, minimize, or mitigate any potential impacts to the resource pursuant to PRC § 21083.2 and CEQA Guidelines § 15126.4. This shall include documentation of the resource and may include data recovery or other measures. Treatment for most resources would consist of (but would not be not limited to) sample excavation, artifact collection, site documentation, and historical research, with the aim to target the recovery of important scientific data contained in the portion(s) of the significant resource. The resource and treatment method shall be documented in a professional-level technical report to be filed with the California Historical Resources Information System. Work in the area may commence upon

completion of approved treatment and under the direction of the qualified archaeologist.

- c) ***Less-Than-Significant with Mitigation Incorporated.*** No human remains have been identified in the project area through background research. Also, the land use designations for the project area do not include cemetery uses, and no known human remains exist within the project area. Therefore, the proposed project is not anticipated to disturb any human remains.

However, because the proposed project would involve ground-disturbing activities, it is possible that such actions could unearth, expose, or disturb previously unknown human remains. If human remains were discovered during proposed project construction activities, impacts on the human remains resulting from the proposed project would be significant if those remains were disturbed or damaged. Such potentially significant impacts would be reduced to a less-than-significant with implementation of Mitigation Measures CULT-2.

Mitigation Measure CULT-2 – Unanticipated Discovery Protocol for Human Remains:

If human remains are uncovered during proposed project construction, all work shall immediately halt within 100 feet of the find and the Santa Clara County Coroner shall be contacted to evaluate the remains and follow the procedures and protocols set forth in CEQA Guidelines § 15064.5(e)(1). If the county coroner determines that the remains are Native American, the City shall contact the NAHC, in accordance with HSC § 7050.5(c) and PRC § 5097.98. As required by PRC § 5097.98, the City shall ensure that further development activity avoids damage or disturbance in the immediate vicinity of the Native American human remains, according to generally accepted cultural or archaeological standards or practices, until the City has conferred with the most likely descendants regarding their recommendations, if applicable, taking into account the possibility of multiple human remains.

VI. ENERGY — Would the project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant	No Impact
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

In 2002, the Legislature passed Senate Bill 1389, which required the California Energy Commission (CEC) to develop an integrated energy plan every two years for electricity, natural gas, and transportation fuels, for the California Energy Policy Report. The plan calls for the State to assist in the transformation of the transportation system to improve air quality, reduce congestion, and increase the efficient use of fuel supplies with the least environmental and energy costs. To further this policy, the plan identifies a number of strategies, including assistance to public agencies and fleet operators in implementing incentive programs for zero emission (ZE) vehicles and their infrastructure needs, and encouragement of urban designs that reduce VMT and accommodate pedestrian and bicycle access.

The CEC is in the process of adopting the 2019 Integrated Energy Policy Report.¹⁰ The 2019 Integrated Energy Policy Report provides the results of the CEC's assessments of a variety of energy issues facing California. Many of these issues will require action if the State is to meet its climate, energy, air quality, and other environmental goals while maintaining energy reliability and controlling costs. The 2019 Integrated Energy Policy Report covers a broad range of topics, including implementation of Senate Bill 350, integrated resource planning, distributed energy resources, transportation electrification, solutions to increase resiliency in the electricity sector, energy efficiency, transportation electrification, barriers faced by disadvantaged communities, demand response, transmission and landscape-scale planning, the California Energy Demand Preliminary Forecast, the preliminary transportation energy demand forecast, renewable gas (in response to Senate Bill 1383), updates on Southern California electricity reliability, natural gas outlook, and climate adaptation and resiliency.

Energy resources include electricity, natural gas, and other fuels. The production of electricity requires the consumption or conversion of energy resources, including water, wind, oil, gas, coal, solar, geothermal, and nuclear resources, into energy. Energy production and energy use both result in the depletion of nonrenewable resources (e.g., oil, natural gas, coal, etc.) and emission of pollutants. Energy capacity, or electrical power, is generally measured in watts while energy use is measured in watt-hours. For example, if a light bulb has a capacity rating of 100 watts, the energy required to keep the bulb on for 1 hour would be 100 watt-hours. In 2018, the CEC reported

¹⁰ California Energy Commission, 2019. 2019 Integrated Energy Policy Report. California Energy Commission. Docket # 19-IEPR-01.

that Santa Clara County consumed approximately 16,708 gigawatt-hours (GWh), or 16,708,080,341 kilowatt-hours (kWh) of electricity.¹¹

Discussion of Impacts

- a) **Less-Than-Significant Impact** Construction of the proposed project would require energy for the manufacture and transportation of construction materials, preparation of the site for demolition, and construction of the creative industrial building. Petroleum fuels (e.g., diesel and gasoline) would be the primary sources of energy for these activities. Construction activities are not anticipated to result in an inefficient use of energy as gasoline and diesel fuel would be supplied by construction contractors who would conserve the use of their supplies to minimize their costs on the project. Energy usage on the project site during construction would be temporary in nature and would be relatively small in comparison to the State's available energy sources. Energy use consumed by the proposed project would be associated with natural gas use, electricity consumption, and fuel used for vehicle trips associated with the project. Therefore, the proposed project would not result in the wasteful, inefficient, or unnecessary consumption of fuel or energy and would incorporate renewable energy or energy efficiency measures into building design, equipment use, and transportation. The proposed project would be constructed to California Green Building Standards Code (CALGreen) standards Tier I or Tier II, which would help to reduce energy and natural gas consumption. Construction and operation period impacts related to consumption of energy resources would be less than significant.
- b) **Less-Than-Significant Impact.** Energy usage on the project site during construction would be temporary in nature. In addition, energy usage associated with operation of the proposed project would be relatively small in comparison to the State's available energy sources and energy impacts would be negligible at the regional level. Because California's energy conservation planning actions are conducted at a regional level, and because the project's total impact to regional energy supplies would be minor, the proposed project would not conflict with California's energy conservation plans as described in the CEC's 2019 Integrated Energy Policy Report. Thus, as shown above, the project would avoid or reduce the inefficient, wasteful, and unnecessary consumption of energy and not result in any irreversible or irretrievable commitments of energy. Therefore, the proposed project would not result in the wasteful, inefficient, or unnecessary consumption of energy resources during project construction or operation and this impact would be less than significant.

¹¹ California Energy Commission, 2018. *Energy Consumption Data Management Service. Electricity Consumption by County*. Available at: < www.ecdms.energy.ca.gov/elecbycounty.aspx > Accessed April 24, 2020.

VII. GEOLOGY AND SOILS — Web Soil Survey Website) Would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code, creating substantial direct or indirect risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Regional Geologic Setting

The project site is located within the central portion of the Coast Ranges geomorphic province¹², which includes numerous active faults identified by the California Geological Survey (CGS) under the Alquist-Priolo Earthquake Fault Zoning Act. CGS defines an active fault as one that has ruptured during the Holocene Epoch (i.e., the last 11,000 years). The Working Group on California Earthquake Probabilities and the United States Geological Survey (USGS) have estimated probabilities of earthquake occurrence on local faults between 2014 and 2044 as follows: a 6.4-percent probability of a 6.7 magnitude (M_w , or Moment Magnitude)¹³ or greater earthquake on the Northern San Andreas Fault, a 14.3-percent chance on the Hayward Fault, and a total probability of 72 percent that an earthquake of that magnitude will occur on one of the regional San Francisco Bay Area faults during that time.¹⁴

Local Geologic Setting

The native geologic formations on the project site have been mapped as Pleistocene and Holocene aged alluvial deposits.^{15,16} A Geotechnical Engineering Study (geotechnical study)¹⁷ prepared for the proposed project indicates that soils encountered in the subsurface of the project site generally consisted of mixtures of clays, silts, sands, and gravels typical of alluvial soil deposits.

Discussion of Impacts

a-i.) **No Impact.** Surface fault rupture occurs when the ground surface is broken due to fault movement during an earthquake. Fault rupture is generally expected to occur along active fault traces. Areas susceptible to fault rupture are delineated by the CGS Alquist-Priolo Earthquake Fault Zones. The Alquist-Priolo Earthquake Fault Zoning Act's (AP Act) main purpose is to prevent the construction of buildings used for human occupancy on the surface trace of active faults. The AP Act requires specific geological investigations prior to certain kinds of development to reduce the threat to public health and safety and to minimize the loss of life and property posed by earthquake-induced ground failure. The project site is not located within or adjacent to an Alquist-Priolo Earthquake Fault Zone.¹⁸ Therefore, the project would have no impact on people and structures related to fault rupture.

¹² A geomorphic province is a naturally defined geologic region that displays a distinct combination of features based on geology, faults, topography, and climate. Eleven geomorphic provinces are recognized in California.

¹³ Moment magnitude (M_w) is now commonly used to characterize seismic events as opposed to Richter Magnitude. Moment magnitude is determined from the physical size (area) of the rupture of the fault plane, the amount of horizontal and/or vertical displacement along the fault plane, and the resistance to rupture of the rock type along the fault.

¹⁴ United States Geological Survey (USGS), 2015. UCERF3: A New Earthquake Forecast for California's Complex Fault System, USGS Fact Sheet 2015-3009, March. Accessed March 27, 2020. <https://pubs.usgs.gov/fs/2015/3009/pdf/fs2015-3009.pdf>.

¹⁵ Graymer et al., 2006. Geologic Map of the San Francisco Bay Region.

¹⁶ Earth Systems Pacific, Inc., 2019. Geotechnical Engineering Study, 1000 Gibraltar Drive Warehouse, 1000 Gibraltar Drive, Milpitas, California, March 1, 2019.

¹⁷ Earth Systems Pacific, Inc., 2019. Op. cit.

¹⁸ CGS, 2004. Earthquake Zones of Required Investigation, Milpitas Quadrangle, Available: <http://maps.conservation.ca.gov/cgs/informationwarehouse/index.html?map=regulatorymaps>, Accessed March 25, 2020.

- a-ii) ***Less-Than-Significant Impact.*** The project site is susceptible to strong seismic ground shaking in the event of a major earthquake. Nearby active faults include the Hayward fault (approximately 1.7 miles northeast from the project site), Calaveras fault (approximately 4.9 miles northeast from the project site), Monta Vista-Shannon fault (approximately 11.4 miles southwest from the project site), and the San Andreas fault (approximately 15.5 miles southwest from the project site).¹⁹ These faults and other regional faults are capable of producing strong seismic ground shaking at the project site. The geotechnical study²⁰ provides recommended seismic design parameters based on the site-specific soil type and seismic conditions at the project site. The project would be required to comply with the provisions of the 2019 California Building Code (CBC), which contains requirements for structural design, including seismic design specifications. As a standard practice, the City of Milpitas Building Safety and Housing Department would review proposed project plans to ensure that design plans for the proposed project would be developed in accordance with the 2019 CBC. Compliance with the mandatory building code structural specifications, as well as adherence to geotechnical recommendations, would result in structures that would adequately resist adverse effects from seismic ground shaking. Therefore, impacts associated with strong seismic ground shaking would be less than significant.
- a-iii) ***Less-Than-Significant Impact.*** Soil liquefaction is a phenomenon primarily associated with saturated soil layers located close to the ground surface. During ground shaking, these soils lose strength and acquire a “mobility” sufficient to permit both horizontal and vertical movements. Soils that are most susceptible to liquefaction are clean, loose, uniformly graded, saturated, fine-grained sands that lie relatively close to the ground surface. However, loose sands that contain a significant amount of fines (silt and clay) may also liquefy. The project site is located within a liquefaction hazard zone as designated on a Seismic Hazards Zone map prepared by CGS²¹; therefore, in accordance with the Seismic Hazards Mapping Act, a geotechnical report must be prepared, and appropriate mitigation measures incorporated into the project design, as required by California Code of Regulations Title 14, Article 10. The geotechnical study indicates that soils encountered in the subsurface of the project site generally consisted of mixtures of clays, silts, sands, and gravels typical of alluvial soil deposits. The predominantly fine-grained soils typically had medium stiff to very stiff consistencies. The predominantly coarse-grained materials were generally medium dense to dense, although zones of loose soils were present in the upper 8 feet of the project site. The geotechnical study indicates that based on a liquefaction/settlement analysis, expected liquefaction-related settlements that could occur during a seismic event were calculated to be on the order of approximately 2 inches, and there is a low likelihood of surface manifestation potential. The geotechnical study indicates that differential settlements may be two-thirds of the total settlements (slightly less than 1½-inches). The geotechnical study includes recommendations for site preparation and grading, compaction of native soil and engineered fill material, and the

¹⁹ *Earth systems Pacific, Inc., 2019. Op. cit.*

²⁰ *Earth systems Pacific, Inc., 2019. Op. cit.*

²¹ *CGS, 2004. Op. cit..*

design and construction of foundations (conventional footings) which account for potential liquefaction-related settlements.²²

Compliance with the mandatory building code structural specifications, as well as adherence to the recommendations in the geotechnical report, would result in a building that resists adverse effects related to estimated liquefaction settlements. Therefore, impacts related to liquefaction would be less than significant.

Lateral spreading is a form of horizontal displacement of soil toward an open channel or other “free” face, such as an excavation boundary or creek bank. In a lateral spread failure, a layer of ground at the surface is carried on an underlying layer of liquefied material over a gently sloping or flat surface toward a river channel or other bank. The lateral spreading hazard tends to mirror the liquefaction hazard for a site (assuming a free face is located nearby). The geotechnical report indicates that due to the depths of the liquefiable soils, and the fact that there are no open creek channels crossing or bordering the project site, the potential for lateral spreading to occur within the project site is low.²³ Therefore, impacts would be less than significant.

- a-iv) **No Impact.** Seismically-induced landslides occur as the rapid movement of large masses of soil on unstable slopes during an earthquake. The project site and surrounding area are relatively flat. Therefore, the project would have a no impact related to seismically-induced landslides.
- b) **Less-Than-Significant Impact.** Soil erosion, which is discussed in detail in Section 9, “Hydrology and Water Quality”, could occur during project grading and construction. As described in Section 9, compliance with the State Water Resources Control Board’s Construction General Permit, including preparation and implementation of a Stormwater Pollution Prevention Plan (SWPPP), would ensure that the proposed project would result in less-than-significant impacts related to erosion or loss of top soil during construction of the project. During operation of the project, the ground surface of the project site would be covered by a building, pavement surfaces, and landscaping, and therefore would not be susceptible to substantial erosion or loss of top soil. Therefore, this impact would be less than significant.
- c) **Less-Than-Significant Impact.** As previously discussed in subsections a-iii) and a-iv) above, lateral spreading and landslides are not a concern for the project because of the relatively flat topography of the area. Additionally, the project would be designed in accordance with the 2019 CBC and recommendations of the geotechnical report which include measures to address the potential for liquefaction and seismic-induced settlement impacts related to unstable soils.

Subsidence or collapse can result from the removal of subsurface water resulting in either catastrophic or gradual depression of the surface elevation of the project site. The only removal of subsurface water that may occur as part of the project is temporary dewatering of excavations during construction. The temporary dewatering of excavations would not

²² *Earth Systems Pacific, 2019. Op. cit.*

²³ *Earth Systems Pacific, 2019. Op. cit.*

cause significant ground subsidence or collapse as the dewatering would be limited and localized to the area of the excavation. Therefore, this potential impact is less than significant.

Consolidation (or static settlement) of soils is a process by which the soil volume decreases as water is expelled from saturated soils under static loads. As the water moves out from the pore space of the soil, the solid particles realign into a denser configuration which results in settlement. Consolidation typically occurs as a result of new buildings or fill materials being placed over compressible soils. The geotechnical study indicates that possibility of static settlement is minimized by the light structural loads expected for the proposed development. Anticipated static settlements of the on-site native soils are on the order of 1½-inches with a differential settlement of ¾-inch.²⁴

Compliance with the mandatory building code structural specifications, as well as adherence to the recommendations in the geotechnical report, would ensure that potential impacts related to consolidation would be less than significant.

- d) **Less-Than-Significant Impact.** Expansive soils are characterized by the potential for shrinking and swelling as the moisture content of the soil decreases and increases, respectively. Shrink-swell potential is influenced by the amount and type of clay minerals present and can be measured by the percent change of the soil volume. The geotechnical study indicates that the results of plasticity index tests performed on samples of the upper soils from the project site indicate that the soil has a low expansion potential. Therefore, measures other than moistening and compacting the soils are not considered necessary to mitigate soil expansion. The geotechnical study also includes recommendations for selection of fill materials to be imported for use at the project site, including selection of non-expansive imported material.²⁵

Compliance with the mandatory building code structural specifications, as well as adherence to the recommendations in the geotechnical report, would ensure that potential impacts related to expansive soils would be less than significant.

- e) **No Impact.** As The project would not involve the use of septic tanks or alternative wastewater disposal systems. Therefore, the project would have no impact related to septic tanks or alternative wastewater disposal systems.
- f) **Less-Than-Significant with Mitigation Incorporated.** Paleontological resources include fossilized remains or traces of organisms including plants, vertebrates (animals with backbones), invertebrates (e.g., starfish, clams, ammonites, and marine coral), and microscopic plants and animals (microfossils), including their imprints, from a previous geological period. Collecting localities and the geologic formations containing those localities are also considered paleontological resources as they represent a limited, non-renewable resource and once destroyed, cannot be replaced. The Society of Vertebrate Paleontology (SVP) has established guidelines for the identification, assessment, and mitigation of adverse impacts on non-renewable paleontological resources. The SVP has

²⁴ *Earth Systems Pacific, 2019. Op. cit.*

²⁵ *Earth Systems Pacific, 2019. Op. cit.*

helped define the value of paleontological resources and, in particular, states that significant paleontological resources are fossils and fossiliferous deposits consisting of identifiable vertebrate fossils, large or small, uncommon invertebrate, plant, and trace fossils, and other data that provide taxonomic, phylogenetic, paleoecologic, stratigraphic, and/or biochronologic information. Paleontological resources are considered to be older than recorded human history and/or older than middle Holocene (i.e., older than about 5,000 years).²⁶

The potential to disturb paleontological resources during project construction depends on the types of geologic units (and their fossil-bearing characteristics) that would be encountered. Disturbing artificial fill materials (which have been identified as the uppermost materials covering the site) during project construction would not impact paleontological resources because, due to the disturbed nature of artificial fill, intact fossils are not generally found or well-preserved in these materials.

The native geologic formations on the project site have been mapped as Pleistocene and Holocene-aged alluvial deposits.^{27,28} The results of a search of paleontological localities in the fossil collections database maintained by the University of California Museum of Paleontology identified 5 localities (including 2 invertebrate, 1 microfossil, and 2 unidentified types of localities) in Holocene geologic formations and 14 localities (including 12 vertebrate and 2 invertebrate localities) in Pleistocene geologic formations within Santa Clara County, including a bison fossil found in Milpitas.²⁹ The project would involve subsurface construction activities which would extend below fill material and into native geologic formations. Therefore, it is possible that paleontological resources could be encountered during ground-disturbing construction activities.

Significant impacts to paleontological resources could occur during excavation into native geologic formations below existing fill material, where fossils may be buried and physical destruction of fossils could occur. Implementation of Mitigation Measure GEO-1 would reduce this impact to a less-than-significant level.

Mitigation Measure GEO-1: The applicant shall inform its contractor(s) of the sensitivity of the project area for paleontological resources and shall include the following directive in the appropriate contract documents. The City shall verify that the following directive is included in the appropriate contract documents:

“The subsurface of the construction site may be sensitive for paleontological resources. The contractor shall provide information to construction crews on how to recognize paleontological resources. If paleontological resources are encountered during project subsurface construction, all ground disturbing activities within 25 feet of

²⁶ Society of Vertebrate Paleontology (SVP), 2010. *Standard Procedures for the Assessment and Mitigation of Adverse Impacts to Paleontological Resources*.

²⁷ Graymer et al., 2006. *Op. cit.*

²⁸ Earth Systems Pacific, 2019. *Op. cit.*

²⁹ University of California Museum of Paleontology, 2020. *Collections Database, Locality Search*. Available at: <https://ucmpdb.berkeley.edu/loc.html>, accessed on March 27.

the find shall be redirected and the City and a qualified paleontologist contacted to assess the situation. Project personnel shall not collect or move any paleontological materials. Paleontological resources include fossil plants and animals, and such trace fossil evidence of past life as animal tracks.”

The City and a qualified paleontologist shall make recommendations for the treatment of the discovery. If found to be significant, and project activities cannot avoid the paleontological resources, adverse effects to paleontological resources shall be mitigated. Mitigation may include monitoring, recording the fossil locality, data recovery and analysis, preparation of a technical report, and providing the fossil material and technical report to a paleontological repository, such as the University of California Museum of Paleontology. Public educational outreach may also be appropriate. Upon completion of the assessment, a report documenting methods, findings, and recommendations shall be prepared and submitted to the City for review.

VIII. GREENHOUSE GAS EMISSIONS — Would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Conflict with any applicable plan, policy, or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Climate change is a shift in the average weather patterns observed on earth, which can be measured by such variables as temperature, wind patterns, storms, and precipitation. The temperature on earth is regulated by what is commonly known as the “greenhouse effect”. Naturally occurring greenhouse gases in the atmosphere, including carbon dioxide, methane, nitrous oxides, and water vapor, absorb heat from the earth’s surface and radiate it back to the surface.

Human activities result in emissions of four principal greenhouse gases: carbon dioxide, methane, nitrous oxide, and halocarbons (fluorine, chlorine, and bromine). Of all human activities, the burning of fossil fuels is the largest contributor in overall greenhouse gas emissions, releasing carbon dioxide gas into the atmosphere.

The resulting increases in greenhouse gas emissions from human activities are leading to higher concentrations and a change in composition of the atmosphere. For instance, the concentration of CO₂ in the atmosphere has risen about 30 percent since the late 1800s (National Assessment Synthesis Team [NAST], 2001). Many sources and models indicate that temperatures on earth are currently warming and will continue to warm at unprecedented levels. The global mean surface temperature has increased by 1.1° F since the 19th century (IPCC Synthesis report, 2001), and the 10 warmest years of the last century all occurred within the last 15 years.

The many effects of greenhouse gas emissions are still being researched and are not fully known, but are expected to include increased temperatures which would: reduce snowpack, a primary source of drinking water; exacerbate air quality problems and adversely impact human health by increasing heat stress and related deaths; increase the incidence of infectious disease, asthma and respiratory health problems; cause sea levels to rise, threatening urban and natural coastlands; increase pests and pathogens; and cause variations in crop quality and yields.

In California, the majority of human activity greenhouse gas emissions can be broken down into four sectors: transportation, industrial, electrical power, and agriculture/forestry. The largest source is from the transportation sector.

In 2005, Governor Schwarzenegger issued Executive Order S-02-05, calling for statewide reductions to 2000 levels by 2010, 1990 levels by 2020 and to 80 percent below 1990 levels by 2050. The Executive Order also called for the creation of a state “Climate Action Team”, which would report to the Governor every two years on both progress toward meeting the targets and effects of Greenhouse Gas Emissions on the state.

In the fall of 2006, the Governor signed Assembly Bill 32 (AB32), the “Global Warming Solutions Act of 2006,” committing the State of California to reducing greenhouse gas emissions to 1990 levels by 2020. The statute requires the California Air Resources Board (CARB) to track

emissions through mandatory reporting, determine what 1990 emissions were, set annual emissions limits that will result in meeting the target, and identify a list of discrete early actions that directly address greenhouse gas emissions, are regulatory, and can be enforced by January 1, 2010.

The Bay Area Air Quality Management District (BAAQMD), which regulates air quality in the San Francisco Bay Area, has not adopted a threshold of significance for greenhouse gas emissions, and their CEQA Air Quality Handbook defers this analysis to the provisions of an adopted Climate Action Plan, if the lead agency has adopted one, or General Plan goals.

Discussion of Impacts

- a, b) ***Potentially Significant Impact.*** Based on the potential to increase greenhouse gas emissions either directly or indirectly due to changes in daily traffic trips associated with the project site and increased energy usage on-site, the proposed project could result in a potentially significant greenhouse gas emissions impact. The analysis of greenhouse gas emissions impacts is presented in the EIR. No further analysis will be provided in this Initial Study.

IX. HAZARDS AND HAZARDOUS MATERIALS — (EnviroStor Website , GeoTracker Website) Would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

A material is considered hazardous if it appears on a list of hazardous materials prepared by a federal, state, or local agency or if it has characteristics defined as hazardous by such an agency. A hazardous material is defined in Title 22, Section 66261.10 of the California Code of Regulations as a substance with physical, chemical, or infectious characteristics which may cause or contribute to mortality or illness or pose a threat to human health or the environment when mismanaged. Chemical and physical properties which may cause a substance to be considered hazardous include toxicity, ignitability, corrosivity, and reactivity.

Under Government Code Section 65962.5, the California Department of Toxic Substances Control (DTSC) maintains a list of hazardous substance sites. This list, referred to as the “Cortese List”, includes EnviroStor database, sites with leaking underground storage tanks, and landfills with evidence of groundwater contamination. The State Water Resource Control Board (“State

Water Board”) GeoTracker database similarly documents hazardous waste sites throughout the state but focuses on groundwater contamination. There is one active site in the City of Milpitas listed on the Cortese List, Target Masters West (Global ID: 60002853), located approximately 2.3 miles northwest of the project site.³⁰ Target Masters West was a gun shop with an indoor shooting range that operated from approximately 1982 until 2019. Best management practices for air ventilation and filtration were not maintained, and unauthorized releases of metals-containing dust caused contamination at Target Masters West and adjacent interior and exterior areas. Cleanup of the site was deemed active as of July 1, 2019.³¹

Discussion of Impacts

- a) **Less-Than-Significant Impact.** Although small quantities of commercially-available hazardous materials could be used during project construction activities (e.g., oil, gasoline, paint) and for landscape maintenance within the project site, these materials would not be used in sufficient quantities to pose a threat to human or environmental health. Therefore, development of the proposed project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.
- b) **Less-Than-Significant with Mitigation Incorporated.** There are two main ways that the public and/or the environment could be affected by the release of hazardous materials from the project site, including: (1) exposing workers and/or the public to potentially contaminated soil and groundwater during construction and/or operation of the project; or (2) exposing workers and/or the public to hazardous building materials (e.g., lead paint, asbestos) during demolition of existing structures.

The Phase I Environmental Site Assessment (Phase I ESA) prepared for the project site revealed no evidence of recognized environmental conditions (RECs) in connection with the project site; however, the following business environmental risks were identified: elevated arsenic concentrations in soils at the project site and Asbestos-Containing Material (ACM).

A grassy mound located at the southern end of the project site along Gibraltar Drive consists of excess soil generated during seismic retrofit activities at the project site in 1999. The Phase I ESA found the soil to contain elevated concentrations of arsenic; but noted that due to historic agricultural activities, most surrounding soils in the project area do as well. Reportedly the arsenic concentrations were considered similar to background levels and regulatory authorities informed that the soils could remain on-site. No further investigation appears warranted at this time. However, future site development/excavations that require removal of these soils would likely require a soil management plan and special disposal of said soils.

Based on the age of the project site, the Phase I ESA noted that the friable acoustical ceiling tiles may contain asbestos. In addition, the non-friable resilient floor finish assemblies, wallboard assemblies, acoustical ceiling tiles, built-up roofing materials, caulking, and mastics may contain asbestos. The Phase I ESA describes asbestos survey

³⁰ Department of Toxic Substances Control, Hazardous Waste and Substances Site List – Site Cleanup (Cortese List), <<https://dtsc.ca.gov/dtscs-cortese-list/>> Accessed April 23, 2020.

³¹ Department of Toxic Substances Control, “EnviroStor Database,” <https://www.envirostor.dtsc.ca.gov/public/profile_report?global_id=60002853> Accessed April 23, 2020.

reports from 2014 for Building 1, Building 2, and Building 3 on the project site. A total of 59 bulk samples were collected from the interior and exterior areas of Building 1; fibrous backing associated with beige resilient sheet flooring was identified as ACM. A total of 83 bulk samples were collected from the interior and exterior areas of Building 2; black flooring mastic under carpet in the 2nd floor, black mastic under 12" by 12" light beige with tan streaks vinyl floor tile in the 1st floor mail room and 2nd floor data center, black pedestal mastic in the 2nd floor data center, and yellow/black mastic under 12" by 12" blue with white dots vinyl floor tile in the 1st floor south hallway closet on the east side of the building and on the 2nd floor were identified as ACM. A total of 74 bulk samples were collected from the interior and exterior areas of Building 3; no materials were identified as ACM in the survey of Building 3. The Phase I ESA notes that additional ACM identified at the project site includes asbestos cement piping located underground between Buildings 1 and 2. Nevertheless, since these materials were observed to be in good condition, no further action was recommended at this time other than maintaining same in good condition under an Asbestos Operations and Maintenance (O&M) Program. All activities involving ACM should be conducted in accordance with governmental regulations.

The hazardous materials that remain on-site are water treatment chemicals associated with the cooling towers and chilled water system (as needed for the HVAC equipment) and batteries associated with an Uninterruptable Power Supply (UPS) system located at Building 4 (909 South Milpitas Boulevard), as well as for a UPS system located at Building 2 (1051 South Milpitas Boulevard). The Phase I ESA notes that based on an inspection performed on January 6, 2015, the only hazardous materials remaining at the project site were stored in the secondary containment bunker to the south of Building 4. These materials were observed to be in good condition and were scheduled for removal from the site by the end of January 2015 and piping associated with former emergency generator systems were scheduled to be removed from the former generator enclosures at the project site by mid-January 2015.

Implementation of Mitigation Measure HAZ-1, below, is required to ensure that potentially significant impacts are reduced to less-than-significant levels.

Mitigation Measure HAZ-1: Prior to issuance of grading permits, the applicant shall prepare a soil management plan and special disposal of said soils subject to the review and approval by the City of Milpitas. All recommendations included in the soil management plan shall be followed during the demolition, grading, and construction phase of the project.

- c) **No Impact.** There are no public schools located within one-quarter mile of the project site. The closest school building to the proposed project is Stratford School, located approximately 0.5 miles southwest of the project site. Fuels, lubricants, and any other potentially hazardous materials used during project construction would be handled carefully in compliance with all applicable laws and regulations and would have little to no chance of affecting the school. Given that Stratford School is located more than one-quarter mile from the project site, it is unlikely that the school would be affected by the use of fuels, lubricants, and other chemicals on the project site. Therefore, there would be no impacts.
- d) **Less-Than-Significant Impact.** According to the California DTSC EnviroStor database, the project site is not included on the list of hazardous material sites compiled pursuant to Government Code Section 65962.5. However, Target Masters West is listed as an active site on the Cortese List and is located approximately 2.3 miles northwest of the project site. As there are no hazardous waste sites in the project site, the proposed project would

not create a hazard to the public or environment through location on a hazardous materials site and impacts would be less than significant.

- e) **No impact.** The closest airport to the project site is the Norman Y. Mineta San Jose International Airport, located approximately 4.5 miles southwest of the project site. The closest private airport to the project site is the Regional Medical Center heliport (88CA), located approximately 4.4 miles southeast of the project site. The project site is not located within the Airport Safety Zones or Airport Influence Area of the San José International Airport.³² Therefore, the proposed project would not result in a safety hazard or excessive noise for people residing or working in the project area due to the proximity of an airport.
- f) **Less-Than-Significant Impact.** The City of Milpitas Fire Department Office of Emergency Services coordinates the City's preparedness efforts to mitigate, plan for, respond to, and recover from natural and technological disasters. In addition, the County of Santa Clara Office of Emergency Services coordinates county-wide emergency response efforts including the preparation and implementation of the County of Santa Clara Emergency Operations Plan (EOP).³³ However, the EOP does not address specific responses, scenarios, hazards, or threats, within Milpitas. In addition, the EOP does not indicate the emergency evacuation routes within Santa Clara County. Because the proposed project would not alter or block adjacent roadways, implementation of the proposed project would not be expected to impair the function of nearby emergency evacuation routes. The proposed creative industrial building would also be equipped with a state-of-the-art Early Suppression, Fast Response (ESFR) sprinkler system. Therefore, the proposed project would have a less-than-significant impact on implementation of an adopted emergency response plan or emergency evacuation plan.
- g) **No Impact.** The proposed project site is in a developed urban area and is not within or adjacent to a wildland fire hazard area. The project site is not located within any state responsibility areas (SRA) for fire service,³⁴ and is not within a very high fire hazard severity zone.³⁵ Therefore, the proposed project would not expose people or structures to a significant loss, injury, or death involving wildland fires.

³² Santa Clara County Airport Land Use Commission, 2011. *Comprehensive Land Use Plan, Santa Clara County, Norma Y. Mineta San José International Airport*. May 25.

³³ Santa Clara, County of, 2017. *Emergency Operations Plan*. January.

³⁴ Cal Fire 2007 Fire Hazard Severity Zones in SRA Santa Clara County (map). Available at: https://osfm.fire.ca.gov/media/6766/fhszs_map43.pdf. Accessed April 16, 2020.

³⁵ County of Santa Clara Department of Planning and Development. 2009 Santa Clara County Wildland Urban Interface Fire Area (map). Available at: https://www.sccgov.org/sites/dpd/DocsForms/Documents/WUIFA_Adopted_Map.pdf Accessed April 16, 2020.

X. HYDROLOGY AND WATER QUALITY — (FEMA Website) Would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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;	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii) create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff; or	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv) impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The project site is located within the Lower Penitencia Creek Watershed, which includes the majority of the City of Milpitas. Stormwater runoff from the project site is conveyed through underground storm drains/culverts located beneath Gibraltar Drive and South Milpitas Boulevard which discharge to Wrigley Ditch (an engineered channel) approximately 1,500 feet northwest of the project site. Wrigley Ditch merges with other engineered channels prior to discharging into the

engineered channel of Lower Penitencia Creek. Lower Penitencia Creek discharges into Coyote Creek Slough which discharges into southern San Francisco Bay.³⁶

Discussion of Impacts

- a) **Less-Than-Significant Impact.** Water quality in the State of California is regulated by the State Water Resources Control Board (“State Water Board”) and the nine Regional Water Quality Control Boards. The City of Milpitas is located in the jurisdiction of the San Francisco Bay Regional Water Quality Control Board (“Regional Water Board”).

During construction of the project, sediment and potential contaminants that may be in the soil (from any chemicals spilled or leaked onto the ground) could be entrained in stormwater runoff and potentially reduce the quality of the receiving waters. The proposed project would disturb greater than 1 acre of land, and therefore would be required to obtain coverage under the Construction General Permit (State Water Board Order 2009-0009-DWQ) (General Permit).³⁷ On-site construction activities subject to the General Permit include clearing, grading, excavation, and soil stockpiling. The Construction General Permit requires the development of a Stormwater Pollution Prevention Plan (SWPPP) by a certified Qualified SWPPP Developer. A SWPPP identifies all potential pollutants and their sources, including erosion, sediments, and construction materials and must include a list of BMPs to reduce the discharge of construction-related stormwater pollutants. A SWPPP must include a detailed description of controls to reduce pollutants and outline maintenance and inspection procedures. Typical sediment and erosion control BMPs include protecting storm drain inlets, and establishing and maintaining construction exits and perimeter controls to avoid tracking sediment off-site onto adjacent roadways. A SWPPP also defines proper building material staging and storage areas, paint and concrete washout areas, describes proper equipment/vehicle fueling and maintenance practices, measures to control equipment/vehicle washing and allowable non-stormwater discharges, and includes a spill prevention and response plan. The SWPPP must also include a construction site monitoring program. Depending on the project risk level, the monitoring program would involve visual observations of site discharges, water quality monitoring of site discharges (e.g., pH, turbidity, and non-visible pollutants, if applicable), and receiving water monitoring (e.g., pH, turbidity, suspended sediment concentration, and bioassessment, if applicable). Compliance with the requirements of the Construction General Permit would ensure that construction activities do not adversely affect runoff water quality that could result in a violation of water quality standards.

Groundwater dewatering may be required during construction activities involving excavation. Dewatering effluent may have high turbidity and could contain contaminants. Turbid and/or contaminated groundwater could cause degradation of the receiving water quality if discharged directly to storm drains without treatment. Any groundwater dewatering would be limited in duration (i.e., during construction) and the discharge of dewatering effluent would be subject to permits from the City of San Jose (which manages and operates the San Jose-Santa Clara Regional Wastewater Facility which treats

³⁶Oakland Museum of California, 2005. *Creek & Watershed Map of Milpitas & North San Jose*, Available at http://explore.museumca.org/creeks/WholeMaps/6_Milpitas%20Creek%20Map.pdf, Accessed April 6, 2020.

³⁷ State Water Resources Control Board Division of Water Quality, 2009. *Construction General Permit Fact Sheet*. 2009-0009-DWQ amended by 2010-0014-DWQ & 2012-0006-DWQ

wastewater from the project site) or the Regional Water Board, depending if the discharge were to the sanitary sewer or storm drain system, respectively.

Under existing State law, it is illegal to allow unpermitted non-stormwater discharges to receiving waters. As stated in the Construction General Permit, non-stormwater discharges directly connected to receiving waters or the storm drain system have the potential to negatively impact water quality. The discharger must implement measures to control all non-stormwater discharges during construction, and from dewatering activities associated with construction. Discharging any pollutant-laden water from a dewatering site or sediment basin into any receiving water or storm drain that would cause or contribute to an exceedance of applicable water quality standards is prohibited.³⁸

The Construction General Permit allows the discharge of dewatering effluent if the source of the water is uncontaminated groundwater and is properly filtered or treated, using appropriate technology. These technologies include, but are not limited to, retention in settling ponds (where sediments settle out prior to discharge of water) and filtration using gravel and sand filters (to mechanically remove the sediment). If the dewatering activity is deemed by the Regional Water Board not to be covered by the Construction General Permit, then the discharger could potentially prepare a Report of Waste Discharge, and if approved by the Regional Water Board, be issued site-specific Waste Discharge Requirements (WDRs) under National Pollutant Discharge Elimination System (NPDES) regulations. Site-specific WDRs contain rigorous monitoring requirements and performance standards that, when implemented, ensure that receiving water quality is not substantially degraded. The discharge of dewatering effluent is authorized under the Construction General Permit if the following conditions are met.

- The discharge does not cause or contribute to a violation of any water quality standard.
- The discharge does not violate any other provision of the Construction General Permit.
- The discharge is not prohibited by the applicable Basin Plan.
- The discharger has included and implemented specific BMPs required by the Construction General Permit to prevent or reduce the contact of the non-stormwater discharge with construction materials or equipment.
- The discharge does not contain toxic constituents in toxic amounts or (other) significant quantities of pollutants.
- The discharge is monitored and meets the applicable numeric action levels.
- The discharger reports the sampling information in the annual report.

³⁸ *State Water Resources Control Board, 2009. Op. cit.*

If any of the above conditions are not satisfied, the discharge of dewatering effluent is not authorized by the Construction General Permit. The discharger must notify the local Regional Water Board of any anticipated non-stormwater discharges not already authorized by the Construction General Permit or another NPDES permit, to determine whether a separate NPDES permit is necessary. If it is infeasible to meet site-specific WDRs or meet the City of Milpitas's sewer discharge requirements, the construction contractor would be required to transport the dewatering effluent off-site for treatment and disposal at a permitted facility. Compliance with the existing regulations described above regarding the discharge of groundwater to sanitary sewer or stormwater systems would ensure that potential dewatering discharges would result in less-than-significant impacts to water quality.

During the operational phase of the proposed project, pollutants associated with truck and vehicle parking would be deposited on pavement surfaces which would contribute petroleum hydrocarbons, heavy metals, and sediment to the pollutant load in runoff being transported to receiving waters. Debris and particulates that gather on impervious surfaces such as paved areas and roofs of buildings can also add metals and sediment to the pollutant load in runoff. Long-term degradation of runoff water quality from the project site could adversely affect water quality in the receiving waters.

Stormwater discharges in the City of Milpitas are regulated under a regional NPDES permit (NPDES Permit No. CAS612008, State Water Board Order No. R2-2015-0049) for the discharge of stormwater from municipal separate storm sewer systems (Municipal Regional Permit).³⁹ The Municipal Regional Permit (MRP) is issued and overseen by the Regional Water Board. Under the MRP, the preparation of a Stormwater Control Plan (SCP) would be required for the proposed project. The SCP would present the design elements and implementation measures that would be used to meet MRP requirements.

Provision C.3 of the MRP requires implementation of low impact development (LID) source control, site design, and stormwater treatment for regulated projects. Projects that create or replace over 10,000 square feet of impervious surface area are regulated projects. LID employs principles such as preserving and recreating natural landscape features and minimizing impervious surfaces to create functional and appealing site drainage that treats stormwater as a resource, rather than a waste product. Practices used to adhere to these LID principles include measures such as rain barrels and cisterns, green roofs, permeable pavement, preserving undeveloped open space, and biotreatment through rain gardens, bioretention units, bioswales, and planter/tree boxes.⁴⁰

The City of Milpitas is a part of the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP), which assists cities and towns across the County with complying with the MRP by providing guidance and staff training and by implementing public outreach and water-quality monitoring. In accordance with Required Action 4.d-A-11 of

³⁹ California Regional Water Quality Control Board, San Francisco Bay Region, 2015. *San Francisco Bay Region, Municipal Regional Stormwater NPDES Permit, Order No. R2-2015-0049, NPDES Permit No. CAS612008, November 19.*

⁴⁰ California Regional Water Quality Control Board, San Francisco Bay Region, 2015. *Op. cit.*

the City of Milpitas General Plan⁴¹ and the SCVURPPP Stormwater C.3. Handbook⁴², the proposed project would be required to submit a Stormwater Control Operation and Maintenance Plan (O&M Plan), and all stormwater management facilities must be inspected and maintained according to the SCVURPPP Stormwater C.3. Handbook and the approved O&M Plan. The O&M Plan must describe how the maintenance costs would be funded, and requires that access be provided for the City, the Santa Clara County Vector Control District, and the Regional Water Board for inspection of the stormwater management facilities.

The proposed project would involve the replacement of over 10,000 square feet of impervious surface and would include alteration of over 50 percent of the existing impervious surface at the project site, and therefore stormwater treatment systems must be designed and sized to treat stormwater runoff from the entire project site, as required by Provision C.3 of the MRP. Provision C.3 of the MRP indicates that unless stormwater is first treated by a method other than infiltration, infiltration devices are not approved as treatment measures for runoff from areas of land uses that pose a high threat to water quality, including project-proposed truck fleet parking areas. Provision C.3 of the MRP also includes source control requirements to minimize stormwater pollutants of concern in runoff, including: storm drain system stenciling or signage; properly designed covers, drains, storage precautions for loading docks; and potentially plumbing of certain discharges to the sanitary sewer including dumpster drips from covered trash and compactor enclosures, subject to the local sanitary sewer agency's regulations and standards.⁴³

An SCP prepared for the proposed project indicates that the project would include the use of bio-retention treatment areas to manage and treat stormwater runoff from the project site. The SCP currently does not indicate that pre-treatment of runoff would occur prior to infiltration of stormwater runoff from areas of truck parking.⁴⁴ The City of Milpitas is responsible for ensuring that the proposed project would comply with the requirements of Provision C.3 of the MRP, therefore the City would require that the SCP be modified, as necessary, to include the required stormwater control and treatment measures, including pre-treatment of stormwater runoff prior to treatment through infiltration devices and source control measures that comply with Provision C.3 of the MRP.

Compliance with existing regulations, as described above, would ensure that potential construction and operational impacts to water quality would be less than significant.

⁴¹ City of Milpitas, 2015. *General Plan, Chapter 4 – Open Space and Conservation Element*, Adopted December 1994, Last Amended April 2015.

⁴² Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP), 2016. *Stormwater C.3 Handbook, Stormwater Quality Requirements for Development Applications*, 7th Edition, May 17.

⁴³ California Regional Water Quality Control Board, San Francisco Bay Region, 2015. *Op. cit.*

⁴⁴ Kier & Wright, 2019. *Storm Water Quality Control Plan of 1000 Gibraltar Drive*, June 12.

- b) **Less-Than-Significant Impact.** The San Francisco Bay Basin Water Quality Control Plan (Basin Plan)⁴⁵ establishes beneficial water uses for waterways, water bodies, and groundwater basins within the region and is a master policy document for managing water quality in the region. A groundwater basin is defined as a hydrogeologic unit containing one large aquifer or several connected and interrelated aquifers. An aquifer can be defined as a saturated geologic unit that contains sufficient permeable thickness to yield significant quantities of groundwater to wells and springs. Groundwater may also occur outside of aquifers and currently identified groundwater basins. The project site is located within the Santa Clara groundwater sub-basin of the Santa Clara Valley groundwater basin, as identified in the Basin Plan.

The proposed project would increase the amount of impervious surface area at the project site from approximately 20.6 acres under the existing conditions to approximately 21.8 acres (an increase of approximately 1.2 acres).⁴⁶ Although the proposed project would increase the amount of impervious surface area, the construction of LID stormwater management systems, including proposed bio-retention treatment areas,⁴⁷ would allow much of the stormwater runoff from the project site to infiltrate the ground surface, (and the project would result in a net reduction of runoff from the project site).⁴⁸ Under existing conditions, stormwater runoff from impervious areas of the project site is captured in storm drain systems with no opportunity to infiltrate the ground surface.

In addition, the Santa Clara Valley Water District's Groundwater Management Plan⁴⁹ indicates that recharge within the Santa Clara sub-basin generally occurs along the margins and southern portion of the sub-basin where coarse-grained sediments predominate and high permeability surface soils allow water to infiltrate the aquifers. The project site is located west of a recharge area of the Santa Clara sub-basin, and is within the confined area of the sub-basin where a low permeability aquitard restricts the vertical flow of groundwater and contaminants, as indicated in the Groundwater Management Plan.⁵⁰ The proposed project would therefore have a less-than-significant impact on groundwater recharge.

Although no use of groundwater is proposed as part of the project, some dewatering could be required during construction depending on the depths of excavations and depth to groundwater at the time. This dewatering would be temporary and limited to the areas of the excavation and would focus on the uppermost shallow groundwater zone. Therefore, potential impacts related to depletion of groundwater supplies would be less than significant.

⁴⁵ San Francisco Regional Water Quality Control Board (Regional Water Board), 2017. *San Francisco Bay Basin (Region 2) Water Quality Control Plan (Basin Plan). Incorporating all amendments as of May 4.*

⁴⁶ Overton Moore Properties, 2020. City of Milpitas – Stormwater Requirements C.3 Data Form, April 28.

⁴⁷ Kier & Wright, 2019. Op. cit.

⁴⁸ Kier & Wright, 2020. 1001 Gibraltar HydroCAD Report, May 1.

⁴⁹ Santa Clara Valley Water District, 2016. *Groundwater Management Plan, Santa Clara and Llagas Subbasins, November.*

⁵⁰ *Ibid.*

- c-i) **Less-Than-Significant Impact.** The project would not alter the course of a stream or a river. Compliance with the Construction General Permit during construction activities would ensure that the proposed project would not result in substantial erosion or siltation during construction. During operation of the proposed project, the ground surface of the project site would be covered by the proposed building, pavement surfaces, and landscaped areas, and there would not be exposed soil surfaces that could be susceptible to erosion. Additionally, compliance with Provision C.3 of the Municipal Regional Permit would ensure that the stormwater treatment systems at the project site would be designed and maintained to prevent siltation of stormwater control and drainage systems.

The proposed project would increase the amount of impervious surface area at the project site by approximately 1.2 acres. Increases in impervious surfaces can result in increased stormwater runoff which can cause erosion in creeks and unlined drainage channels due to hydromodification.⁵¹ Provision C.3.g of the MRP pertains to hydromodification management, and requires that stormwater discharges shall not cause an increase in the erosion potential of the receiving stream over the existing condition. Increases in runoff flow and volume must be managed so that the post-project runoff does not exceed estimated pre-project rates and durations, where such increased flow and/or volume is likely to cause increased potential for erosion of creek beds and banks, silt pollutant generation, or other adverse impacts on beneficial uses due to increased erosive force. According to the hydromodification applicability map presented in the MRP for areas under SCVURPPP jurisdiction, the project site is located within an area that is exempt from hydromodification management requirements because the stormwater catchment area is already at least 65 percent impervious.⁵² Therefore, potential increases in stormwater runoff from the project site would not be expected to result in substantial erosion or sedimentation in receiving waters due to hydromodification. Additionally, the construction of LID stormwater management systems, including proposed bio-retention treatment areas, would result in a decrease in stormwater runoff from the project site (for the 10-year peak flow, which is the standard for hydromodification management required in the MRP) compared to existing conditions.⁵³ Therefore, the project would have a less-than-significant impact related to substantial erosion or siltation on- or off-site associated with changing the drainage pattern of the project site.

- c-ii) **Less-Than-Significant Impact.** As discussed under criteria b) and c-i) above, the proposed project would increase the amount of impervious surface area at the project site; however, the project's stormwater control and treatment systems must be designed to manage and treat stormwater runoff from the entire project site in accordance with the requirements of Provision C.3 of the MRP, and management of stormwater runoff using the proposed bio-retention treatment areas would result in a decrease in stormwater runoff from the project site compared to existing conditions; therefore, the project would have a

⁵¹ Hydromodification is defined as the modification of a stream's hydrograph, caused in general by increases in flows and durations that result when land is developed (e.g., made more impervious). The effects of hydromodification include, but are not limited to, increased bed and bank erosion, loss of habitat, increased sediment transport and deposition, and increased flooding.

⁵² Regional Water Board, 2015. Op. cit.

⁵³ Kier & Wright, 2020. Op. cit.

less-than-significant impact related to flooding on- or off-site as a result of increasing impervious surface area.

- c-iii) **Less-Than-Significant Impact.** As discussed under criteria c-i) and c-ii) above, although the proposed project would increase the area of impervious surfaces, the management of stormwater runoff using bio-retention treatment areas would result in a decrease in stormwater runoff from the project site compared to existing conditions. Therefore, the project would have a less-than-significant impact related to exceeding the capacity of stormwater drainage systems.

Compliance with existing stormwater regulations including the Construction General Permit and MRP, as described under criterion a) above, would ensure that the project would have a less-than-significant impact related to contributing additional sources of polluted runoff.

- c-iv) **Less-Than-Significant Impact.** The project site is not located within a 100-year flood hazard zone as mapped by Federal Emergency Management Agency (FEMA). The project site is located in a 500-year flood hazard zone as mapped by FEMA,⁵⁴ and therefore the chance of flooding at the project site in any given year is 0.2 percent. Due to the low risk of flooding at the project site, the project would have a less-than-significant impact related to impeding or redirecting flood flows.

- d) **Less-Than-Significant Impact.** As discussed under criteria c-iv) above, the project site is located within a 500-year flood hazard zone as mapped by FEMA,⁵⁵ therefore the chance of storm related flooding at the project site in any given year is 0.2 percent. Due to the low risk of storm related flooding at the project site, the project would have a less-than-significant impact related to the potential release of pollutants due to storm related flooding.

The project site is located approximately 5 miles inland from a mapped tsunami inundation area along Coyote Creek Slough.⁵⁶ Therefore, flooding impacts associated with tsunamis would not occur.

A seiche is the oscillation of a body of water. Seiches occur most frequently in enclosed or semi-enclosed basins such as lakes, bays, or harbors and may be triggered by strong winds, changes in atmospheric pressure, earthquakes, tsunami, or tides. Triggering forces that set off a seiche are most effective if they operate at specific frequencies relative to the size of an enclosed basin. Due to the basin geometry and dimensions of the San Francisco Bay, seiches pose a negligible hazard to the San Francisco Bay Area.⁵⁷ The

⁵⁴ Federal Emergency Management Agency (FEMA), 2014. *Flood Insurance Rate Map, Map Number 06085C0067J*, Revised February 19.

⁵⁵ FEMA, 2014. *Op. cit.*

⁵⁶ California Emergency Management Agency, 2009. *Tsunami Inundation Map for Emergency Planning, Milpitas Quadrangle, July 31.*

⁵⁷ Borrero, J., Dengler, L., Uslu, B., Synolakis, C., 2006. *Numerical Modeling of Tsunami Effects at Marine Oil Terminals in San Francisco Bay, June 8. Report prepared for: Marine Facilities Division of the California State Lands Commission.*

project site is not located within a dam failure inundation area,⁵⁸ therefore potential seiches within regional reservoirs would not pose a risk of inundation for the project site. There are no other water bodies located near or upgradient to the project site that could pose a risk of inundation for the project site as a result seiches.

- e) **Less-Than-Significant Impact.** As discussed under criteria a) above, the Basin Plan⁵⁹ establishes beneficial water uses for waterways, water bodies, and groundwater basins within the region and is a master policy document for managing water quality in the region.

As discussed under criterion a) above, stormwater and groundwater quality during construction and operation of the project would be controlled through required compliance with the existing stormwater control regulations. Therefore, the project would not conflict with or obstruct implementation of a water quality control plan.

The 2014 Sustainable Groundwater Management Act (SGMA) requires local public agencies and Groundwater Sustainability Agencies in high- and medium-priority basins to develop and implement Groundwater Sustainability Plans (GSPs) or Alternatives to GSPs.⁶⁰ GSPs are detailed road maps for how groundwater basins will reach long term sustainability. Existing Groundwater Management Plans will be in effect until GSPs are adopted in medium and high priority basins. The project site is located within the Santa Clara groundwater sub-basin, which has been identified as a medium priority basin, and the Santa Clara Valley Water District has established a Groundwater Management Plan for the sub-basin.⁶¹ As discussed under criteria b) above, the construction of LID stormwater management systems, including proposed bio-retention treatment areas, would allow much of the stormwater runoff from the project site to infiltrate the ground surface and recharge groundwater, and the project site is located outside of the recharge area of the Santa Clara sub-basin; therefore, increasing impervious surface area at the project site would have less-than-significant impacts on groundwater recharge. As discussed under criteria a) above, compliance with provision C.3 of the MRP would ensure that stormwater runoff is appropriately treated prior to infiltration, which would protect groundwater quality. Therefore, the proposed project would not conflict with or obstruct implementation of the Groundwater Management Plan for the Santa Clara sub-basin.

⁵⁸ City of Milpitas, 2015. *General Plan, Chapter 5 – Seismic and Safety Element. Adopted December 1994, Last Amended April 2015.*

⁵⁹ Regional Water Board, 2017. *Op. cit.*

⁶⁰ California Department of Water Resources. 2020. *Groundwater Sustainability Plans.* Accessed March 14. <https://water.ca.gov/Programs/Groundwater-Management/SGMA-Groundwater-Management/Groundwater-Sustainability-Plans>.

⁶¹ Santa Clara Valley Water District, 2016. *Op. cit.*

XI. LAND USE AND PLANNING — Would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The physical division of an established community typically refers to the construction of a physical feature (such as an interstate highway or railroad tracks) or removal of a means of access (such as a local road or bridge) that would impair mobility within an existing community, or between a community and outlying area. For instance, the construction of an interstate highway through an existing community may constrain travel from one side of the community to another; similarly, such construction may also impair travel to areas outside the community.

General Plan Land Use Designation and Zoning

The project and surrounding uses are located within the City's Industrial Zone M2, under the General Plan land use designation of Manufacturing (MFG). The project is bounded by Milpitas Boulevard to the east, Gibraltar Drive on the south and west and the north by a multi-tenant office building. The project does not require a change to land use or zoning designation, nor does it require a Conditional Use Permit. There is no height limit in the Milpitas Municipal Code for structures in any of the Industrial zones, but the Code requires that "any structure that exceeds three (3) stories or thirty-five (35) feet must make the following finding: That any such excess height will not be detrimental to the light, air or privacy of any other structure or use currently existing or anticipated."⁶² The maximum floor area ratio for the M2 zone is .40.

The Land Use Element of the General Plan includes four "Guiding Principles" and 13 "Implementing Policies". Of the Implementing Policies within the Land Use section, only the four categories shown below plus one policy from the Public Facilities and Utilities section appear to possibly have been adopted for the purpose of avoiding or mitigating environmental effects:

- Development Intensity
- Land Use Compatibility
- Community Identity

⁶² Milpitas Municipal Code. Section 7 - Industrial Zones and Standards. Table XI-10-7.03-1. Accessed April 15, 2020. https://library.municode.com/ca/milpitas/codes/code_of_ordinances?nodeId=TITXIZOPLAN_CH10ZO_S7INZOST_XI-10.7.03INZOGEST

- Residential Development

Land Use – Guiding Principles

2.a-G-1 *Maintain a land use program that balances Milpitas' regional and local roles by providing for a highly amenable community environment and a thriving regional industrial center.*

2.a-G-2 *Maintain a relatively compact urban form. Emphasize mixed-use development to the extent feasible, to achieve service efficiencies from compact development patterns and to maximize job development and commercial opportunities near residential development.*

2.a-G-3 *Provide for a variety of housing types and densities that meet the needs of individuals and families.*

2.a-G-4 *The Town Center will be the “heart” of Milpitas’ civic, cultural, business, and professional life.*

2.a-G-5 *A park-like setting will be created by a series of local parks, school sites, trails, and a greenway system laced throughout all living areas.*

2.a-G-6 *Implement the Midtown Specific Plan goals, policies and development standards and guidelines to create a mixed-use community that includes high- density, transit-oriented housing and a central community ‘gathering place’ while maintaining needed industrial, service and commercial uses.*

2.a-G-7 *When considering development proposals, seek “community benefit”, such as upgrading infrastructure facilities, constructing new infrastructure facilities, and funding.*

Land Use – Development Intensity

2.a-I-1 *New developments should not exceed the building intensity limits established in the General Plan.*

2.a-I-2 *Land use conversions from employment/sales tax generation properties to residential shall only be considered once there is 80% build-out in the Midtown and Transit Area Specific Plans.*

Land Use Compatibility

2.a-I-11 *Encourage supportive and compatible commercial and office uses in industrial areas designated for those uses. In areas reserved for industrial uses, only limited ancillary and incidental commercial uses, such as small eating establishments, may be permitted when such are of a scale and design providing support only to the needs of businesses and their employees in the immediate industrial area.*

2.a-I-12 *Consider conversion from one employment land use to another, where the conversion would retain or expand employment capacity and revenue generation, particular for intensification on-site if the proposed conversion would result in a net increase in revenue generation.*

2.a-I-13 *When considering land use conversions from commercial or industrial lands to*

residential, the City should contemplate substantial economic benefit through negotiable development agreements with contributions towards the Economic Development Corporation to spur economic development.

***2.a-I-14** When new uses are proposed in proximity to existing industrial uses, incorporate conditions upon the new use to minimize its negative impacts on existing nearby land uses and to promote the health and safety of individuals at the new development site. Prohibit social organization uses within industrial areas. Consider these uses in other areas in the City.*

Land Use – Residential Development

***2.d-I-3** When reviewing major land use or policy changes, consider the availability of police and fire protection, parks and recreation and library services to the affected area as well as the potential impacts of the project on existing service levels.*

Discussion of Impacts

- a) **No Impact.** The proposed project is located within an urban area in an existing industrial development site. The proposed project site is bounded by south Milpitas Boulevard to the east, Gibraltar Drive on the south and west, and the north by a multi-tenant office building. The project would consist of construction of a new creative industrial building in an area zoned M2 for heavy industrial use. Therefore, the proposed project would not physically divide an established community and no impact would occur.
- b) **Less-Than-Significant Impact.** A proposed project would have a significant impact if it were to conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect. The proposed project is subject to several local policies, plans, and regulations, as described above. The City of Milpitas General Plan Land Use Map designates the project site as Manufacturing (MFG) and the City's Zoning Map identifies the project site as M2. As the proposed project does not substantially conflict with the intent of the City's General Plan or zoning regulations, the proposed project would not conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect and this impact would be less than significant.

XII. MINERAL RESOURCES — (USGS MRDS Map) Would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The City lies in the northeastern corner of the Santa Clara Valley. The Santa Clara Valley was formed when sediments derived from the Santa Cruz Mountains and the Mount Hamilton-Diablo Range were exposed by continued tectonic uplift and regression of the inland sea that had previously inundated this area. As a result of this process, the topography of the City is relatively flat and there are no significant mineral resources in the low-lying areas. All known mineral resources (aggregate materials) are located in the foothills east of Highway 680.⁶³

Discussion of Impacts

- a, b) **No Impact.** The project site is not in or adjacent to any important mineral resources. The proposed project is within a developed industrial area and does not contain any known or designated mineral resources. The City of Milpitas General Plan identifies four areas designated by the State Geologist as containing Regionally Significant Construction Aggregate Resources.⁶⁴ However, each of these mineral resource areas are located in the foothills outside City limits. As such, development of the proposed project would not result in the loss of availability of a known mineral resource of value to the region or residents of the State, and there would be no impact related to the availability of mineral resources. Furthermore, the development of the proposed project would not preclude future excavation of oil or minerals should such extraction become viable.

⁶³ Milpitas, City of, 2015.General Plan Open Space & Environmental Conservation Element. Figure 4-5. Accessed April 2020. http://www.ci.milpitas.ca.gov/pdfs/plan_plan_general_chapter4.pdf

⁶⁴ Milpitas, City of, 2015.General Plan Open Space & Environmental Conservation Element. Accessed April 2020. http://www.ci.milpitas.ca.gov/pdfs/plan_plan_general_chapter4.pdf

XIII. NOISE — Would the project result in:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
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 applicable standards of other agencies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Generation of excessive groundborne vibration or groundborne noise levels?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The most widespread and continual source of noise in Milpitas is transportation and transportation-related facilities. Freeways, local arterials, railroads, and light rail transit are all major contributors to noise in Milpitas.

Discussion of Impacts

- a, b) **Potentially Significant Impact.** Implementation of the proposed project, including the demolition, construction, and operational phases, could result in a 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 applicable standards of other agencies, and also generate groundborne vibration or noise levels. The analysis of short-term and operational noise and vibration impacts will be presented in the EIR. No further analysis will be provided in this Initial Study.
- c) **No Impact.** The project site is not located within an airport land use plan, nor is it located within two miles of a public airport. The closest airport to the project site is the Norman Y. Mineta San Jose International Airport, located approximately 4.5 miles southwest of the project site. The project site is not in the vicinity of a private airstrip. The closest private airport to the project site is the Regional Medical Center heliport (88CA), located approximately 4.4 miles southeast of the project site. The project site is not within the 65 dBA CNEL noise contours of this or any other airport.⁶⁵ Therefore, noise from nearby air strips or airports would not expose people residing or working in the project site to excessive noise levels, no impact would occur.

⁶⁵ Santa Clara County Airport Land Use Commission, 2016. *Comprehensive Land Use Plan for Norman Y Mineta San Jose International Airport*. November 16, 2016.

XIV. POPULATION AND HOUSING — Would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

According to the 2018 American Community Survey (dated September 26, 2019), the population for the City of Milpitas is 80,424, with an average household size of 3.29 for owner-occupied units, and 3.44 for renter-occupied units.⁶⁶ The population in the 2010 US Census was 66,790 and the average household size was 3.54 persons.⁶⁷ The General Plan incorporates data from the Association of Bay Area Governments (ABAG) which projects the population for Milpitas to be 98,100 in 2030 and 106,000 in 2035.⁶⁸ It is estimated that in 2020 the City had approximately 52,650 jobs and an active labor force of approximately 39,650 people.

The jobs/housing balance is the relationship between the number of housing units required as a result of local jobs and the number of residential units available in the City. This relationship is quantified by the jobs/employed resident ratio. When the ratio reaches 1.0, a balance is struck between the supply of local housing and the supply of local jobs. The ABAG 2009 Projections estimated 1.54 workers per household in Milpitas. That number was projected to drop to 1.32 by 2020, and 1.08 by 2035. These projections depict that Milpitas has a higher number of jobs than employed residents and is projected to continue to have a higher number of jobs than employed residents with full build-out under the current General Plan.⁶⁹

Discussion of Impacts

- a) **Less-Than-Significant Impact.** The project would not induce substantial population growth in an area, either directly or indirectly. Upon completion, the project's proposed uses are to include advanced manufacturing, e-commerce, light assembly, warehouse/distribution, among other uses permitted by code. The project site has been

⁶⁶ 2018 American Community Survey (1-year estimates).

http://www.dof.ca.gov/Reports/Demographic_Reports/American_Community_Survey/#ACS2018x1. Accessed April 17, 2020.

⁶⁷ American Community Survey (ACS)

http://www.dof.ca.gov/Reports/Demographic_Reports/American_Community_Survey/#ACS2016x1. Accessed April 17, 2020.

⁶⁸ Milpitas General Plan. Chapter 2 Land Use. Section 2.1 Population and Growth. Table 2-1.

https://www.ci.milpitas.ca.gov/pdfs/plan_plan_general_chapter2.pdf. Accessed April 17, 2020

⁶⁹ Milpitas General Plan. Chapter 2 Land Use. Section 2.3 Jobs/Housing Relationship. Table 2-5.

used for industrial use and would continue to do so. Redevelopment of the project site as proposed would result in construction of a new creative industrial building. This change in land use would not substantially alter the jobs per employed resident ratio. Therefore, impacts would be less than significant.

- b) **No Impact.** The project site and surrounding uses are located within the City's Industrial Zone M2, under the General Plan land use designation of Manufacturing (MFG). The project would not displace existing housing, necessitating the construction of replacement housing elsewhere, nor would it displace substantial numbers of people, necessitating the construction of replacement housing elsewhere. The project site has not been used for residential purposes in the past and the lot is vacant; therefore, implementation of the project would not displace existing housing or people. Implementation of the project would have no impact related to displacement of housing or people.

XV. PUBLIC SERVICES — Would the project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant	No Impact
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:				
Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Fire Protection

Fire protection services are provided by the City of Milpitas Fire Department (MFD). The MFD has four fire stations and an administration facility. The closest fire station to the project would be Station No. 1, located at 777 South Main Street, approximately 0.78 miles west of the project site.

Police Services

Police services are provided by the City of Milpitas Police Department (MPD). Services are provided from one central station located at 1275 North Milpitas Boulevard, which is approximately 2.5 miles northwest of the project site.

Schools

The project site is located within the Milpitas Unified School District (MUSD), spanning an area of roughly 14 square miles, and consists of ten elementary schools, two middle schools, and two high schools. The District serves a student population of approximately 10,000 and employs over 500 individuals on a full-time basis to complete its mission as a PreK-12 grade school system.⁷⁰

Libraries

The Santa Clara County Library System consists of eight libraries and one bookmobile. The Santa Clara County libraries are governed by the Joint Powers Authority, which is comprised of one City Council member from each of the eight-member City jurisdictions and two members of the Santa

⁷⁰ Milpitas Unified School District, 2018. Website: www.musd.org/about.html (accessed April 14, 2020)

Clara County Board of Supervisors. The closest library to the project is located approximately 1.3 miles northwest of the project site at 160 North Main Street.

Parks

The City of Milpitas owns more than 200 acres of developed city parkland and recreation facilities. In addition, Ed Levin County Park is partially within the City boundary and provides 1,544 acres of regional parkland. The closest park to the project is Creighton Park, located approximately 0.5 miles east of the project site.⁷¹

Discussion of Impacts

- a) ***Less-Than-Significant Impact.*** Given that the proposed project would not permanently increase the existing residential population in the City, the project would not result in a long-term increase in the demand for public services or require construction of new governmental facilities. The purpose of the project is to construct a new creative industrial building in an area zoned M2 for industrial use. Development of the project would increase daytime and nighttime population on the project site and incrementally increase demand for emergency police services to the project site. However, the Police Department would continue to provide services to the project site and construction of new or expanded police facilities would not be required. The City of Milpitas Fire Department would continue providing services to the project site and construction of a new or expanded fire station would not be required. The proposed project would not result in a significant impact on the physical environment due to the incremental increase in demand for fire protection and life safety services, and the potential increase in demand for services is not expected to adversely affect existing responses times to the site or within the City. As a non-residential development, the project would not create additional demand for school services, nor would the project be expected to create incremental demand on parks and public facilities such as libraries in the City. Therefore, construction and operation of the proposed project would have a less-than-significant impact on police and fire protection and impacts related to schools, parks or other public facilities would also be less than significant.

⁷¹ *City of Milpitas General Plan, Chapter 4, Open Space and Environmental Conservation Element. 1994.*

XVI. RECREATION — Would the project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant	No Impact
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The City of Milpitas owns more than 200 acres of developed city parkland and recreation facilities. In addition, Ed Levin County Park is partially within the City boundary and provides 1,544 acres of regional parkland. No parks or recreational facilities are located in the project site. The closest park to the project is Creighton Park, located approximately 0.5 miles east of the project site.⁷² Creighton Park is one of 17 Neighborhood parks in the City. According to the General Plan, Neighborhood parks serve the immediate neighborhood by providing open space for informal play as well as community-use facilities, which often draw people from larger communities to the park. Aside from the many public parks and recreation facilities, many of the newly developed residential communities in the City tend to contain private recreation facilities and amenities such as pools, community rooms, and playgrounds.⁷³

Discussion of Impacts

- a, b) **No Impact.** The proposed project would include the construction of a new creative industrial building, consisting of uses permitted by the City's code. As such, the proposed project would not generate population growth that would result in an increase in the use existing neighborhood and regional parks or other recreational facilities. The proposed project would not require the expansion of existing recreational facilities or construction of additional recreational facilities elsewhere. Therefore, no impacts to parks or recreational facilities would occur as a result of the proposed project.

⁷² City of Milpitas General Plan, Chapter 4, Open Space and Environmental Conservation Element. 1994.

⁷³ City of Milpitas General Plan, Chapter 4, Open Space and Environmental Conservation Element. 1994.

XVII. TRANSPORTATION — Would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
a) Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Result in inadequate emergency access?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Discussion of Impacts

The proposed 491,040-square foot building will replace several existing buildings on-site totaling approximately 394,000 square feet, which have been vacant since 2012. For the purposes of this analysis, no credit would be taken for the trip generation of the prior uses.

The circulation for the proposed project has been designed to ensure the safe and efficient movement of cars and trucks throughout the project site. Five driveways ranging in widths of 30 to 50 feet would be provided along South Milpitas Boulevard and Gibraltar Drive. The truck dock yards are proposed to be wider than typical at 125 feet, allowing for interior maneuverability within the truck courts.

- a-d) **Potentially Significant Impact.** Based on an increase in daily traffic trips and change in traffic patterns associated with the project site, the proposed project could result in a potentially significant transportation impact. The analysis of transportation impacts will be presented in the EIR, including: the project's potential impacts on local roadways and intersections (consistent with the methodologies and thresholds of significance maintained by the City of Milpitas and the Santa Clara Valley Transportation Authority; multimodal site access; and potential vehicle-miles-traveled impacts. No further analysis will be provided in this Initial Study.

XVIII. TRIBAL CULTURAL RESOURCES — Would the project?	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of 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)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

This section examines the potential impacts of the proposed project on tribal cultural resources. Much of the background context and methods used for the analysis of potential impacts from the proposed project on tribal cultural resources and cultural resources are the same.

For the purposes of this analysis, the term *tribal cultural resource* is defined as follows:

Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are listed, or determined to be eligible for listing, in the National Register of Historic Places (National Register), California Register of Historical Resources (California Register), or a local register of historical resources.

The term indigenous, rather than prehistoric, is used in this section as a synonym for “Native American–related.”

Records Search

On May 11, 2020, at the request of WRA, staff at the Northwest Information Center (NWIC) at Sonoma State University, Rohnert Park, conducted a cultural resources records search of the project site and vicinity at the NWIC. The NWIC maintains the official CHRIS (California Historical Resources Information System) records of previous cultural resources studies and recorded

cultural resources for the project area and vicinity. The study area for the records search consisted of the project area and areas within 0.25 mile.

The NWIC has record of five previously recorded cultural resources within 0.25 mile of the project site, none of which are in the project site. Three of these resources are pre-contact archaeological sites (C-167, P-43-000588, P-43-003005). Human remains were reported at two of the sites (P-43-000588 and P-43-003005). C-167 was recorded approximately 0.25 mile south of the project site, P-43-000588 approximately 900 feet southeast of the project site, and P-43-003005 approximately 750 feet southwest of the project site. Shell midden and fire-affected rock were reported at all three archaeological sites, flaked-stone artifacts at P-43-000588 and P-43-003005, and also funerary objects (charmstones, ceremonial projectile point, slate pendants, abalone shell) at P-43-003005. Both P-43-000588 and P-43-003005 include a buried component. The architectural resources consist of the Old Ford Motor Assembly Plant (P-43-001816), approximately 1,200 feet west of the project site, and the Western Pacific Railroad (P-43-002654), approximately 550 feet west of the project site.

The NWIC has record of 34 previous cultural resources reports from studies conducted within 0.25 mile of the project site, two of which included some portion of the project site. Both of the previous studies covering portions of the project site included pedestrian surveys, and one of these covered the entire project site.

Summary of Tribal Cultural Resources Identification Efforts

Through background research and a NWIC records search no tribal cultural resources that could be potentially impacted by the proposed project were identified.

California Environmental Quality Act

CEQA (codified at PRC § 21000 *et seq.*) is the principal statute governing environmental review of projects occurring in the State. CEQA requires lead agencies to determine if a project would have a significant effect on historical resources, unique archaeological resources, or tribal cultural resources.

The State implements provisions in CEQA through its statewide comprehensive cultural resources surveys and preservation programs. Typically, a resource must be more than 50 years old to be considered as a potential historical resource. The State of California Office of Historic Preservation advises recordation of any resource 45 years or older, since there is commonly a five-year lag between resource identification and the date that planning decisions are made.

Assembly Bill 52 and Tribal Cultural Resources

Impacts to tribal cultural resources also are considered under CEQA (PRC § 21084.2, also see Assembly Bill [AB] 52). Under CEQA, a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment (PRC § 21084.2). PRC § 21074(a) defines a tribal cultural resource as any of the following:

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either of the following:
 - included or determined to be eligible for inclusion in the California Register; or
 - included in a local register of historical resources, as defined in PRC § 5020.1(k).

- 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 [PRC] § 5024.1. In applying these criteria, the lead agency would consider the significance of the resource to a California Native American tribe.

A cultural landscape that meets the criteria of PRC § 21074(a) is also a tribal cultural resource if the landscape is geographically defined in terms of the size and scope. A historical resource as described in PRC § 21084.1, a unique archaeological resource as defined in PRC § 21083.2, or a non-unique archaeological resource as defined in PRC § 21083.2 may also be a tribal cultural resource under CEQA if it meets the criteria identified in PRC § 21074(a).

AB 52 requires CEQA lead agencies to analyze the impacts of projects on tribal cultural resources separately from impacts on archaeological resources (PRC § 21074 and 21083.09) because archaeological resources have cultural values beyond their ability to yield data important to prehistory or history. AB 52 also defines tribal cultural resources in a new section of the PRC (§ 21074; see above). Lead agencies must engage in additional consultation with California Native American Tribes (PRC § 21080.3.1, 21080.3.2, and 21082.3).

To determine potential impacts on tribal cultural resources, a project's lead CEQA agency is required to conduct formal consultation with relevant California Native American Tribes who have requested that the lead agency inform them of proposed projects in the geographic area that is traditionally and culturally affiliated with the tribe. When such consultation is conducted, the notification of the project shall be in writing and sent within 14 days of determining that an application for a project is complete or a decision by a public agency to undertake a project, and Native American Tribe recipients shall have 30 days from receipt of the formal notification to request consultation (PRC § 21080.3.1 and 21080.3.2).

CEQA requires that such consultation include project alternatives, mitigation measures, or significant effects, if requested by a California Native American Tribe, and that consultation will be considered concluded when either the parties agree to measures to mitigate or avoid a significant effect, or the agency concludes that mutual agreement cannot be reached concerning appropriate measures to be taken that would mitigate or avoid a significant effect. Any such measures shall be recommended for inclusion in the environmental document and adopted mitigation monitoring program if determined to avoid or lessen a significant impact on a tribal cultural resource, and if it is determined that a project may have a significant impact on a tribal cultural resource the environmental document would be required to discuss whether the project has a significant impact on an identified tribal cultural resource and whether feasible alternatives or mitigation measures avoid or substantially lessen the impact on the identified tribal cultural resource (PRC § 21080.3.2).

The following examples of mitigation for potential impacts on tribal cultural resources are included in CEQA (PRC § 21084.3):

- Avoidance and preservation of the resources in place, including, but not limited to, planning and construction to avoid the resources and protect the cultural and natural context, or planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
- Treating the resource with culturally appropriate dignity taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - Protecting the cultural character and integrity of the resource.
 - Protecting the traditional use of the resource.
 - Protecting the confidentiality of the resource.

- Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
- Protecting the resource.

CEQA states that the preference will be for avoiding damaging effects to tribal cultural resources (PRC § 21084.3[a]).

Note, no California Native American Tribes previously requested notification regarding City projects for potential consultation under California Public Resources Code (PRC) § 21080.3 (i.e., AB 52). Therefore, no formal consultation pursuant to PRC § 21080.3 (see AB 52), was required for the proposed project.

California Register of Historical Resources

The California Register is “an authoritative listing and guide to be used by State and local agencies, private groups, and citizens in identifying the existing historical resources of the State and to indicate which resources deserve to be protected, to the extent prudent and feasible, from substantial adverse change” (PRC § 5024.1[a]). The criteria for eligibility for the California Register are based upon the criteria for listing on the National Register of Historic Places (National Register) (PRC § 5024.1[b]). Certain resources are determined by the statute to be automatically included in the California Register, including California properties formally determined eligible for, or listed in, the National Register.

To be eligible for the California Register, a cultural resource must be significant at the local, State, and/or federal level under one or more of the following four criteria:

1. Is associated with events that have made a significant contribution to the broad patterns of California’s history and cultural heritage;
2. Is associated with the lives of persons important in our past;
3. Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
4. Has yielded, or may be likely to yield, information important in prehistory or history.

A resource eligible for the California Register must be of sufficient age and retain enough of its historic character or appearance (integrity) to convey the reason for its significance. Additionally, the California Register consists of resources that are listed automatically and those that must be nominated through an application and public hearing process. The California Register automatically includes the following:

- California properties listed on the National Register and those formally Determined Eligible for the National Register;
- California Registered Historical Landmarks from No. 770 onward; and
- Those California Points of Historical Interest that have been evaluated by the OHP and have been recommended to the State Historical Commission for inclusion on the California Register.

Other resources that may be nominated to the California Register include:

- Historical resources with a significance rating of Category 3 through 5 (those properties identified as eligible for listing in the National Register, the California Register, and/or a local jurisdiction register);
- Individual historic resources;

- Historic resources contributing to historic districts; and
- Historic resources designated or listed as local landmarks, or designated under any local ordinance, such as an historic preservation overlay zone.

California Public Resources Code § 5097

PRC § 5097.99, as amended, states that no person shall obtain or possess any Native American artifacts or human remains that are taken from a Native American grave or cairn. Any person who knowingly or willfully obtains or possesses any Native American artifacts or human remains is guilty of a felony, which is punishable by imprisonment. Any person who removes, without authority of law, any such items with an intent to sell or dissect or with malice or wantonness is also guilty of a felony which is punishable by imprisonment.

California Native American Historic Resource Protection Act

The California Native American Historic Resources Protection Act of 2002 imposes civil penalties, including imprisonment and fines up to \$50,000 per violation, for persons who unlawfully and maliciously excavates upon, removes, destroys, injures, or defaces a Native American historic, cultural, or sacred site that is listed or may be listed in the California Register.

California Health and Safety Code § 7050.5

Section 7050.5 of the California Health and Safety Code (HSC) protects human remains by prohibiting the disinterring, disturbing, or removing of human remains from any location other than a dedicated cemetery. PRC § 5097.98 (and reiterated in PRC § 15064.59[e]) also identifies steps to follow in the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery.

Discussion of Impacts

The following analysis combines discussion of checklist questions a-i and a-ii, addressing potential impacts on tribal cultural resources, as defined in PRC § 21074.

a-i, a-ii) ***Less-Than-Significant Impact with Mitigation Incorporated.*** Background research, including a NWIC records search, conducted for the proposed project identified no tribal cultural resources, as defined in PRC § 21074, in the project site. Also, the above-mentioned work did not identify any tribal cultural resources (outside the project site) that might be impacted by the proposed project. Therefore, the proposed project is not anticipated to impact any tribal cultural resources.

Although the proposed project is not anticipated to impact any tribal cultural resources, there remains the possibility that previously unrecorded archaeological deposits, including human remains, are present in the project area. If such deposits are present and were found to qualify as tribal cultural resources, as defined in PRC § 21074, any impacts of the proposed project on the resource would be potentially significant. Such potentially significant impacts would be reduced to less-than-significant with implementation of Mitigation Measures CULT-1 and CULT-2.

XIX. UTILITIES AND SERVICE SYSTEMS — Would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Water Service

The City owns, operates, and maintains a potable water distribution system, which consists of approximately 245 miles of water main, 5 water tanks, 5 pump stations, 16 pressure regulating valves, an emergency supply well and emergency interties. The City's two potable water wholesalers are the San Francisco Public Utilities Commission (SFPUC) and the Santa Clara Valley Water District (SCVWD). Under normal operating conditions, the City does not blend or combine SFPUC and SCVWD waters. However, in emergency situations, the service areas can be interconnected to provide emergency water supply. The project site is within the SFPUC wholesale distribution area. The SFPUC supply is predominantly snowmelt from the Sierra Nevada, delivered through the Hetch Hetchy aqueducts, but also includes treated water produced by SFPUC from its local watersheds and facilities in Alameda County. Historically, the SFPUC

has met demand in its service areas during all year types from its watersheds. The City's water supply contract with SFPUC expires in 2034.⁷⁴

Recycled Water

The City operates and maintains a recycled water system owned by the City of San Jose South Bay Water Recycling (SBWR) program, which has developed a reclaimed water system to utilize recycled water from the San Jose/Santa Clara Water Pollution Control Plant (WPCP) for irrigation, industrial, and other non-potable purposes.⁷⁵

Sewer System and Wastewater Treatment

The Milpitas Sanitary Sewer Collection System is owned and maintained by the City of Milpitas. Wastewater from the City of Milpitas is treated at the San Jose/Santa Clara Water Pollution Control Plant (WPCP), located near Alviso. WPCP is one of the largest and most-advanced wastewater treatment facilities in California, treating an average of 110 million gallons of wastewater per day from over 1.4 million residents and 17,000 main business connections, encompassing the cities of San Jose, Santa Clara, Milpitas, Campbell, Cupertino, Los Gatos, Saratoga, and Monte Sereno.⁷⁶ The WPCP has the capacity to treat 167 mgd.⁷⁷

Originally constructed in 1956, WPCP's wastewater treatment process was upgraded to an advanced tertiary system in 1979. Most of the final treated water is discharged as fresh water through Artesian Slough into South San Francisco Bay. About 13% is recycled through South Bay Water Recycling (SBWR) pipelines for landscaping, agricultural irrigation, and industrial needs throughout the South Bay.⁷⁸

The City of Milpitas 2015 Urban Water Management Plan (UWMP) found that metered wastewater flows in 2015 totaled 6.1 mgd, far below the City's current capacity rights of 14.25 mgd. The City may or may not need to purchase additional capacity during the 20-year timeframe of the proposed Plan, depending on the pace of growth and whether full buildout as allowed under the General Plan occurs.

Storm Drain System

The City of Milpitas owns and maintains the municipal storm drainage system which serves the project site. Storm runoff in Milpitas is collected in a system of underground pipes and a network of street gutters. Local runoff flows into creeks and channels that run through the City, ultimately discharging to San Francisco Bay. Drainage in Milpitas generally is from the southeast to the northwest. Storm drain systems close to the Bay also tend to rely heavily upon pumping facilities to move water. The City of Milpitas Storm Drain Master Plan depicts that the project site falls in

⁷⁴ The City of Milpitas 2015 Urban Water Management Plan. A review of current and future water resources. <http://www.ci.milpitas.ca.gov/wp-content/uploads/2015/07/Adopted-2015-Milpitas-UWMP-Revised-6-27-16.pdf>. Accessed April 17, 2020.

⁷⁵ The City of Milpitas 2015 Urban Water Management Plan. A review of current and future water resources. <http://www.ci.milpitas.ca.gov/wp-content/uploads/2015/07/Adopted-2015-Milpitas-UWMP-Revised-6-27-16.pdf>. Accessed April 17, 2020.

⁷⁶ The City of Milpitas 2015 Urban Water Management Plan. A review of current and future water resources. <http://www.ci.milpitas.ca.gov/wp-content/uploads/2015/07/Adopted-2015-Milpitas-UWMP-Revised-6-27-16.pdf>. Accessed April 17, 2020.

⁷⁷ <http://www3.sanjoseca.gov/esd/wastewater/water-pollution-control-plant.asp>. Accessed April 17, 2020.

⁷⁸ The City of Milpitas 2015 Urban Water Management Plan. A review of current and future water resources. <http://www.ci.milpitas.ca.gov/wp-content/uploads/2015/07/Adopted-2015-Milpitas-UWMP-Revised-6-27-16.pdf>. Accessed April 17, 2020.

the Wrigley Creek (W1) storm drain collection system group. The Storm Drain Master identifies the area as heavily industrial, located between Berryessa Creek and Wrigley Creek, from Montague Expressway to State Highway 237. The local collection system is made up of storm drains and laterals, and Wrigley Creek itself, which joins Ford Creek north of Highway 237. Local storm water runoff is collected by Wrigley Creek, and discharged into Wrigley-Ford Creek and eventually to the Wrigley-Ford Pump Station and Berryessa Creek.⁷⁹

Solid Waste

Milpitas Sanitation, a subsidiary of Garden City Sanitation, provides solid waste and recycling collection services in the City of Milpitas. The City's solid waste is dumped at Green Waste Recovery, where recyclable material is diverted from the waste stream, and disposal waste is then transferred to Kirby Canyon landfill, located in San Jose. Kirby Canyon is a Class III landfill operated by Waste Management, with a remaining design capacity of 16.2 million cubic yards. Its estimated closure year is 2059.⁸⁰

Discussion of Impacts

- a) ***Less-Than-Significant Impact.*** The proposed project is consistent with the site's zoning would not substantially increase demand for water compared to the previous on-site uses and would therefore not exceed the capacity of existing water treatment facilities. The proposed project would not require the construction of new water treatment facilities, or the expansion of existing facilities, other than those already planned as part of the City's Water Master Plan. The proposed project would include connections to the existing electrical and gas infrastructure in the vicinity of the project site, and would not require any new infrastructure, aside from project-specific tie-ins and lines to serve the proposed project. Therefore, because the proposed project would connect to existing utility services within or adjacent to the project site, the relocation or reconstruction of new or expanded water, wastewater treatment or stormwater drainage, electric power, or telecommunications facilities would not be required, and this impact would be less than significant.
- b) ***Less-Than-Significant Impact.*** The City of Milpitas provides water to the project site. The project site is within the SFPUC wholesale distribution area. The SFPUC supply is predominantly snowmelt from the Sierra Nevada, delivered through the Hetch Hetchy aqueducts, but also includes treated water produced by SFPUC from its local watersheds and facilities in Alameda County. Historically, the SFPUC has met demand in its service areas during all year types from its watersheds. The proposed project is also consistent with the site's zoning. The City would have sufficient water supply to support the proposed project and implementation of the project would not require new or expanded entitlements for water supplies, and, therefore, the impacts related to water supply would be less than significant.
- c) ***Less-Than-Significant Impact.*** The City of Milpitas owns and operates its municipal wastewater collection system containing of 179 miles of gravity pipe and 5 miles of force

⁷⁹ City of Milpitas Storm Drain Master Plan. July 2013. http://www.ci.milpitas.ca.gov/pdfs/eng_mp_storm.pdf. Accessed April 17, 2020.

⁸⁰ Kirby Canyon Recycling and disposal Facility, Solid Waste Facility Permit, Facility 43-AN-0008. Permit issued October 27, 2017.

main. The system also includes two pump stations: the Venus Station which lifts wastewater from the low-lying Pines neighborhood and the Main Sewer Pump Station which pumps all City sewage through dual 2.5 mile force mains to the San Jose/Santa Clara Pollution Control Plant (WPCP) located in San Jose at 700 Los Esteros Road for treatment.⁸¹ The WPCP treats an average of 110 million gallons of wastewater per day (mgd), about 65 percent of its 167 mgd capacity, which includes service to the project site.⁸² The proposed project would generate domestic wastewater, treated by the WPCP. The project is consistent with the site's zoning and City has sufficient capacity to serve the proposed project. The City requires the applicant to complete sewer system modeling to demonstrate adequate conveyance capacity based on the current discharge allocation, and this would need to be completed prior to project approval. Therefore, wastewater generated from the proposed project would not cause the WPCP to violate any wastewater treatment requirements and this impact would be less than significant.

- d) **Less-Than-Significant Impact.** Solid waste and recycling pickup and disposal in the City of Milpitas is provided by Republic Services. The solid waste is disposed of at the Newby Island Landfill and recycling facility which is located approximately 3.2 miles northwest of the project site on Dixon Landing Road. The facility recycled materials, operates a construction and demolition material processing facility, and a landfill that accepts industrial wastes, grit, screenings, wastewater treatment sludge, contaminated soils, clean soils, and municipal solid waste.⁸³ The Newby Island Landfill has a capacity of 57.5 million cubic yards and a remaining capacity of 21.2 million cubic yards, and can accept 4,000 tons per day.⁸⁴ The Newby Island Landfill has adequate capacity to serve the proposed project. Solid waste generated during the demolition, construction, and operational phase of the project would be recycled to maximum extent feasible. As such, the project would be served by a landfill with sufficient capacity to accommodate the project's waste disposal needs, and impacts associated with the disposition of solid waste would be less than significant.
- e) **Less-Than-Significant Impact.** Solid waste generated during the demolition, construction, and operational phase of the project would be properly disposed of or recycled in a nearby landfill or approved disposal facility with capacity to receive the waste. Any materials used during demolition and construction would be properly disposed of in accordance with federal, state, and local regulations. Impacts related to solid waste facilities, statutes, and regulations would be less than significant.

⁸¹ City of Milpitas Sewer System Management Plan 2016 Update

⁸² San Jose-Santa Clara Regional Wastewater Facility. <https://www.sanjoseca.gov/your-government/environment/water-utilities/regional-wastewater-facility>. Accessed April 20, 2020.

⁸³ Republic Services, 2020. Newby Island Resource Recovery Park. <http://local.republicservices.com/site/newby-island>. Accessed April 21, 2020.

⁸⁴ CalRecycle, 2019. SWIS Facility Detail. Newby Island Sanitary Landfill (43-AN-0003). <https://www2.calrecycle.ca.gov/SWFacilities/Directory/43-AN-0003/Detail>. Accessed April 21, 2020.

XX. WILDFIRE — If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant	No Impact
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Require the installation or maintenance 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The project site is not located within any state responsibility areas (SRA) for fire service,⁸⁵ and is not within a very high fire hazard severity zone.⁸⁶ The project site is within an industrial area, with very little slope.

Discussion of Impacts

- a) **Less-Than-Significant Impact.** The project site is flat, outside the Wildland Urban Interface, and is not considered a High Severity Zone for wildfire. The City of Milpitas Fire Department (Fire Department) Office of Emergency Services coordinates the City's preparedness efforts to mitigate, plan for, respond to, and recover from natural and technological disasters. In addition, the County of Santa Clara Office of Emergency Services coordinates county-wide emergency response efforts including the preparation and implementation of the County of Santa Clara Emergency Operations Plan (EOP).⁸⁷

⁸⁵ Cal Fire 2007 Fire Hazard Severity Zones in SRA Santa Clara County (map). Available at: https://osfm.fire.ca.gov/media/6766/fhszs_map43.pdf. Accessed April 16, 2020.

⁸⁶ County of Santa Clara Department of Planning and Development. 2009 Santa Clara County Wildland Urban Interface Fire Area (map). Available at: https://www.sccgov.org/sites/dpd/DocsForms/Documents/WUIFA_Adopted_Map.pdf Accessed April 16, 2020.

⁸⁷ Santa Clara County Emergency Operations Plan. January 2017. Available at: <https://www.sccgov.org/sites/oes/partners/Documents/Santa-Clara-County-OES-Emergency-Operations-Plan-2017-01.pdf>. Accessed April 16, 2020

However, the EOP does not address specific responses, scenarios, hazards, or threats, within Milpitas. In addition, the EOP does not indicate the emergency evacuation routes within Santa Clara County. Therefore, the proposed project would not impair the implementation of, or physically interfere with, an adopted emergency response plan and would thus have a less-than-significant impact on implementation of an adopted emergency response plan or emergency evacuation plan.

- b) ***Less-Than-Significant Impact.*** The project site is flat and is bound by existing development on all sides. The project site is outside the Wildland Urban Interface and is not considered a High Severity Zone for wildfire. Therefore, the proposed project would not exacerbate wildfire risks and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire, and this impact would be less than significant.
- c) ***Less-Than-Significant Impact.*** The proposed project is not located within an SRA for fire service and is not within a very high fire hazard severity zone. Therefore, the proposed project would not require the installation or maintenance of associated infrastructure, and this impact would be less than significant.
- d) ***Less-Than-Significant Impact.*** The project site is flat and is not located within an SRA for fire service or a very high fire hazard severity zone. Therefore, the proposed project would not expose people or structures to significant risks as a result of post-fire slope instability or drainage and runoff changes.

XXI. MANDATORY FINDINGS OF SIGNIFICANCE	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
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?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Discussion

- a) ***Less-Than-Significant with Mitigation Incorporated.*** The incorporation of the mitigation measures included in Section IV (Biological Resources) would reduce potential impacts to a less-than-significant level. Section V (Cultural Resources) concludes that no archaeological resources have been identified in the project site. As such, no known archaeological resources that may qualify as historical resources, as defined in CEQA Guidelines § 15064.5, or unique archaeological resources, as defined in PRC § 21083.2(g), are present in the project area. No human remains have been identified in the project area through background research. Also, the land use designations for the project area do not include cemetery uses, and no known human remains exist within the project area. However, such cultural resources could potentially be uncovered during construction. Mitigation measures included in Section V would reduce potential impacts to a less-than-significant level.
- b) ***Potentially Significant Impact.*** Cumulatively considerable means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects (such as the nearby Milpitas Transit Area Specific Plan and the 1301 California Circle Project), and the effects of probable future projects. The proposed project could contribute to cumulative environmental impacts. This issue will be further analyzed in the EIR.

- c) ***Potentially Significant Impact.*** As noted in this Initial Study, implementation of the proposed project could cause adverse effects on human beings, either directly or indirectly. This issue will be further analyzed in the EIR.

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