

RESOLUTION NO. 2024-122

A RESOLUTION ADOPTING FINDINGS OF FACT AND ORDER DENYING PETITION FOR DISCRETIONARY ENVIRONMENTAL ASSESSMENT WORKSHEET FOR THE BLOOMINGTON KENNEDY HIGH SCHOOL STADIUM IMPROVEMENT PROJECT

WHEREAS, the City Council of the City of Bloomington is the official governing body of the City of Bloomington, Minnesota (“City”); and

WHEREAS, on September 6, 2023, Independent School District #271, Bloomington Public Schools (“Proposer”) applied for Final Site and Building Plan Approval (“FSBP Application”), per City Code, for construction of improvements to the existing athletic field (“Project”) at John F. Kennedy High School, 9701 Nicollet Avenue South, Bloomington, Minnesota; and

WHEREAS, the Bloomington Planning Commission has final decision-making authority on the FSBP Application, subject to appeal to the City Council; and

WHEREAS, the Planning Commission held public hearings on the FSBP Application on October 12 and November 2, 2023; and

WHEREAS, on November 30, 2023, the Planning Commission continued the FSBP Application indefinitely to allow Proposer to submit updated Project information; and

WHEREAS, Proposer submitted updated Project information, and the City scheduled and noticed a public hearing on the FSBP Application for May 9, 2024; and

WHEREAS, the Minnesota Environmental Quality Board (“EQB”) notified the City on May 7, 2024, that it received a Petition for Discretionary Environmental Assessment Worksheet with supporting documents (“EAW Petition”), as defined in and authorized by Minnesota Administrative Rules, Chapter 4410; and

WHEREAS, the EQB identified the City as the responsible government unit, or RGU, for the Project, with the responsibility for making a determination on the EAW Petition; and

WHEREAS, Minnesota Rule 4410.1100 provides the following regarding an RGU’s decision on a petition for EAW:

The RGU shall order the preparation of an EAW if the evidence presented by the petitioners, proposers, and other persons or otherwise known to the RGU demonstrates that, because of the nature or location of the proposed project, the project may have the potential for significant environmental effects. The RGU shall deny the petition if the evidence presented fails to demonstrate the project may have the potential for significant environmental effects. In considering the evidence, the RGU must take into account the

factors listed in part 4410.1700, subpart 7. The RGU shall maintain, either as a separate document or contained within the records of the RGU, a record, including specific findings of fact, of its decision on the need for an EAW.

WHEREAS, Bloomington City Code provides that City staff reviews a petition for discretionary EAW and makes a recommendation to the City Council, which has final review and decision-making authority; and

WHEREAS, City staff has reviewed the EAW Petition and considered the factors the RGU is required to analyze, as stated in Minnesota Rule 4410.1700, subpart 7, and recommends denial, based on a finding that the Project does not have the potential to cause significant environmental effects; and

WHEREAS, after consideration of the EAW Petition and supporting documents, the report of City staff, and comments of persons that submitted comments to the City, the City Council adopts the recommendation of City staff and finds that the Project does not have the potential for significant environmental effects; and

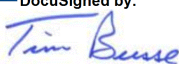
WHEREAS, the City's reasons for denial of the EAW Petition are expressed in its Findings of Fact and Order, attached to this Resolution as Exhibit A, hereby incorporated into this Resolution by reference.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON, that based on the foregoing recitals and Exhibit A that are hereby incorporated by reference, the City Council hereby denies the Petition for Environmental Assessment Worksheet for the Bloomington Kennedy High School Stadium Improvement Project, as submitted to the City by the Minnesota Environmental Quality Board on May 7, 2024.

BE IT FURTHER RESOLVED that the Mayor and Council Secretary are authorized to sign, and City staff is authorized to transmit, the attached Findings of Fact and Order as required by law.

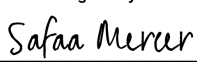
BE IT FINALLY RESOLVED that City staff and City public officials are authorized and directed to take all additional necessary actions consistent with the intent of this Resolution.

Passed and adopted this 3rd day of June, 2024.

DocuSigned by:

531490D391D44BF...

Mayor

ATTEST:

DocuSigned by:

03AEB276ACA1454...

Secretary to the Council

EXHIBIT A TO RESOLUTION NO. 2024-122

EAW PETITION FINDINGS OF FACT AND ORDER

KENNEDY HIGH SCHOOL STADIUM PROJECT

RESPONSIBLE GOVERNMENTAL UNIT – CITY OF BLOOMINGTON

1. On September 6, 2023, the City of Bloomington, Minnesota (“City”) received a complete development application from Independent School District #271, Bloomington Public Schools (“Proposer”), for Final Site and Building Plan (“FSBP”) approval, per Bloomington City Code (“City Code”) § 21.501.01 (Planning Case File #PL202400157). The FSBP application relates to construction of improvements to the existing athletic field at John F. Kennedy High School (“Kennedy HS”), 9701 Nicollet Avenue South, Bloomington, Minnesota 55420 (“Project”).
2. Also on September 6, 2023, Proposer applied to the City for FBSP approval for construction of improvements to the existing athletic field at Thomas Jefferson High School (“Jefferson HS”), located at 4001 West 102nd Street, Bloomington, Minnesota 55437 (“Jefferson Project”).
3. As required by City Code, the Bloomington Planning Commission (“Planning Commission”) held public hearings on Proposer’s FSBP application for the Project, as well as the Jefferson Project, on October 12 and November 2, 2023. On November 30, 2023, the Planning Commission continued the applications indefinitely to allow Proposer to submit updated Project information.
4. After receiving updated information from Proposer, the City scheduled and noticed a public hearing on the FSBP application for May 9, 2024.
5. On May 7, 2024, the Minnesota Environmental Quality Board (“EQB”) provided notice to the City that it received a complete, verified petition (“Petition”), per Minnesota Rule 4410.1100, for an environmental assessment worksheet (“EAW”) for the Project, and notified the City that it is the proper responsible government unit (“RGU”) to make a decision on the need for an EAW.
6. The representative for the petitioners is Douglas Herzog, P.O. Box 386195, Bloomington, Minnesota 55438.
7. On May 9, 2024, due to the receipt of the Petition, the Planning Commission continued the public hearing on the FSBP application to June 6, 2024.
8. City Code § 21.502.01 provides that a discretionary EAW determination is reviewed by City staff and the City Council. The City Council has final decision-making authority for the Petition. State law and City Code do not require a public hearing for an EAW determination.
9. The Project includes improvements to the existing main athletic field at Kennedy HS. Included in the Project are the following improvements:
 - Construction of a 500 square foot concession facility, to include construction of a new water main and sanitary sewer connection for utility service.

- Construction of a ticketing plaza as an entry point.
- Installation of combined home and away bleachers on the west side of the athletic field with a total seating capacity of 2,500. A press box is integrated with the bleachers.
- Installation of lighting system, to include four light poles, each 90 feet in height.
- Installation of sound system, to include speakers hung from the light poles and integrated with the press box.
- Replacement of artificial surface with new artificial surface.

10. The Jefferson Project includes improvements to the existing main athletic field at Jefferson HS. Included in the Jefferson Project are the following improvements:

- Construction of a 500 square foot concessions facility, to include construction of a new water main and sanitary sewer connection for utility service.
- Construction of a ticketing plaza as an entry point.
- Installation of home bleachers with a capacity of 2,000, and installation of away bleachers on the opposite side of the field with a capacity of 500. A press box is integrated with the larger, 2,000 capacity bleachers.
- Installation of a lighting system, to include four light poles, each 90 feet in height.
- Installation of sound system, to include speakers hung from the light poles and integrated with the press box.
- Replacement of artificial surface with new artificial surface.

THE PETITION

11. Petitioners argue that the Project has the potential for significant environmental effects. Petitioners support this argument in seven areas, as outlined in the Petition:

- Aspects of the Project that call for mandatory EAW and review by the responsible RGU (City of Bloomington).
- Noise pollution exceeding State of Minnesota statutory limits and City of Bloomington sound ordinances for a residential area.
- Light pollution, glare, and light trespass from excessive, misdirected, or obtrusive artificial outdoor light.
- Negative impacts on humans, insects, and local wildlife, including endangered, threatened, or species of special concern.
- Negative impacts on migratory birds using the areas directly within, adjacent to or around the proposed stadium sites as stopover grounds for hunting or refueling, nesting and breeding, or for seeking shelter.
- Increasing air pollution levels on the school campuses and in the surrounding residential neighborhoods from parking and idling of increased event traffic (due to expanded stadium capacity).

CONNECTED ACTIONS OR PHASED ACTION

12. For projects specified in Minnesota Rule 4410.4300, an EAW is mandatory. An EAW is mandatory for a sports or entertainment facility designed or expected to accommodate a peak attendance of 5,000 or more persons. Minn R. 4410.4300, subp. 34.
 13. When there are multiple projects that are “connected” actions or “phased” actions, the RGU must consider the projects in total for the purposes of determining whether a mandatory EAW is required. Minn. R. 4410.4300, subp. 1.
 14. As an initial matter, Petitioners argue that the Project and Jefferson Project should be considered one project for purposes of an EAW determination. Petitioners argue that because the Project and the Jefferson Project each are designed to accommodate 2,500 persons, a mandatory EAW is required if the projects are considered “connected” or “phased.”
 15. For purposes of Minnesota Rules, Chapter 4410, separate projects are considered “phased” when two or more projects are to be undertaken by the same proposer and the RGU determines the projects:
 - A. Will have environmental effects on the same geographic area; and
 - B. Are substantially certain to be undertaken sequentially over a limited period of time.
- Minn R. 4410.0200, subp. 60. The Project and Jefferson Project are each considered a discrete “project,” as defined in Minn. Rule. 4410.0200, subp. 65. Proposer is undertaking the Project and the Jefferson Project and plans to undertake the projects concurrently.
16. While Proposer is the same for the Project and Jefferson project, and there is substantial certainty that the projects will be undertaken at much the same time, the projects will not have environmental effects in the same geographic area.
 17. The athletic fields for Jefferson HS and Kennedy HS are located more than 2.5 miles from each other.
 18. Kennedy HS is located within the Nine Mile Creek Watershed District. Jefferson HS is located within the Lower Minnesota Valley Watershed District.
 19. Kennedy HS is served by the arterials 98th Street and Nicollet Avenue. Jefferson HS is served by the arterials West 102nd Street and France Avenue South.
 20. Interstate I-35W bisects the entirety of Bloomington on an east/west basis, with Kennedy HS on the east side of I-35W and Jefferson HS on the west. A surface vehicle or pedestrian traveling from Kennedy HS to Jefferson HS must cross I-35W.
 21. A significant commercial and industrial node exists between the two sites near the intersection of I-35W and 98th Street, including a significant retail node at 98th Street and Lyndale Avenue South. The Clover Shopping Center and Oxboro Center are located in this retail node, each with several tenants.
 22. A significant commercial node exists at West Old Shakopee Road and France Avenue South, just south of Jefferson HS.

23. Each project will have environmental effects. Those effects, however, will not occur within the same geographic area. Lighting and noise effects are limited to the immediate vicinity of each project site. Light and noise effects at each site will not occur in the same geographic area. The sites are separated by a major interstate and as well as a significant industrial and commercial corridor with large retail nodes and shopping centers.
24. Vehicle and traffic related effects, such as a potential increases in air pollution, will not be in the same geographic area. As stated, a major interstate divides the two sites and each site is served by different arterial streets. An increase in vehicle trips to each site is expected, with vehicles parked and not actively producing emissions while persons attend events at the stadium sites. Any on-street parking that persons utilize for each site will be limited to the immediate vicinity of each site.
25. Potential environmental effects related to surface water runoff will not be located in the same geographic area. The sites are located in different watershed districts and served by different public and private stormwater facilities. Any environmental effects related to surface water will be felt in the immediate vicinity of each site.
26. Potential environmental effects on wildlife, including to migratory birds, will not be located in the same geographic area. Flight barriers in the form of light poles or bleachers will only affect the immediate site area. I-35W is a major artificial habitat barrier already existing between the two sites. In addition, the area between the two sites already contains numerous light poles and other structures of similar height as the proposed bleachers and light poles.
27. In the alternative, Petitioner's argue that the Project and Jefferson Project are "connected." Separate projects are connected if they are related in one of the following ways:
 - A. One project would directly induce the other;
 - B. One project is a prerequisite for the other and the prerequisite project is not justified by itself;
or
 - C. Neither project is justified by itself.

Minn. R. 4410.0200, subp. 9c.

28. The Project and Jefferson Project are not connected actions within the meaning contained in Minnesota Rules, Chapter 4410. Each project is justified on its own as a way to improve the current athletic facilities on each site. Neither project is a prerequisite to the occurrence of the other. Each could be completed separately on its own without inducing the other. Proposer determined that equity and other considerations made it appropriate to pursue each project at the same time, but each could be completed without the other occurring.
29. The Project and the Jefferson Project are not "connected actions" or a "phased action" within the meaning of Minnesota Rule 4410.0200.

NOISE

30. Petitioners argue that the Project has the potential for significant environmental effects due to “Noise pollution exceeding Minnesota Statutory limits and City of Bloomington sound ordinances for a residential area.”
31. City staff identified noise as an issue for further investigation due to the addition of seating capacity and the addition of amplified sound. City staff and Proposer and its consultants have had numerous discussions regarding noise requirements and compliance with state law and city ordinances. During the previous hearings on the FSBP application, Planning Commissioners, City staff, and the public discussed state and City noise regulations and the processes contained therein without the benefit of a sound study from Proposer.
32. City staff and the Planning Commission emphasized the need for a sound study modeled after a similar land use. This provided one of the main reasons for Planning Commission’s continuance of the FSBP application on November 30, 2023.
33. Minnesota noise standards are promulgated and enforced statewide by the Minnesota Pollution Control Agency (“MPCA”). The MPCA was charged with establishing noise standards that “shall give due consideration to such factors as the intensity of noises, the types of noises, the frequency with which noises recur, the time period for which noises continue, the times of day during which noises occur, and such other factors as could affect the extent to which noises may be injurious to human health or welfare, animal or plant life, or property, or could interfere unreasonably with the enjoyment of life or property.” Minn. Stat. § 116.07, subd. 2(c).
34. Municipalities are prohibited from adopting noise regulations that are more stringent than the MPCA standards. Minn. Stat. § 116.07, subd. 2(c). Bloomington’s noise regulations are identical to the MPCA standards and located in Chapter 10, Article IV of the City Code and may be enforced by the City using civil and criminal penalties. Noise is measured with reference to the sound pressure level at the location of the “receiver” of the sound. Minn. R. 7030.0500, subp. 1.
35. The applicable noise regulations for the Project site are as follows:

Noise Area Classification	Daytime (7:00 a.m. to 10:00 p.m.)		Nighttime (10:00 p.m. to 7:00 a.m.)	
	L50	L10	L50	L10
1	60 dB(A)	65 dB(A)	50 dB(A)	55 dB(A)

Minn. R. 7030.0040, subp. 2; City Code § 10.29.02(a). Municipalities are required to take all reasonable steps to prevent the establishment of land uses that will immediately violate MPCA noise standards.

The Project site and adjacent residential areas are located in “Noise Area Classification 1,” which generally applies to residential zoning districts. Minn. R. 7030.0050, subp. 2; City Code § 10.29.02(b). The “L10” standard is the sound level, expressed in dBA, which is exceeded 10 percent of the time for a one-hour survey. The “L50” standard is the sound level which is exceeded 50 percent of the time for a one-hour survey. Minn. R. 7030.0020, subp. 7, 8.

36. Proposers submitted a sound study (“Sound Study”) performed by Veneklasen Associates. The Sound Study utilized computer modeling and predictive analysis for crowd noise, marching band noise, and speaker noise to predict the noise levels at the closest household to the Project site. The Sound Study predicted the “Daytime” L50 noise level at 51 dBA and the “Daytime” L10 noise levels at 58 dBA. The Sound Study did not measure “Nighttime” noise levels due to Proposer’s commitment to complete sporting events at the athletic field by 10:00 p.m. The Sound Study acknowledges that similar levels of noise after 10:00 p.m. may violate “nighttime” state and city noise standards.
37. The Sound Study concludes that Project noise is predicted to be below the maximum permitted level during “Daytime” hours, while acknowledging that crowd and marching band noise in particular is “highly variable and dynamic.”
38. Included in the public record is a letter from Proposer’s Superintendent stating that the outdoor stadium is reserved for school or school district use, and that “our high schools don’t schedule outdoor events or competitions to go past 10 p.m.”
39. The sound system planned for the Project includes a digital signal processor (“DSP”) to keep sound pressure levels at a consistent level of 95 dBA, which was the level used in the Sound Study and found to comply with the “Daytime” noise standard.
40. Petitioners argue that the sound pressure levels at the household nearest the Project site, located on 3rd Avenue South, “should likely be increased by 3 dBA and estimated instead at 61dBA” due to sound reflection from the dwelling structure on the household site.
41. In support of its argument, Petitioners submit an informational webpage authored by Tim Simmons, PhD, Director of Industrial Acoustics for United Steel Structures, Inc. The webpage does not mention sound reflection as it relates to sound pressure measurement. The webpage does state that “two equal sound levels combine to be 3 decibels greater than the individual.” Petitioner does not show how potential sound traveling across 3rd Avenue South and potentially reflecting off the nearest residence would increase the decibel level by an amount sufficient to violate “Daytime” noise standards.
42. Petitioners argue that the Sound Study used inaccurate sound assumptions for crowd and marching band noise, citing two webpages that cite “typical or “common” noise levels as higher than those assumed in the Sound Study. However, the Sound Study used actual marching band observational measurements and estimated a full capacity of 2,500 attending an event at the Project site.
43. Petitioners argue that the digital signal processor (DSP) component of the sound system “is dependent on the operator, who may fail to or correctly use or lack the time and ability during events to employ the DSP.” Petitioners’ argument is speculative. There is no reason to assume that Proposer will fail to properly operate the DSP.
44. Noise from the Project is subject to ongoing regulatory authority by the MPCA and City. The City may enforce violations through civil or criminal penalties. City staff proposes that approval of the Project be conditioned on continuing compliance with MPCA and City noise standards. If violations are observed, Proposer may take further steps to mitigate the effects of the sound, including reducing speaker volume or reducing marching band performance times.

45. Project noise is not reversible, but predicted to comply with MPCA and City noise standards.

LIGHT

46. Petitioners argue that the Project has the potential for significant environmental effects due to “Light pollution, glare, and light trespass from excessive, misdirected, or obtrusive artificial outdoor light.”
47. The Project includes installation of four 90-foot light poles, two on the east side and two on the west side of the athletic field. The proposed lighting is entirely LED and will have lighting control that directs light to the athletic fields.
48. Early in the FSBP application process, City staff identified lighting as another main issue that needed to be worked out. City exterior lighting standards are contained in City Code § 21.301.07. Three specified purposes of the City’s lighting regulations are to “reduce light pollution, light trespass, glare and offensive light sources,” “provide an environmentally sensitive nighttime environment,” and “protect motor vehicle operators, pedestrians and adjacent land uses from glare.”
49. City Code § 21.301.07(b) prohibits installation of exterior lighting prior to approval of a lighting plan approved by City staff. Lighting plans must include a photometric plan and must be signed by a registered electrical engineer or a lighting certified (“LC”) professional certified by the National Council on Qualifications for the Lighting Professions. A post-installation inspection is required prior to issuance of a certificate of occupancy. City Code § 21.301.07(f).
50. City Code also provides that “all lighting must be arranged so as not to shine directly on any adjoining property. A person must not create light that produces glare clearly visible beyond a property line or creates a sensation of brightness within a visual field so as to cause annoyance, discomfort or impairment of vision.” City Code § 21.301.07(c)(9).
51. Proposers initial lighting plan submission included “uplit” lighting fixtures, which are prohibited by City Code. City Code § 21.301.07(e)(5). City staff identified this as an issue that required correction with an updated lighting plan.
52. On April 3, 2024, Proposer submitted an updated lighting plan (“Lighting Plan”) from Musco Sports Lighting.
53. In response to a request from City staff, the Lighting Plan includes light levels along adjacent residential properties, in order to provide a fuller analysis of light levels in the Project area.
54. The Lighting Plan demonstrates compliance with City Code restrictions on light trespass and glare beyond the property line.
55. Petitioners note that the Lighting Plan includes an “uplit” fixture, based on a diagram seen in the Lighting Plan that shows a light pole with two lighting fixtures, one at the top of the pole and one in the middle of the pole. The lower fixture seems to point somewhat upward and is prohibited by City Code. City staff reviewed the Lighting Plan and notified Proposer that the “uplit” fixture would not be allowed per City Code and that a new lighting plan needed to be submitted showing removal of “uplit” fixtures. City staff is awaiting submission of an updated lighting plan to this effect.

56. Petitioners argue that the Project lighting would not be compliant with International DarkSky Association (“IDA”) certification guidelines for stadium lighting. However, the City does not have a requirement that exterior lighting be IDA certified.

57. Petitioners cite several sources in support of the following arguments:

- Light pollution is a growing problem that can have major impacts on the natural environment.
- Darkness is important for wildlife conservation and should be managed by quality design and management.
- Light pollution creates “skyglow,” a brightening of the natural night sky, which may be amplified during cloudy conditions.

The City acknowledges that these arguments have validity, and City lighting standards and processes specifically take these into account in an attempt to balance the need for quality lighting with consideration of adjacent land uses and the broader natural environment. Review and verification is provided through a lighting plan signed by a professional and a post-installation inspection prior to certificate of occupancy.

58. Project lighting will be mitigated naturally. Project lighting will only be used during nighttime events and is not a continuous light source. Project lighting will be extinguished after events and not used when events are not taking place. In Minnesota, weather conditions typically dictate that outdoor athletic events are not held in the winter months. In addition, field lighting will be limited during the summer months due to school not being in session.

59. Project lighting will be installed in a “built environment,” on a pre-existing athletic field on a high school campus in a developed area. There is little natural habitat on the Project site that will be disturbed by Project lighting.

60. Project lighting is subject to ongoing regulatory authority by the City. The City may enforce violations through civil or criminal penalties, including a specific requirement that the property owner correct lighting that creates a public nuisance upon the order of City staff. City staff proposes that approval of the Project be conditioned on continuing compliance with City lighting standards.

61. Project lighting is not reversible, but predicted to comply with City lighting standards.

EFFECTS ON HUMANS, INSECTS, AND WILDLIFE

62. Petitioners argue that the Project has the potential for significant environmental effects due to “Negative impacts on humans, insects, and local wildlife, including endangered, threatened, or species of special concern.”

63. The Project site is already improved as an athletic field with an artificial surface - the additions to the Project site include installation of bleachers and a concession stand, light poles and fixtures, an amplified sound system, replacement of artificial field surface, and miscellaneous improvements to meet accessibility requirements.

64. Few natural habitat areas exist in the vicinity of the Project site. Because an athletic field already exists on the Project site, no trees require removal.
65. The Minnesota Department of Natural Resources, as part of its “Metropolitan Conservation Corridors” (“MCC”) project, produced a map of conservation corridors, sites of biodiversity significance, and regionally significant ecological areas. The MCC project is used as a prioritization tool for local governments and state grantmaking entities. The Project site is not located in any of these areas. In Bloomington, these critical areas generally follow the path of Nine Mile Creek and the Minnesota River. The Project site is on the opposite side of I-35W from Nine Mile Creek and the vast majority of the area between the Project site and the Minnesota River is fully developed.
66. Petitioners argue that the construction of an additional parking area on the site will lead to negative environmental impacts for humans and wildlife. A 193-stall *proof of parking* area is proposed in order that the Project meet City parking standards. City Code authorizes a proof of parking arrangement – construction of additional parking areas *may* be required if City staff observe that adequate parking is lacking. City Code § 21.301.06(e)(1). City staff proposes the proof of parking requirement as a condition of approval, but maintains that existing parking facilities at the Project site will be sufficient to handle anticipated parking volume.
67. Petitioners argue that several endangered or species of concern may be living in the vicinity of the Project site, and thus be affected negatively by light and noise, including the following:
- Mammals: Long-Eared Bat, Tricolored Bat
 - Birds: Bald Eagle, Whooping Crane.
 - Clams: Higgins Clam
 - Insects: Monarch Butterfly, Rusty Patched Bumble Bee, Fireflies

Petitioners site several sources generally stating that light and noise may interfere with the natural functioning of the wildlife listed above. As stated, the Project site is already developed as an athletic field and is generally devoid of trees, wetlands, or other natural habitat areas that provide living areas for wildlife.

68. Petitioners also argue that the potential levels of light, air, and noise pollution will may lead to negative health outcomes for humans. Petitioners do not mention how *limited* exposure to these elements may negatively impact humans.
69. Artificial light, amplified sound, and potential air pollution are not continuous for the Project. Lights and amplified sound will only be used when events are taking place, and not present while the athletic field is inactive. As stated, the athletic field will not be used for several months of the year. The effects on humans and wildlife are naturally mitigated by the limited nature of the Project, both in terms of the land disturbance actually required for Project completion and the limited use of the athletic field in the future.
70. Project effects on humans and wildlife due to lighting, noise, and air pollution are not reversible, but are mitigated by State law and City Code requirements, ongoing regulatory oversight, and the limited nature of the Project, once completed.

MIGRATORY BIRDS

71. Petitioners argue that the Project may have significant environmental effects due to “Negative impacts on migratory birds using the areas directly within, adjacent to or around the proposed stadium sites as stopover grounds for hunting or refueling, nesting and breeding, or for seeking shelter.”
72. Petitioners cite several sources for the following regarding migratory birds:
- Based on citizen observations, a great variety of migratory bird species are present in Heritage Hills Park, Ancel Glen Playfield and Olson Middle School, and Moir/Central Park/Nine Mile Creek corridor, all of which are more near to the Jefferson Project and located on the west side of I-35W.
 - Several observed species in the locations above appear on the United States Fish and Wildlife Service Birds of Conservation Concern.
 - A majority of migratory birds migrate at night and use stopover grounds during the day. Development of the Project may reduce stopover options for migrating birds.
 - Artificial light and sound can affect bird phenology and fitness, including an increase in bird-building collisions, especially in urban areas.
73. Little to no breeding or stopover habitat will be affected by the Project. The Project site is already developed as an athletic field and no trees require removal.
74. Potential effects of artificial light on migratory birds will be mitigated by the lack of any “uplit” fixtures on the Project site.
75. The potential disorienting effects of light and noise that may cause collisions will not be present during the majority of days of the year. On the date of an event, the light and sound disturbance will be for a limited period of the evening, and never during the overnight hours.
76. The bleachers and concession stand are in compliance with City Code requirements for structure height. The bleachers and concession stand have limited use of glass or other transparent materials that may cause bird collisions.
77. The new structures will introduce new obstructions to the Project site. However, the presence of a large groups of humans at the Project site during an event will mitigate against any bird collisions with the bleacher structure, concession stand, or light poles. While events are taking place, light and noise will be produced, but humans will be present on the athletic field and in the bleachers to dissuade birds from approaching.
78. Effects from sound, light, and structures on migratory birds are not reversible, but mitigated by the limited use of the Project site.

AIR POLLUTION

79. Petitioners argue that the Project has the potential to for significant environmental effects due to “Increasing air pollution on the school campuses and in the surrounding residential neighborhoods for parking and idling of increased event traffic (due to expanded stadium capacity.”

80. Currently, Kennedy HS and Jefferson HS use Lincoln Field as their home field for larger athletic events. Lincoln field is located at 8900 Queen Avenue on the west side of I-35W.
81. As with sound pressure standards, the MPCA has adopted administrative rules establishing ambient air quality standards. Minn. R. 7009.008. Municipalities are prohibited from adopting air quality standards that are more stringent than the MPCA standards. Minn. Stat. § 116.07, subd. 2(a).
82. City Code adopts the MPCA air quality standards by reference. The MPCA and City each have authority to enforce the MPCA air quality standards.
83. The MPCA has adopted standards for motor vehicle emissions, including standards for “low-emission” vehicles and “zero-emission” vehicles. Minn. R. 7023.0105; Minn. R. 7023.0250; Minn. R. 7023.0300. City Code has not adopted any vehicle emission standards.
84. As an initial matter, construction of the Project will ensure that Kennedy HS athletes, band members, staff, and equipment do not require vehicle transportation to Lincoln Field for several events or games each year, reducing vehicle and bus travel accordingly. Kennedy HS draws its students from the east side of the City. Transitioning several games and events from Lincoln Field to the Project site will reduce the length of vehicle trips on those occasions.
85. Petitioners cite several sources for the following regarding air pollution:
 - Traffic will increase in the vicinity of the Project when events are taking place at the Project site.
 - Persons exposed to greater air pollution over longer periods of time are at greater risk for negative health effects, especially children and older adults.
 - Air quality may be improved when roads are designed for lower speeds, reduced idling, and safe bicycle lanes.
86. During its May 20, 2024 regular meeting, the City Council adopted an ordinance reducing the speed limit on streets under the City’s jurisdiction from 30 to 25 mph. The ordinance also allows the City Engineer, or designee, to establish school zones on city streets, or county streets with the county’s permission, with a speed limit of 20 mph, as displayed by signage or other traffic control device.
87. While there may be increased vehicle traffic in residential areas for larger events at the Project site, the vehicles remaining in the residential areas during events will be parked and not actively releasing emissions.
88. Vehicle trips are already being made for events at the Project site and Lincoln Field. Construction of the Project only changes the location of the vehicle trips.
89. Increased vehicle presence that could lead to increased air pollution will not be present during the majority of days of the year. On the date of an event, increased vehicle presence and traffic will be for a limited period of the evening, and never during the overnight hours.

90. Potential air pollution from increased vehicle presence is not reversible, but mitigated by state air quality regulations and the nature of the Project itself, which will not produce a continual source of air pollution.

WATER POLLUTION

91. Petitioners argue that the Project has the potential for significant environmental effects due to “Water Pollution: Potential negative impacts from increased surface runoff onto the adjacent wetland habitats, local watersheds, groundwater, and Bloomington’s aquifers.”
92. As required by state law and administrative rules, the City has adopted a Comprehensive Surface Water Management Plan (“Surface Water Plan”) that guides the administration and implementation of water resource activities within the City. City Code § 16.06. The natural direction, quantity, and quality of drainage cannot change unless plans are submitted in conformance with the Surface Water Plan and approved by the City Engineer or designee. City Code § 16.07.
93. The City has also adopted a Storm Water Pollution Prevention Program and Wetland Management and Protection Plan. City Code requires erosion and sediment control measures in place during construction, including submission of an erosion and sediment control surety to ensure compliance. City Code § 16.08.
94. Proposer must also secure a permit from Nine Mile Creek Watershed District and follow all conditions of the permit.
95. Several proposed conditions of approval address potential stormwater effects. It is proposed that Proposer be required to:
- Provide grading, drainage, and erosion control plans for City Engineer approval.
 - Submit a storm water management plan that demonstrates compliance with the Surface Water Plan.
 - A maintenance plan for on-site stormwater facilities must be executed by Proposer and recorded with the property.
 - Obtain a permit from Nine Mile Creek Watershed District and provide copy to Engineering Division.
96. The City may enforce its stormwater regulations through civil or criminal penalties. City Code § 16.05.
97. Stormwater drained from the Project site is ultimately conveyed to Oxboro Lake, northwest of the Project site.
98. Proposer’s civil plans for the Project include underground stormwater facilities. Stormwater is conveyed to the underground facilities, allowing sediment and solids to be removed prior before the water is slowly released into the ground.
99. Because of the land disturbance area for the Project, stormwater runoff must be treated to at least 60-percent annual-removal efficiency for Total Phosphorus (“TP”) and at least 90-percent annual-removal

efficiency for Total Suspended Solids (“TSS”). On-site runoff retention may be included when demonstrating compliance with TSS- and TP-removal requirements.

100. Because of the land disturbance area for the Project, surface-water discharge rates from the Project must, at a minimum, achieve a net reduction of pre-project discharge rates for the 50-percent, 10-percent, and 1-percent annual-chance event using the 24-hour Atlas 14 rainfall event values. Atlas 14 is an updated precipitation record that uses the most recent 30-year climate records. Atlas 14 better represents storm events due to climate change and increased precipitation within the region.
101. Because of the land disturbance area for the Project, the Project site must retain, on-site, a volume equivalent to 1.1 inches of runoff from any new or reconstructed impervious area, based on Atlas 14 rainfall event values. The underground stormwater treatment and holding facility must be designed to meet the Atlas 14 standard.
102. The MPCA and United States Environmental Protection Agency have designated an area immediately west of Oxboro Lake as a Superfund site due to the presence of industrial contaminants. Oxboro Lake is not included within the Superfund area. City staff has no concern that stormwater from the Project site will impact the Superfund area.
103. Petitioner’s arguments related to potential water pollution emphasizes the need to mitigate runoff and reduce pollutants for stormwater ultimately conveyed to Nine Mile Creek or the Minnesota River. The City’s stormwater regulations are specifically designed for those purposes.
104. Execution of a stormwater maintenance agreement is a recommended condition of approval. The City’s required stormwater maintenance agreements typically require periodic inspections of stormwater facilities, pervious pavers, underground storage chambers, steep slopes, and catch basins and outlets. The stormwater maintenance agreement also requires removal of sediment and debris per the agreement’s terms and gives the City authority to enter the subject property for inspections.
105. Similar to its argument regarding vehicle traffic and pollution, Petitioners assume that construction of the 193 stall proof of parking area is included in the Project. A proof of parking agreement is a condition of approval but the additional parking supply is not required to be built unless parking supply is deemed inadequate, based on City staff observations. If the City requires the proof of parking area to be constructed, it will require City permitting, including compliance with the Surface Water Plan.
106. Potential effects of the Project on ground and surface water are not reversible, but mitigated by City and watershed district regulations and ongoing conditions of compliance.

CUMULATIVE POTENTIAL IMPACTS

107. In the various sections of the this document, the City has addressed the following, as required by Minn. R. 4410.1100, subp. 6:
 - The type, extent, and reversibility of environmental effects.
 - The extent to which environmental effects are subject to mitigation by ongoing public regulatory authority.

- The extent to which environmental effects can be anticipated and controlled as a result of other environmental studies undertaken by public agencies or Proposer.

108. The remaining factor the City, as RGU, must consider are the “cumulative potential effects,” as defined in Minnesota Rule 4410.0200, subp. 11a. The “cumulative potential effects” also includes analysis of the contributions from previous and anticipated future developments that might reasonably be expected to affect the same environmental resources.

A. Whether the cumulative potential effect is significant

The cumulative potential effect from the Project is not significant. The Project site is already improved and used as an athletic field, and the Project does not require destruction of any natural setting or any tree removal. Structures are proposed that are commensurate with the use as a typical high school main field. Plans and analyses have been submitted on the issues of sound and light, which are subject to ongoing mitigation measures, conditions for compliance, and enforcement by the City or other public agencies.

The nature of athletic field use also leads to a conclusion that the cumulative potential effect is not significant. Light, sound, and the potential for increased traffic will not be present during times when the athletic field is not being used for games, which will be the vast majority of the time. Unlike other development projects, the potential sources of pollution are not constant, but limited and variable depending on when events are taking place.

B. Whether the contribution from the project is significant when viewed in connection with other contributions to the cumulative potential effect.

The Project site is located in a developed area of the City, with residential uses located on the north, south, and east. To the west, between the Project site and I-35W, are a mix of residential and commercial uses. No development projects are in the entitlement or planning phase in the environmentally relevant area. The Lyndale Avenue corridor lies approximately six blocks to the west of the Project site. The City adopted the Lyndale Avenue Retrofit Plan (“Retrofit Plan”) in 2021, a plan for reimagining the Lyndale Avenue corridor between 98th Street West and Interstate 494. Based on the Retrofit Plan’s recommendations, the City has rezoned a substantial number of parcels along Lyndale Avenue, from 98th Street in the south to 86th Street in the north, from general commercial or industrial zoning districts to mixed use districts that allow a mix of commercial, residential, and sometimes industrial uses, with the intent of creating a more pedestrian friendly corridor and commercial node. Redevelopment in the Lyndale Avenue corridor is expected in the future. However, there are currently no specific development projects in the entitlement process in this area.

Due to its location, limited use, and the fact that the Project site is already developed with an athletic field, the contribution from the Project is not significant when viewed in connection with other contributions from the cumulative potential effect.

C. The degree to which the project complies with approved mitigation measures specifically designed to address the cumulative potential effects.

The MPCA and City regulations on sound, light, and stormwater are all designed to mitigate the effects of these variables on the surrounding environment and land uses, especially

residential uses. Subject to proposed conditions, the Project will comply with regulations in these areas.

Specifically, sound was studied based on anticipated noise and found to be compliance. Proposer included a DSP in the proposed sound system in order to provide a constant sound input level. The DSP can be altered to decrease sound input levels, if needed. The Proposer will be required to alter its lighting plan to remove any “uplit” features per City Code requirements. New stormwater runoff from the Project is minimal and will be treated on-site per City regulations.

D. The efforts of the proposer to minimize the contributions from the project.

Proposer funded and submitted a sound study to analyze anticipated noise from the Project and included a DSP to have the ability to decrease the sound input from the public address system. Proposer will remove remaining “uplit” lighting fixtures to be compliant with City Code. Proposer included a commitment to complete sporting events at the Project site by 10:00 p.m.

CONCLUSION

109. Having considered the evidence presented by Petitioners, Proposer, and other persons commenting on the EAW Petition, the City Council finds that the Project does not have the potential for significant environmental effects. Minn. R. 4410.1100, subp. 6.

ORDER

The Petition for Environmental Assessment Worksheet, received by the City from the Minnesota Environmental Quality Board on May 7, 2024 is **DENIED**.