

**MEMORANDUM**

September 14, 2023

**To:**Tim Paone  
Cox, Castle & Nicholson LLP**From:**Kathleen Brady  
Principal Emeritus**Subject:** Revalidation of the Consistency Evaluation for Paseo Del Sol Residential Development

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**PURPOSE**

The purpose of this memorandum is to update the *Consistency Evaluation Pursuant to Public Resources Code Section 21166* (2020 Consistency Evaluation), prepared by Psomas in August 2020, for the pending approval of Tentative Tract Map (TTM) 36483 for Planning Area 4 (PA-4) of the Paloma del Sol Specific Plan<sup>1</sup> (the Specific Plan) by the City of Temecula (the City). PA-4 is the last of the 38 planning areas in the Specific Plan to be developed.

Section 65457 of the Government Code provides an exemption from the requirements of the California Environmental Quality Act (CEQA) for a residential development project “. . . that is undertaken to implement and is consistent with a specific plan for which an environmental impact report has been certified after January 1, 1980.” This section of the Government Code does state that if after adoption of the specific plan, an event as specified in Section 21166 of the Public Resources Code occurs, the exemption provided by this subdivision does not apply unless and until a supplemental environmental impact report for the specific plan is prepared and certified in accordance with CEQA. The “events” described in Public Resources Code Section 21166 (the 21166 Events) are:

“(a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report.

(b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.

(c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.”

**THE 2020 CONSISTENCY EVALUATION**

The 2020 Consistency Evaluation was prepared to evaluate whether any of the 21166 Events had occurred since the adoption of the Specific Plan. The evaluation concluded that, based upon substantial evidence, as of the date of the 2020 Consistency Evaluation:

(1) TTM 36483 and associated Project improvements do not represent a substantial change from the Paloma del Sol Specific Plan evaluated in Certified FEIR 235 and associated Addenda;

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<sup>1</sup> The full name of Specific Plan 219 is Paloma Del Sol, Villages at Paseo del Sol. For brevity, the 2020 Consistency Evaluation refers to the name as the Paloma del Sol Specific Plan. There are past documents that use the name Paseo del Sol. Additionally at the time FEIR 235 was certified, it was also called The Meadows at Rancho California.

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(2) there are no substantial changes with respect to the circumstances under which the Project is undertaken that would result in new significant or substantially more severe impacts; and

(3) there is no new information of substantial importance, which was not known and could not have been known at the time Certified FEIR 235 was certified as complete. The Project would not have any new or substantially more severe impacts than what was evaluated Certified FEIR 235 and the subsequent Addenda. There are no new mitigation measures that were not adopted at the time the FEIR 235 was certified that would further reduce Project impacts.

Therefore, the 2020 Consistency Evaluation concluded that with respect to the application for TTM 36483, none of the 21166 Events had occurred and, as a result, no subsequent or supplemental environmental impact report was required.

## **THE PROJECT**

PA-4 is located in the southeastern corner of the Specific Plan boundary, at the corner of Butterfield Stage Road and Temecula Parkway, south of De Portola Road. Woodside Homes is the applicant for the TTM 36483, which proposes 168 single-family residential lots, a community park, and open space/trails, and drainage and water quality improvements (the Project).

The 2020 Consistency Evaluation addressed regional infrastructure improvements that were planned in the same general timeframe as the planning for Paseo del Sol. The infrastructure improvements were developed as part of a separate planning process known as Assessment District 159 (AD 159) (see Background, below).

One of the regional improvements is the Butterfield Stage Road Interceptor (BSRI). This flood control improvement is located offsite adjacent to the Project mostly in the Butterfield Stage Road right-of-way and is designed to manage drainage from properties upstream of the Project. There is no substantial evidence that the Project either creates the need for the BSRI or is dependent upon the BSRI. Although acknowledged in the 2020 Consistency Evaluation, the engineering design effort for the BSRI has progressed since the completion of the 2020 document. The City of Temecula will be responsible for the construction of the BSRI.

Construction of the BSRI improvement may or may not overlap with construction of the Project. The following reviews the determination of the 2020 Consistency Evaluation to ensure it is still applicable with consideration of the BSRI.

## **BACKGROUND**

### **Environmental Documentation**

The Project site has been addressed in previous environmental documents, including the Certified Final Environmental Impact Report (FEIR) 235, State Clearinghouse (SCH) No. 8707003, approved by the County of Riverside on September 6, 1988, and Addendum No. 4 to the Certified FEIR 235, which included changes to the development in PA-4. Addendum No. 4 was approved by the City of Temecula on January 8, 2002.

As noted earlier, the 2020 Consistency Evaluation was prepared to address whether any of the 21166 Events had occurred in order to allow the City to determine if the Government Code Section 65457 exemption for a residential project “undertaken to implement and is consistent with a specific plan for

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which an environmental impact report has been certified after January 1, 1980” applies to the Project. The 2020 Consistency Evaluation and this update will be considered by the City in the course of its review of TTM 36483.

### **Assessment District 159**

As discussed in the 2020 Consistency Evaluation, in 1987, the County of Riverside formed AD 159 “to fund through property assessments major infrastructure projects in the Highway 79 corridor near Rancho California.” Studies were conducted for a drainage system that would mitigate potential flooding impacts to Temecula Creek and downstream land uses. Implementation of AD 159 improvements included construction of Temecula Creek Channel, Temecula Parkway, and Butterfield Stage Road in addition to backbone drainage facilities. The original drainage report indicated that the westerly drainage basins north of De Portola Road, which drained toward Butterfield Stage Road, would be captured and the off-site flow would be conveyed through Paseo del Sol in storm drains. The evaluation for AD 159 was prepared for a larger study area and was done independent of the Paloma del Sol Specific Plan, but the studies for AD 159 were prepared concurrently with the Paloma del Sol Specific Plan drainage report. The improvements were assumed to occur in a similar timeframe; however, Paloma del Sol was not conditioned on the AD 159 improvements.

As part of a Supplemental District, formed in 1991, additional facilities were proposed, including “[t]he construction of flood control facilities at three points along and northerly of Highway 79 all to facilitate the drainage of the northern portion of the District to Temecula Creek.” The Engineer’s Report for AD 159-Supplemental stated that the projects proposed to be completed by the supplemental assessment district included “[t]he construction of Butterfield Stage Road between Rancho California Road and State Highway 79.” AD 159-Supplemental also proposed construction of a floodwater interceptor facility, the Butterfield East Interceptor. “The Butterfield East Interceptor was intended to be an open channel located at the eastern AD boundary to intercept the tributary drainage flows and provide flood protection to Butterfield Stage Road, State Route 79 South, and downstream properties.” *Corona Family Limited Partnership v. City of Temecula* (Feb. 8, 2005) 2005 WL 290209.

As noted in the 2020 Consistency Evaluation, the County of Riverside and City of Temecula required Paloma del Sol to construct an interim detention stormwater collection and basin on PA-4 until the County approves and constructs an up-stream drainage facility. The Project proposes construction of permanent improvements in PA-4 to replace the existing on-site temporary drainage facilities with an improved stormwater conveyance and surface water quality system.

To accommodate the regional flows, the plans by the City of Temecula and the Riverside County Flood Control District reflect the proposed drainage improvements in PA-4, as well as enhanced improvements in Butterfield Stage Road. Currently, there are two 10-foot storm pipes in the Butterfield Stage Road right-of-way, that empty into Temecula Creek. As part of the proposed regional improvements, an additional 10-foot storm pipe will be added in the road right-of-way and empty in Temecula Creek. This improvement is known as the BSRI. The City of Temecula, who will be responsible for constructing the improvements, has approved the plans and forwarded the final plans to the Riverside County Flood Control for their approval. Additionally, all regulatory permits have been received.

This refined design (the improvements in PA-4 and the BSRI) is based on detailed engineering and is not a change to the purpose of the improvements associated with AD 159 and AD 159 Supplemental. Even though the Project has agreed to cover any shortfall in BSRI construction costs should AD 159 and other available public funds prove insufficient to complete the BSRI, the BSRI is a public project not necessary

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to handle drainage from the Project, but rather serving to manage flows from upstream properties, as discussed above. The Project's shortfall agreement is strictly an accommodation to upstream property owners. Exhibit 1 shows the location of PA-4 in relationship to the BSRI.

### **Regulatory Permitting**

The 2020 Consistency Evaluation provided an overview of the approval process through the regulatory agencies, including, the U.S. Army Corps of Engineers (Corps), California Department of Fish and Wildlife (CDFW), and San Diego Regional Water Quality Control Board (RWQCB). Additionally, it summarized the Joint Project Review (JPR) issued for the Project by the Western Riverside County Regional Conservation Authority (RCA) on April 25, 2016, and updated on April 6, 2018. The JPR determined consistency of the project with the Multi-Species Habitat Conservation Plan (MSHCP).

Although, the Paseo del Sol project does not rely on the BSRI flood control improvements and the improvements will be constructed by the City, it was decided to include the flood control improvements in the regulatory permits for the Project. Michael Baker International (MBI) coordinated with the regulatory agencies to determine if the BSRI would require amendments to the permits issued for the Project. MBI provided the Corps and RWQCB the BSRI information for the permit file and verified with agency representatives that no formal permit amendments are required. An amendment request to the CDFW was not required since the Streambed Alteration Agreement (SAA) was still in draft form and the outlet location was adequately included in the draft project description. CDFW issued the permit and filed a CEQA Notice of Determination (NOD) on May 24, 2021, which covered the jurisdictional impacts on the Project and the BSRI.

### **REVALIDATION OF THE ADEQUACY OF THE 2020 CONSISTENCY EVALUATION**

As noted earlier, this update evaluates whether any of the 21166 Events (see Page 1 of this update) has occurred since the completion of the 2020 Consistency Evaluation. To ensure the analysis was comprehensive, the 2020 Consistency Evaluation provided a discussion for each of the questions on the still current CEQA Guidelines Environmental Checklist (Checklist). This analysis provides the City of Temecula with the factual basis for determining whether any changes in the Project, any changes in circumstances, or any new information since FEIR 235 was certified, rise to the level that would require substantial revisions to the Certified FEIR 235.

There have not been any substantial modifications to the Project or the circumstances in which it is being implemented that would change these findings; however, given the passage of time a streamline assessment of each parameter of the three-prong test identified in Section 21166 of the Public Resources Code has been done to document the consistency with these findings.

### ***No Substantial Changes to the Project Requiring Major Revisions of the EIR***

The development proposed in PA-4 is substantially the same as what was evaluated in Certified FEIR 235 and Addendum No. 4. The 2020 Consistency Evaluation found that there were no major changes that would result in new significant or substantially more impacts necessitate the preparation of supplemental environmental documentation.

Similarly, the refinement to the design of the BSRI would not be considered a substantial change to the identified flood control improvements associated with either the Specific Plan or the Assessment District. AD 159 identified the need to construct a floodwater interceptor facility to provide protection to Butterfield Stage Road, State Route 79, and downstream properties. The conveyance of offsite flows

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through PA-4 was identified as an interim condition until such time the Flood Control District approves and constructs an up-stream drainage facility. To provide enhanced improvement, the Project incorporated a conveyance channel as a permanent improvement; however, the BSRI serves as the ultimate improvement associated with the Assessment District.

As noted above, none of the agencies with jurisdiction of natural resources (Corps, CDFW, and RWQCB) identified the potential for new or more severe impacts as a result of the BSRI. The location of the pipeline and outlet was determined based on the degraded nature of natural resources in that location and presence of rip-rap and a drop structure in the Creek.

The analysis in the 2020 Consistency Evaluation is still applicable and there would be no need for supplemental CEQA documentation based on the first prong of the three part test outlined in Section 21166.

#### ***No Substantial Changes to the Circumstances Requiring Preparation of an EIR***

There are no substantial changes to the circumstances under which the Project is being implemented. PA-4 represents the last planning area in the Specific Plan to be developed. The development has been assumed in all the local and regional planning assumptions. The site is still heavily disturbed. Similarly, the BSRI has been an identified improvement as part of the regional infrastructure improvements. The improvements in AD 159 were known at the time of preparation of Certified FEIR 235 and the technical studies considered the AD 159 improvements. There are no new circumstances associated with Project implementation, which were not addressed in the 2020 Consistency Evaluation. Therefore, the Project development even with consideration of the approved design of the BSRI does not result in any new significant or substantially more severe impacts and there are no resources that would be impacted by the improvements that were not known at the time the Specific Plan and AD 159 were prepared.

#### ***No New Information of Substantial Importance Requiring Preparation of an EIR***

As noted, the Specific Plan and AD 159 were prepared in generally the same timeframe. Subsequent to the certification of FEIR 235, the Western Riverside Multi-Species Habitat Conservation Plan (MSHCP) was approved. Although a new program for the regulatory coverage of species, the species covered by the MSHCP were known to be located in the larger Western Riverside area at the time Certified FEIR 235 was prepared. Additionally, as mentioned above and addressed in the 2020 Consistency Evaluation, the RCA determined the Project was consistent with the MSHCP, with the implementation of the standard MSHCP protective measures and implementation of the Determination of Biologically Equivalent or Superior Preservation (DBESP).

The need for offsite regional improvements had been identified and the studies for AD 159 were prepared concurrently with the Paloma del Sol Specific Plan drainage report. Therefore, the need and function of the BSRI is not new information. The design is a refinement of the interceptor identified as a needed regional infrastructure project, which was conceptually addressed in the FEIR for AD 159. The more detailed engineering plans do not constitute new information and when considered in conjunction with the Project, no new significant or more severe impacts would occur; therefore, no additional mitigation measures are required and preparation of an EIR is not required.

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## CONCLUSION

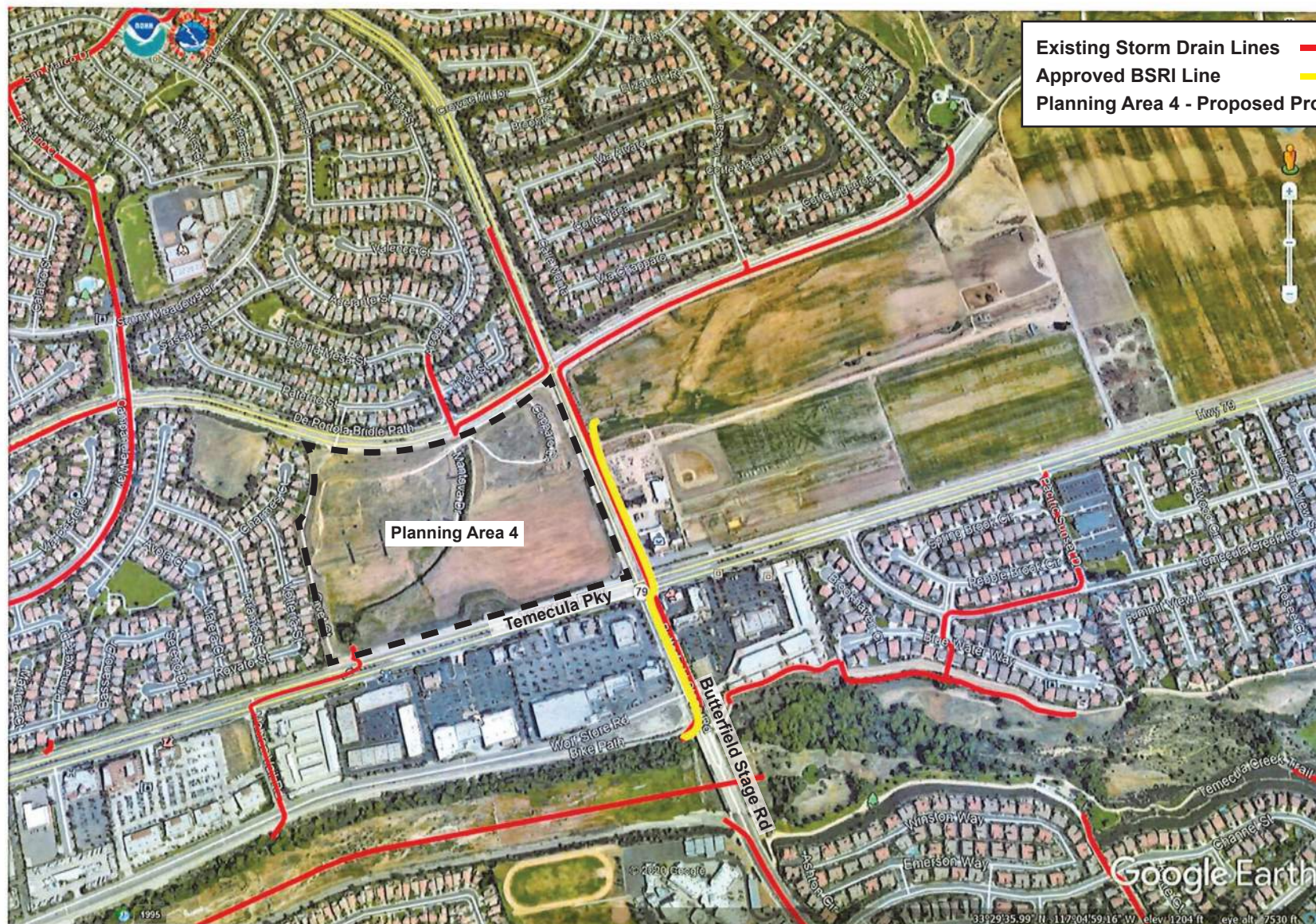
Consistent with the 2020 Consistency Evaluation, a review of the available documentation confirms there is substantial evidence, that,

- (1) the Project and the BSRI as a cumulative project does not represent a substantial change from the Paloma del Sol Specific Plan and associated CEQA documentation, including Certified FEIR 235 and Addenda;
- (2) there are no substantial changes with respect to the circumstances under which the Project is undertaken that would result in new significant or substantially more severe impacts; and
- (3) there is no new information of substantial importance, which was not known and could not have been known at the time FEIR 235 was certified as complete and the 2020 Consistency Evaluation was prepared. The Project, together with the BSRI, would not have any new or substantially more severe impacts than what was evaluated in the Certified FEIR 235 and the subsequent Addenda. There are no new mitigation measures that were not adopted at the time the FEIR 235 was certified that would further reduce Project impacts. Therefore, based this evaluation, none of the conditions in Section 21166 of the Public Resources Code apply, and no subsequent or supplemental environmental impact report should be required.

Attachment: Exhibit 1, Location of Planning Area 4 to the BSRI

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Source: Woodside, 2023

## Location of PA-4 and the BSRI

Exhibit 1

Revalidation of the 2020 Consistency Evaluation

