



## Memorandum

**Date:** April 28, 2021

**To:** Leah Beniston, Vice President–Entitlements, TTLC Tarob 4, LLC

**From:** Jason Brandman, Vice President/Director and Phil Ault, Senior Project Manager

**Subject:** Qualitative Consistency Analysis Summary for the 2001 Tarob Court Project

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### INTRODUCTION

This memorandum provides a qualitative California Environmental Quality Act (“CEQA”) consistency analysis summary for a 32-unit residential development project (Project) proposed by The True Life Companies (Applicant or TTLC) on a 1.22-acre site located at 2001 Tarob Court (Project Site). The Project Site is located within the planning area for the Milpitas Transit Area Specific Plan (TASP) and is designated as High-Density Transit Oriented Residential (HD-TOR) in both the Milpitas General Plan and the TASP. The Project Site is currently developed with industrial office use. Residential development on the Project Site has been evaluated in previous environmental documents associated with the TASP and a previously approved project on the Project Site, as explained below.

Environmental impacts associated with the implementation of the TASP were evaluated in the Final Environmental Impact Report (TASP EIR) certified in 2008, which included analysis of development of 7,100 units of residential development and 18,000 new residents as relevant to TTLC’s proposed Project. In 2017, TTLC obtained approval from the City of Milpitas (City) of a General Plan Amendment and TASP Amendment modifying the site from Industrial Park (INP) to HD-TOR, and a Zoning Amendment to rezone the Project Site from Industrial Park with Transit Oriented Development Overlay (MP-TOD) to Multiple Family, High Density with Transit Oriented Development Overlay (R3-TOD). The City evaluated the potential environmental impacts associated with the General Plan amendment and TASP Amendment through an Addendum to the 2008 TASP EIR.

In September 2019, TTLC obtained approval of a Site Development Permit, Conditional Use Permit, Vesting Tentative Map, and Environmental Assessment for the development of a 40-unit residential condominium building on the Project Site (2019 Approved Project). The 2019 Project was analyzed for consistency with the TASP EIR, including the 2017 Addendum. LSA Associates prepared a June 2019 Exemption Memo in addition to an Environmental Checklist pursuant to CEQA Guidelines section 15168 documenting the City’s analysis. Based on this analysis, the City approved an Addendum to the TASP EIR for the 2019 Project and also stated as an independent basis for compliance with CEQA, that the 2019 Approved Project was exempt from CEQA review pursuant to Guidelines Section 15182 (Project

Consistent with a Specific Plan), 15183 (Project Consistent with the General Plan), and 15168 (Projects Consistent with a Program EIR).

The current 32-unit Project proposed by TTLC is very similar to the 2019 Approved Project, as summarized in the next section. In order to assess the proposed Project's CEQA impacts, FCS reviewed the TASP EIR, 2017 Addendum, as well as the 2019 Exemption Memo and Environmental Checklist prepared by LSA Associates. This memorandum provides a qualitative consistency analysis confirming that the proposed Project is still within the scope of the TASP EIR, including the 2017 Addenda to the TASP EIR, and the proposed Project will not have any new significant or more severe impacts beyond what was previously identified and evaluated for the 2019 Approved Project.

## PROPOSED PROJECT

The Project proposes to develop 32 townhomes consisting of two buildings ranging from 3-4 stories in height with 4, 2-bedroom 2-bath units 1,854 gross square feet in size, 12, 3-bedroom 2-bath units ranging from 1,888 to 1,916 gross square feet, and 16, 3-bedroom, 3-bath units ranging from 2,090 to 2,354 gross square feet. All units will have a tandem 2-car garage. The Project will also provide 9 guest spaces, 10 public bicycle parking spaces, 2 electric vehicle charging spaces, and 2 ADA parking spaces. The Project will gain ingress and egress from both Tarob Court and Lundy Place via both existing driveway curb cuts. The Project Site is approximately 1.2 acres and is currently developed with an industrial office building that is currently in use. The project site is located within a light industrial area of Milpitas that is predominantly developed with commercial office parks and other buildings for industrial and commercial uses with Tarob Court to the north, Lundy Place to the east, and commercial and light industrial land uses to the west and south. The Project site is designated Multi-Family Residential High Density (MFH) Within the City's General Plan.

## PROJECT CHANGES

The design changes that are now proposed as part of the Project are summarized in Table 1. The table provides a comparison of the 2019 Approved Project (as analyzed under the Environmental Checklist and Exemption Memo prepared by LSA Associates in June 2019) and the current proposed Project.

**Table 1: Project Changes Comparison**

Project Component	2019 Approved Project	Current Proposed Project
No. Residential Units	40 condo units	32 attached townhomes
Density (Units/Acre)	31.25 du/ac	25 du/ac
Total Gross Square Footage	92,762 sq. ft.	65,736 sq. ft.
Access	One driveway off Tarob Court	Two driveways—one off Tarob Court and one off Lundy Place
Storm Drain	Off-site storm drain replacement	Not Provided

## CONSISTENCY ANALYSIS SUMMARY

This qualitative consistency analysis summary confirms that the proposed Project is still within the scope of the TASP EIR, including the 2017 Addendum, and will not have any new significant or more severe impacts beyond what was identified for the 2019 Approved Project in the Exemption Memo and Environmental Checklist prepared by LSA Associates.

### Aesthetics

#### Scenic Vistas

The proposed Project is not located within a scenic viewshed or along a State Scenic Highway or other scenic highway. While intermittent views of the Milpitas foothills to the northeast are available from the Project Site, no on-site parks or open spaces have views of the foothills. The proposed Project would comply with the TASP policies and design standards; therefore, it would neither result in new significant impacts nor substantially increase the severity of impacts related to scenic vistas beyond what was previously identified and analyzed in the TASP EIR, 2017 Addendum to the TASP EIR, and 2019 LSA Exemption Memo and Environmental Checklist.

#### Scenic Resources

There are no scenic resources located on the Project Site. Therefore, the impacts associated with the proposed Project would not result in new significant impacts to scenic resources or substantially increase the severity of those impacts beyond what was previously identified for the 2019 Approved Project in the Exemption Memo and Environmental Checklist.

#### Visual Character

The TASP allows buildings in the R3-TOD district up to 75 feet in height and requires a density of 21-40 dwelling units per acre. The proposed Project would include construction of a four-story building that would be approximately 55 feet in height with a density of approximately 25 dwelling units per acre. Therefore, the proposed Project would meet the building height limits and density standards set in the TASP design standards and would not conflict with zoning or other regulations governing scenic quality. Hence, the proposed Project would not result in new significant impacts or increase the severity of impacts to visual character beyond those previously identified for the 2019 Approved Project in the Exemption Memo and Environmental Checklist.

#### Light and Glare

To minimize potential light and glare impacts, the proposed Project would implement and be consistent with TASP development standards that address street and outdoor lighting. Therefore, the proposed Project would not create significant impacts or increase the severity of impacts related to light and glare beyond those previously identified for the 2019 Approved Project in the Exemption Memo and Environmental Checklist.

## Agriculture and Forestry Resources

The project site is located within the TASP Area, is not used for agriculture, thus, the proposed Project would have no impacts on agriculture or forestry resources. Therefore, the proposed Project would neither result in new significant impacts nor substantially increase the severity of impacts related to agriculture and forestry resources beyond those previously identified for the 2019 Approved Project in the Exemption Memo and Environmental Checklist.

## Air Quality

### Clean Air Act

Since April 19, 2017, the City has been required to adhere to the Bay Area Air Quality Management District's (BAAQMD's) current Clean Air Plan. The proposed Project would adhere to the Clean Air Plan and would not substantially increase population, vehicle trips or VMT. The proposed Project would implement the TASP measures, including provision of continuous pedestrian sidewalks and safe bike routes, encouragement of walking to nearby destinations, and provision of incentives for alternate modes of transportation. The proposed Project would decrease the number of proposed dwelling units compared to the 2019 Approved Project, resulting in a slight decrease in overall project emissions. Therefore, the proposed Project would not result in new significant or more severe impacts than those previously identified for the 2019 Approved Project in the Exemption Memo and Environmental Checklist.

### Regional Air Pollutant Emissions

The proposed Project would still result in redevelopment of the site with new residential uses. The new uses would result in mobile air quality impacts from increased vehicle trips to and from the Project Site and air quality impacts such as emissions generated from the use of landscaping equipment and consumer products. Emission estimates for operation of the 2019 Approved Project indicated that the proposed Project would not exceed the significance criteria for annual ROG, NO<sub>2</sub>, PM<sub>10</sub>, or PM<sub>2.5</sub> emissions. Since the proposed Project would involve fewer dwelling units and an estimated slight decrease in average daily trips, buildup of the proposed Project would not result in new significant or more severe impacts than those previously identified for the 2019 Approved Project in the Exemption Memo and Environmental Checklist.

### Construction Related Impacts

Construction emissions were analyzed for the 2019 Approved Project and were shown to be less than significant for ROG, NO<sub>2</sub>, PM<sub>10</sub>, or PM<sub>2.5</sub> emissions. Therefore, construction of the proposed Project would result in similar construction-related, short-term air quality impacts as those impacts identified in the TASP EIR. The proposed Project would implement the BAAQMD's Basic Construction Mitigation Measures, reducing construction fugitive dust impacts to a less-than-significant level. Therefore, the proposed Project would not result in any new significant or more severe construction-related air quality impacts than those previously identified for the 2019 Approved Project in the Exemption Memo and Environmental Checklist.

### **Localized Carbon Monoxide Impacts**

The proposed Project would decrease the number of proposed dwelling units and would therefore result in an estimated slight decrease in average daily vehicle trips. Therefore, proposed Project would not result in new significant or more severe impacts related to localized carbon monoxide than those previously identified for the 2019 Approved Project in the Exemption Memo and Environmental Checklist.

### **Local Community Risk and Hazard Impacts to Sensitive Receptors**

Similar to the 2019 Approved Project, none of the changes associated with the proposed Project would include additional TAC sources on the Project Site. Therefore, implementation of the proposed Project would not expose sensitive receptors to substantial pollutant concentrations.

### **Objectionable Odors**

Implementation of the changes associated with the proposed Project would not include any activities or operations that would generate objectionable odors and, once operational, the Project would not be a source of odors affecting a substantial number of people. The proposed Project would not result in any new significant or more severe odor impacts than those previously identified for the 2019 Approved Project in the Exemption Memo and Environmental Checklist.

### **Biological Resources**

Currently, the Project site is developed with light industrial and commercial uses. With implementation of TASP Policy 5.26, buildup of the 2019 Approved Project was shown to not result in impacts related to protected plants and wildlife and would not create impacts related to riparian habitat that are new or more significant than those analyzed in the TASP EIR. With implementation of TASP Policy 5.29, requiring setbacks from creeks to be a minimum of 25 feet from the top of a bank, the 2019 Approved Project was shown to not create impacts related to wetlands that are new or more significant than those analyzed in the TASP EIR. With implementation of TASP Policy 5.27, requiring a qualified biologist to conduct a survey that would be appropriate according to the U.S. Fish and Wildlife Service, the 2019 Approved Project was shown to not create any impacts related to migrating wildlife. The analysis also identified that the 2019 Approved Project would result in the removal of trees on the project site and the planting of approximately 40 new trees.

The proposed Project would be constructed on the same footprint and with the same impacts as the 2019 Approved Project. Moreover, the proposed Project would comply with all the same policies and measures of the TASP EIR and, therefore, would not create any new significant or more severe impacts related to biological resources than those previously identified for the 2019 Approved Project in the Exemption Memo and Environmental Checklist.

## Cultural Resources

The proposed Project would be constructed on the same footprint and with the same impacts as the 2019 Approved Project. The proposed Project would implement Policy 5.34 from TASP, and therefore, the Project would not lead to any new or more severe impacts to archaeological resources that would occur beyond those already identified in the TASP EIR and Addenda. In addition, the proposed Project would still report any discovery of human remains on the Project Site according to Sections 21083.2 and 21084.1 of the Public Resources Code and would therefore not result in any new significant or more severe cultural resource impacts beyond those previously identified for the 2019 Approved Project in the Exemption Memo and Environmental Checklist.

## Energy

The proposed Project would decrease the number of proposed dwelling units compared to the 2019 Approved Project. Therefore, the proposed Project would result in an estimated slight decrease in overall operational energy consumption. The proposed Project would also result in an estimated slight decrease in average daily vehicle trips compared to the 2019 Approved Project and would therefore result in a slight decrease in gas-related energy consumption. The proposed Project would still implement TASP Policy 3.21 3.22, and 3.33 which would further ensure that operational energy use of the project would be reduced to less than significant levels. In addition, the proposed Project would still be constructed to CALGreen standards, which would help to reduce energy and natural gas consumption. The Project would not result in wasteful, inefficient or unnecessary consumption of energy resources during construction or operation; therefore, no new significant or more severe impacts related to energy efficiency would occur beyond those previously identified for the 2019 Approved Project in the Exemption Memo and Environmental Checklist.

## Geology and Soils

Similar to the 2019 Approved Project, the proposed Project would still comply with the General Plan Policies and TASP Policies related to geological and soil impacts. The TASP EIR adequately evaluated the potential impacts related to geology and soils resulting from the 2019 Approved Project. The proposed Project would be constructed on the same footprint as the 2019 Approved Project. Therefore, implementation of the proposed Project would result in no new significant or more severe geological or soil resource impacts beyond those previously identified for the 2019 Approved Project in the Exemption Memo and Environmental Checklist.

## Greenhouse Gas Emissions

Greenhouse gas (GHG) emissions for the 2019 Approved Project were calculated using CALEEMOD. The results showed that the 2019 Approved Project would not exceed the BAAQMD threshold. The proposed Project would decrease the number of proposed dwelling units and would result in an estimated slight decrease in average daily vehicle trips compared to the 2019 Approved Project. Therefore, implementation of the proposed Project would not result in new significant or more severe impacts related to GHG emissions beyond those previously identified for the 2019 Approved Project in the Exemption Memo and Environmental Checklist.

## Hazards and Hazardous Materials

The previous analysis for the 2019 Approved Project demonstrated that compliance with TASP policies regarding release of hazardous materials and risk of upset, emissions of hazardous materials near a school, and clean-up of hazardous materials at the project site would reduce any impact relating to hazardous materials to less than significant levels. No mitigation was required for aviation hazards, emergency response or evacuation plan, wildfires, or the transport, use, storage, or disposal of hazardous materials.

However, the Tier 1 Environmental Screening Levels (ESLs) were revised in 2019, which resulted in lower screening levels. The benzene concentrations previously detected in the soil, soil vapor, and ground water are above the revised Tier 1 ESLs. It is understood that the applicant desires to enter into an oversight agreement with Santa Clara County Department of Environmental Health (DEH) for further Site assessment work and to evaluate what, if any, soil vapor mitigation measures are required. The applicant will coordinate initial agency oversite activities with the DEH to move to a Phase 2 Site Management Plan. These activities also include completion of the *Application for Regulatory Oversight* form and submittal of all applicable reports to the DEH. The DEH will issue a Remedial Action Agreement after their scoping meeting with the applicant. Once the applicant has executed this agreement, the DEH will issue a directive letter stating what next steps are required for further assessment. With implementation of this Remedial Action Agreement, potential Tier 1 impacts would be reduced to less than significant and the proposed Project would not result in any new significant or more severe hazards or hazardous materials impacts beyond those previously identified for the 2019 Approved Project in the Exemption Memo and Environmental Checklist.

## Hydrology and Water Quality

The proposed Project would be constructed on the same footprint and would develop 8 fewer dwelling units as the 2019 Approved Project. Therefore, similar to the previous findings for the 2019 Approved Project, compliance with required state and local regulation and implementation of mitigation regarding stormwater and dewatering during construction and operational use would ensure the proposed Project would not result in any new significant impacts and would not substantially increase the severity of impacts than those identified in the 2019 environmental checklist and the TASP EIR. The operation of the proposed Project would also not involve dewatering or the use of groundwater as potable water, therefore, the buildup of the proposed Project would not result in new significant impacts to groundwater resources or substantially increase the severity of impacts than those identified in the 2019 environmental checklist and the TASP EIR. The proposed Project is not located within a dam failure inundation area and is protected from flooding by a levee along Berryessa Creek northeast of the project. The implementation of the General Plan Policies 4d-G-1 and 4.d-I-1 and TASP Policies 5.33, 5.34, and 6.1 through 6.5, would ensure that long-term water quality impacts would not be significant. The proposed Project would also not result in new significant impacts related to flooding or inundation by seiche, tsunami, or mudflow or substantially increase the severity of impacts than those previously identified for the 2019 Approved Project in the Exemption Memo and Environmental Checklist.

## **Land Use and Planning**

The proposed Project would be constructed on the same footprint and would develop 8 fewer dwelling units as the 2019 Approved Project. Therefore, similar to the previous findings for the 2019 Approved Project, the buildup of the proposed Project would not inhibit public connectivity, and would not physically divide a community; therefore, the impact regarding dividing an established community would be less than significant. The proposed project would be consistent with the existing land use and zoning designations of the project site. In addition, the development associated with the proposed Project is within the amount of growth evaluated and cleared within the TASP EIR and is compatible with existing and future residential uses in the vicinity of the Project Site; therefore, the density and intensity of the proposed Project would not result in any new significant or more severe impacts regarding conformance with land use plans and those already identified in the TASP EIR and Addenda. The proposed Project would conform to the TASP policies as well as the development standards provided in Chapter 5 of the TASP. Therefore, the proposed Project would not conflict with the establishment of planned land uses, would include land uses addressed by the TASP and would not result in any new significant or more severe land use compatibility impacts than those previously identified for the 2019 Approved Project in the Exemption Memo and Environmental Checklist.

## **Mineral Resources**

The entire TASP Area, including the Project Site, is in a developed urban area that does not have mineral exploration or extraction occurring in the vicinity. In addition, the TASP Area is not designated as containing mineral resource deposits of regional importance. The proposed Project lies within the TASP area boundaries, and therefore, the proposed Project would have no impacts on mineral resources previously identified for the 2019 Approved Project in the Exemption Memo and Environmental Checklist.

## **Noise**

The proposed Project would be constructed on the same footprint and would develop 8 fewer dwelling units as the 2019 Approved Project. Therefore, similar to the previous findings for the 2019 Approved Project, the proposed Project would not result in any new significant or more severe construction-period noise impacts, ground vibration noise impacts, land use compatibility stationary noise source impacts, aircraft noise craft, or traffic noise impacts with implementation of the General Plan and TASP policies previously identified for the 2019 Approved Project in the Exemption Memo and Environmental Checklist.

## **Population and Housing**

The proposed Project would be constructed on the same footprint and would develop 8 fewer dwelling units as the 2019 Approved Project. Therefore, similar to the previous findings for the 2019 Approved Project, the proposed Project would not result in the displacement of a residential population, the expansion of urban services, or the opening of additional undeveloped land for future growth. Therefore, the proposed Project would not result in new significant or more severe population growth and/or housing impacts than previously identified for the 2019 Approved Project in the Exemption Memo and Environmental Checklist.

## Public Services

The proposed Project would follow policies that would reduce Fire and Police Department impacts due to TASP development to less-than-significant levels. The proposed Project would develop 8 fewer dwelling units as the 2019 Approved Project and would therefore not affect the conclusions of the TASP EIR as the number of proposed residential units and resulting students is still within the amount evaluated in the TASP EIR. The proposed Project would also not result in any new significant or more severe impacts to fire or police protection services, school impacts, or impacts on park facilities than those previously identified for the 2019 Approved Project in the Exemption Memo and Environmental Checklist.

## Recreation

The proposed Project would be constructed on the same footprint and would develop 8 fewer dwelling units as the 2019 Approved Project. Therefore, the proposed Project would not result in any new significant or more severe impacts to existing neighborhood or regional park facilities beyond those previously identified for the 2019 Approved Project in the Exemption Memo and Environmental Checklist.

## Transportation/Traffic

The proposed Project would develop 8 fewer dwelling units than the 2019 Approved Project, resulting in an anticipated slight reduction in average daily vehicle trips. Furthermore, the project would improve site access by including an additional EVA only access from Lundy Place. Further analysis is not required, because trip generation less than 100 peak hour trips, per the Valley Transportation Authority Congestion Management Program Transportation Impact Analysis Guidelines and the previous Hexagon report identified the proposed Project would not result in any level of service impacts or queuing storage deficiencies at the study intersections, and impacts to pedestrian, bicycle, or transit facilities. Therefore, the proposed Project would not result in any new significant more severe impacts beyond those previously identified for the 2019 Approved Project in the Exemption Memo and Environmental Checklist in regard to site circulation and access, pedestrian, bicycle, and transit facilities. The proposed Project would not be in conflict or be inconsistent with CEQA Guidelines section 15064.3.

## Tribal Cultural Resources

The proposed Project would be constructed on the same footprint and would develop 8 fewer dwelling units as the 2019 Approved Project. Therefore, the proposed Project would not result in any new significant or more severe impacts to tribal cultural resources beyond those previously identified for the 2019 Approved Project in the Exemption Memo and Environmental Checklist.

## Utilities and Service Systems

The previous project included an off-site storm drain improvement within the City easement on the 1951 Tarob Court property. No deficiencies have been identified in this line; therefore, the proposed project is not providing the off-site storm drain improvement.

The proposed Project would be constructed on the same footprint and would develop 8 fewer dwelling units as the 2019 Approved Project. Therefore, the proposed Project is within the level of development evaluated in the TASP EIR, it would not result in any new significant or more severe impacts related to wastewater capacity and infrastructure than those identified in the 2019 environmental checklist and the TASP EIR. The proposed project would include the installation of new storm drain line on the project site and would connect to the existing 12-inch municipal storm drain located at the northwest corner of the project site. Therefore, no new significant or more severe impacts beyond those previously identified for the 2019 Approved Project in the Exemption Memo and Environmental Checklist would result from the project regarding water supply or solid waste.

## Wildfire

The proposed Project would be constructed on the same footprint as the 2019 Approved Project. The Hazards and Hazardous Materials section of the TASP EIR determined that there were no Very High Hazard Severity Zones within the TASP Area. In addition, the project site is not located in or near any State responsibility areas. Therefore, the proposed Project would not result in any new significant or more severe impacts related to wildfire hazards beyond those previously identified for the 2019 Approved Project in the Exemption Memo and Environmental Checklist.

## SUMMARY

This consistency analysis summary confirms that the proposed Project is still within the scope of the TASP EIR and will have no new significant or more severe impacts beyond those identified in the 2019 environmental checklist and the TASP EIR.