



# County of San Diego

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November 21, 2019

TO: Borrego Springs Community Sponsor Group  
T2 Borrego, Applicant  
Borrego Springs Fire Protection District  
Borrego Springs Unified School District  
Borrego Water District

FROM: Mark Wardlaw  
Planning & Development Services

SUBJECT: Rams Hill Development Agreement Threshold Decision Director's  
Preliminary Report and Recommendation; PDS2019-DA-19-001

## **A. EXECUTIVE SUMMARY**

The purpose of this memorandum is to provide the preliminary report and recommendation ("Preliminary Report") on whether or not the County of San Diego ("County") should proceed to enter into the negotiation process for the proposed Rams Hill Development Agreement ("Development Agreement") with T2 Borrego ("Applicant") as required by the San Diego County Code of Regulatory Ordinances (Section 81.1301). The information in this memorandum will be available for a 30-day public review and comment period.

The Preliminary Report describes the development agreement process, current Rams Hill Specific Plan ("Specific Plan"), the Applicant's proposed amendments to the Specific Plan and related actions, and the proposed Development Agreement. The Preliminary Report also describes the potential public benefits that may result from implementation of the Development Agreement and the Director's preliminary recommendation and reasons for the recommendation.

The Rams Hill Specific Plan was first approved by the Board of Supervisors ("Board") in 1980 and was last amended in 1986. The Specific Plan allows for development of the 3,140 acre site and includes 1,570 dwelling units, approximately 29 acres allocated for commercial uses, a 350-room hotel complex, two golf courses, tennis facilities, a medical clinic, a fire station, a wastewater treatment plant and 1,832 acres of open space. To date, 264 dwelling units have been constructed, along with two golf courses, the tennis facility, the medical clinic and the wastewater treatment plant.

The Applicant proposes to reconfigure the remaining development of the site including the remaining dwelling units, hotel complex, commercial areas, recreation areas and fire station, and changing the layout of one or both of the golf courses. In addition to the requested development agreement, the project is anticipated to include a Specific Plan Amendment, Rezone, Vesting Tentative Map and Open Space Easement Vacation.

Through the Development Agreement, the Applicant is requesting to establish and maintain the proposed rules and rights (“vested rights”) contained in the Specific Plan and related documents over a minimum term of 30 years. In consideration of these rules and rights and the certainty the Development Agreement would grant, the Applicant proposes a number of public benefits including a voluntary reduction in groundwater pumping, retiring residential development rights, increasing open space, improving fire protection, providing a planning and maintenance grant for groundwater sustainability lands and studying low-cost renewable energy opportunities, which are further described in this report. A copy of the Applicant’s proposed Development Agreement terms are included as Attachment A.

Based on the public benefits proposed, the Director of Planning & Development Services preliminarily recommends that the County enter into the Development Agreement negotiation process with the Applicant. As required by County Code and before the negotiation process may begin, a 30-day public comment period must occur, the Planning Commission must make a recommendation and the Board must authorize the Applicant to file an application for a Development Agreement.

## **B. DEVELOPMENT AGREEMENT APPLICATION PROCESS**

The County established development agreement procedures and requirements, consistent with state law, within the County Code of Regulatory Ordinances (Section 81.1301). Development agreements are intended to provide certainty to a developer proposing a long-term development project, to protect against changes in local law during the life of the project while at the same time having the developer provide public benefits in exchange for the certainty granted to the developer.

County code requires a “Threshold Procedure” for a development agreement associated with a previously approved project. The threshold procedure provides a preliminary analysis and recommendation on the proposed development agreement allowing an applicant to propose a project to the County. This Preliminary Report is not the evaluation and consideration of a formal development agreement nor a land use decision.

A request for a threshold decision is submitted by an applicant to Planning & Development Services (PDS) who evaluates the proposed development agreement and prepares a Preliminary Report. The Preliminary Report must include:

- A description of the project,
- Explain whether clear potential benefits are likely to accrue to the public, and
- Provide the Director's preliminary recommendation regarding whether or not the County should proceed to enter into the development agreement negotiation process and the reasons for the Director's recommendation.

The Preliminary Report is then submitted to the applicable community sponsor group or community planning group, to any affected public agency and to the project applicant. A 30-day public review period is provided where interested parties can submit written comments to the County on the Preliminary Report. At the end of the public comment period the Director will provide a recommendation to the Planning Commission on whether the development agreement proposal should be accepted for the purpose of filing an application for a development agreement.

The Planning Commission, after considering the merits of the threshold decision request and the Director's recommendation, shall submit its recommendation on the threshold decision to the Board. After considering the merits of the threshold decision request, the Board may authorize the applicant to file an application for a development agreement for the proposal, or direct staff to terminate proceedings. By authorizing the filing of an application, the Board would not be making a commitment to approve a development agreement.

For the threshold decision, there is no requirement for, or expectation of, a complete project review and analysis conducted for a typical discretionary project decision. A threshold decision is also not subject to the California Environmental Quality Act (CEQA). If the Board authorizes the filing of an application, the Applicant will be required to apply for a development agreement and applications for all applicable discretionary permits to implement the development agreement, which will then go through the permit and CEQA review process. The final version of a negotiated development agreement and any applicable discretionary permits will be presented to the Board at a later date for their consideration.

## **C. DEVELOPMENT PROPOSAL**

### **1. Rams Hill Specific Plan**

The Rams Hill Specific Plan is located within the southeast portion of the Borrego Springs Community Planning Area, bordered by Yaqui Pass Road to the west and Anza-Borrego Desert State Park to the south, with Borrego Springs Road bisecting the north and east portions of the plan area (Figure 1).

The Specific Plan was first approved by the Board on May 7, 1980. On December 10, 1986 the Board approved an amendment of the Specific Plan that added the northern golf course and the commercial areas and increased the allowed number of dwelling units from 780 to 1,570. A map of the amended Specific Plan is provided in Attachment B and aerial photos of the current plan area are provided in Figures 2 and 3. Table 1 lists the land uses, acreage and dwelling units that were approved by the amended Specific Plan and identifies the facilities that have been built or implemented to date. This table corresponds to the Land Use table as shown in Attachment B. Major use permits for the plan area are listed in Table 2 and include the two golf courses and three residential planned developments that have been built to date.

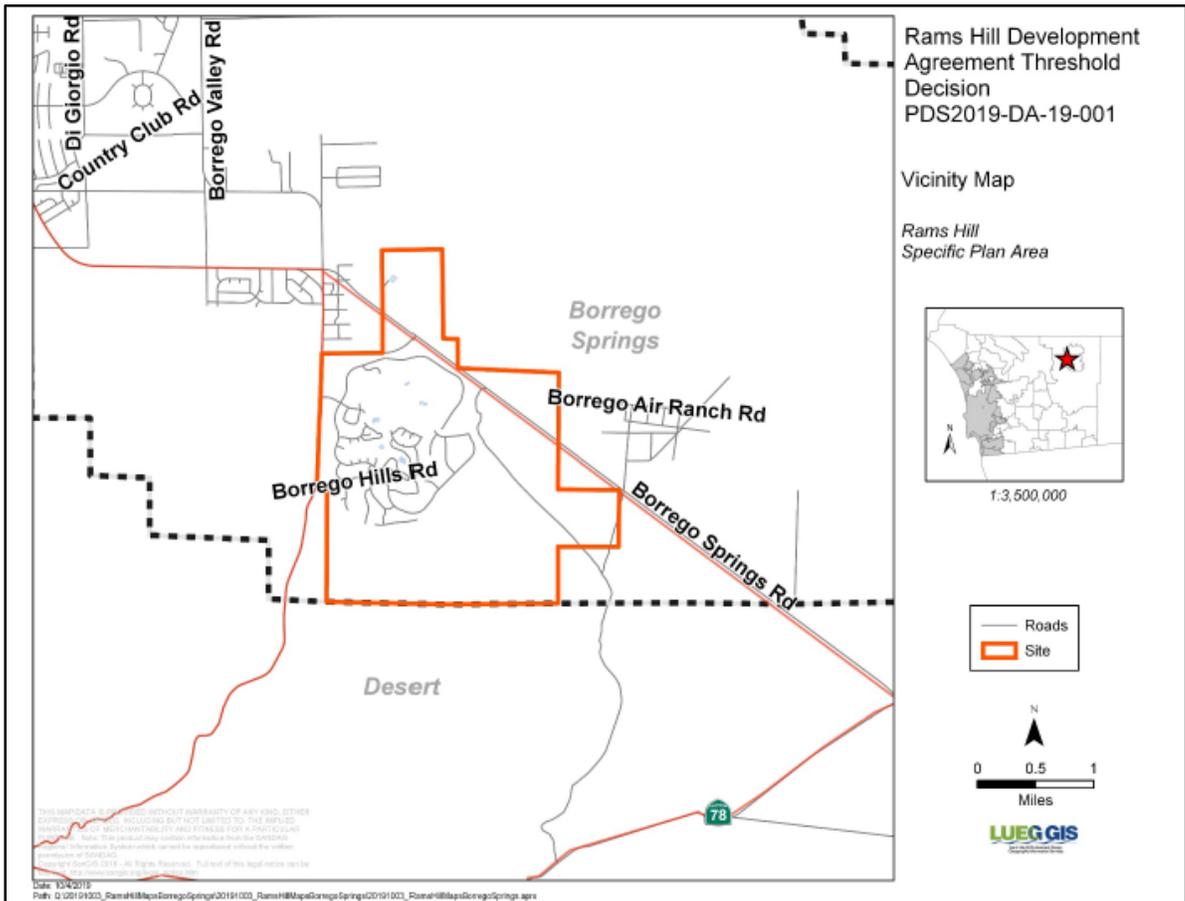


Figure 1: Vicinity Map

*Table 1: 1986 Rams Hill Specific Plan Designated Land Uses*

<b>Land Use</b>	<b>Designated Acreage</b>	<b>Implemented/ Built</b>
Wastewater Treatment Plant	16.67	Yes
Fire Station	3.00	No
Medical Clinic	12.78	Yes
Resort Hotel	16.40	No
Country Club Site	4.09	Yes
Golf Pavilion Site	4.48	No
Tennis Center	9.48	Yes
1,570 Dwelling Units	550.28	264 units built
Golf Courses	346.37	Yes
Commercial Area	29.10	No
Public Roads	3.00	Partial
Open Space	1,832.16	Yes
Future Planning Area	312.64	N/A

*Table 2: Rams Hill Specific Plan Area Existing Major Use Permits*

<b>Permit Name / Function</b>	<b>Implemented/ Built</b>
North Golf Course	Yes
South Golf Course	Yes
San Felipe Recreation Center	Yes
Wastewater Treatment Plant	Yes
Casitas Planned Development	Partially Built
Santa Fe-Carrizos Planned Development	Partially Built
Santa Rosa Planned Development	Yes

Figure 2 provides an aerial view of the plan area and shows the existing development footprint and the location of the wastewater treatment plant. Most of the remaining plan area is currently designated as open space.

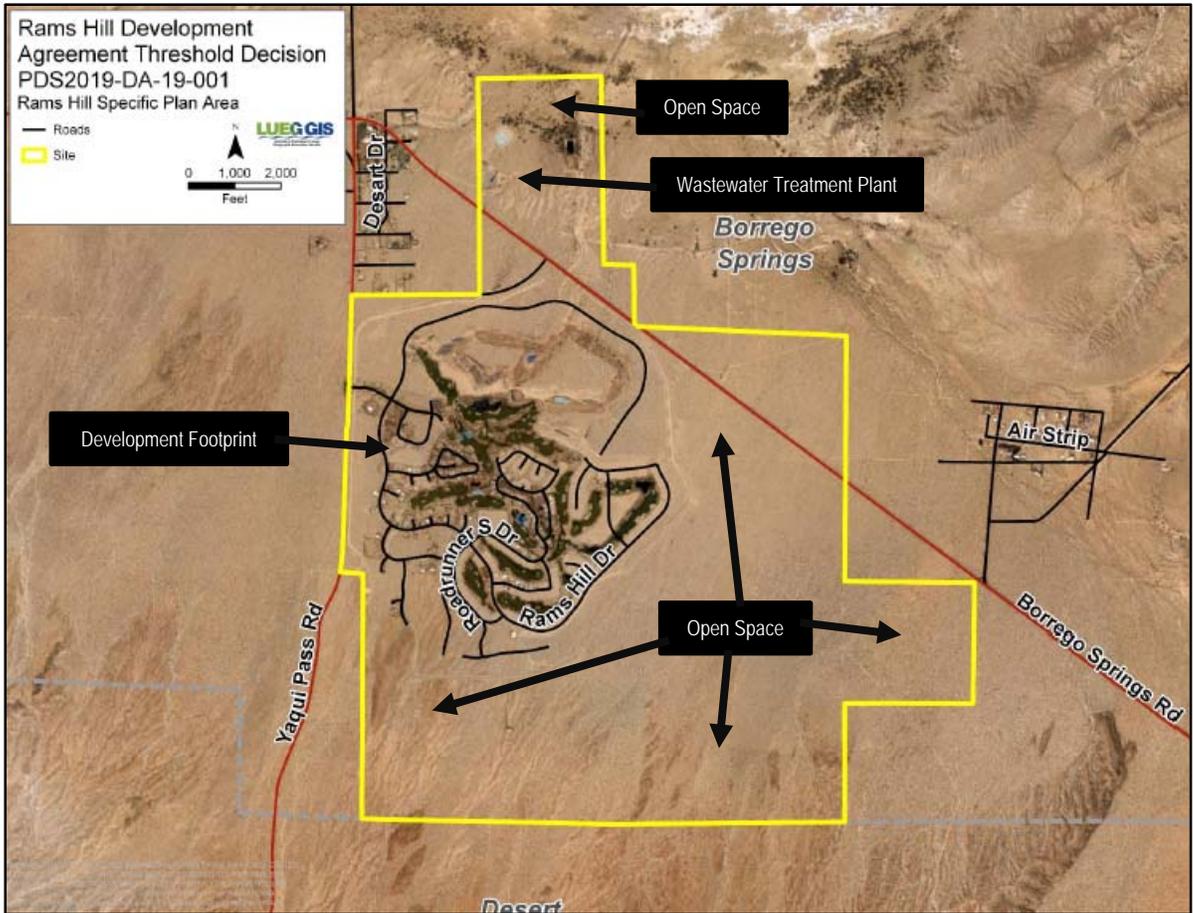


Figure 2: Aerial photo of the Rams Hill Specific Plan area.

Figure 3 on the following page provides an aerial view of the existing development footprint of the plan area and shows current lot configurations, the extent of the existing vacant lots within the developed portion, the Land Uses of the plan area that have not been built to date, and also the areas that were intended for further subdivision to build out the plan's allocated dwelling units but have not been subdivided to date.



Figure 3: Aerial photo of the of the Rams Hill Specific Plan area (Development Footprint).

## 2. Development Agreement - Authorized Development and Permitted Uses

The Applicant is requesting a development agreement in order to reconfigure the plan area and build out the project over a longer timeframe than what would typically be allowed for a discretionary project. A Conceptual Master Plan for the plan area is provided in Attachment C. A typical vesting tentative map has an expiration date of 36 months from the effective date, with the potential to extend for up to six additional years. The proposed term of the development agreement would be a minimum of 30 years from the effective date, and the Applicant would receive vested rights to develop the project as explained in the Authorized Development portion of the agreement for a minimum of 30 years. Proposed

permitted uses of the project are summarized below and will be further defined during the discretionary permit review process.

- a. Develop the remaining 1,306 dwelling units previously authorized by the Specific Plan.
- b. Retain 364.4 acres of commercial recreation areas which include the existing golf courses, country club and tennis center, and may include building the golf pavilion and putting courses.
- c. Retain 29 acres for commercial retail use.
- d. Retain 16.5 acres for a commercial hotel use.
- e. Retain 232 acres of the existing 1,832.16 acres of open space as permanent open space. Vacate the existing 1,600-acre easement and designate 1,760 acres as on or off-site open space (10% increase).
- f. Construct renewable energy facilities such as solar or pumped hydro energy storage.

### **3. Development Agreement - Discretionary Permits and Other Components**

The Applicant's proposed development agreement also outlines the following discretionary permits the Applicant anticipates will be necessary to implement the agreement.

- a. Specific Plan Amendment – The existing Rams Hill Specific Plan and Map would be amended to authorize the Applicant's proposed changes. The amendment will set the maximum height and size of proposed buildings and establish other development standards.
- b. Rezone – The current combination of seven different Use Regulations (C36 General Commercial, C42 Visitor Serving Commercial, RS Single-Family Residential, RR Rural Residential, RV Variable Family Residential, S80 Open Space and S88 Specific Plan Area) would be amended into a single S88 Specific Plan Area use regulation. The proposed S88 Use Regulation would be consistent with the plan area's current Specific Plan Area General Plan Land Use Designation and approval of the project would not require the processing of future rezones.
- c. Vesting Tentative Map – Existing lots within the plan area would be subdivided as shown on the Conceptual Master Plan provided in Attachment C.
- d. Open Space Easement Vacation – The Applicant proposes to vacate the existing 1,600-acre open space easement located in the eastern and southern portions of the plan area. The vacation will be necessary in order to implement the Applicant's proposed Floating Open Space Easement and Replacement Open Space Easement that will increase the amount of land designated as open space by 10%. See "e." below for more information.

Two areas of dedicated open space will remain within the Specific Plan area. These areas include the 72-acre easement over the northern portion of the plan area which was established to protect biologically sensitive resources, and the 150-acre easement over the southwestern portion of the plan area which was established to protect archeologically and biologically sensitive resources. These easements will be retained in their current locations and will not be affected by the proposed changes to the plan area.

12.26-acres of open space were also dedicated in the plan area with the recordation of final maps 14945, 14946 and 15462. The Applicant proposes changes to 6.52-acres of open space easements dedicated in maps 14945 and 14946, and open space easement vacations may be required.

- e. Floating Open Space Easement and Replacement Open Space Easement – After the existing 1,600-acre Open Space Easement is vacated, the Applicant will grant to the County a “floating open space” easement which will encumber the 1,600-acres that were vacated. The floating open space easement will preserve the lands within a general easement area until such time as the Applicant seeks to subdivide portions of the easement for development. Portions of the easement will be developed in phases, which may occur as shown on the Conceptual Master Plan. Prior to recording a final map which will subdivide a portion of the easement, the Applicant will grant a replacement open space easement elsewhere within the Borrego Springs Community Plan area or within Anza-Borrego Desert State Park.

The replacement open space easement will protect biological habitat that is a minimum of 110% of the size of the area of each final map that is to be recorded within the floating open space easement. Figure 4 shows the existing 1,600-acre Open Space Easement to be vacated and then encumbered by the new 1,600-acre floating open space easement. If all 1,600-acres of the floating open space easement are replaced, 1,760 acres in total will be preserved in new open space. Figure 4 also shows the locations of the existing 72 and 150-acre open space easements to be retained as permanent open space.

The adoption of a floating open space easement and replacement open space easement is a unique planning proposal, the County of San Diego has not considered or approved a request of this nature before and is not aware of any jurisdictions that have allowed such planning practices. Floating easements are generally used in the context of rights of way recorded on a property for the benefit of another user, the location of the right of way which is located over time through habitual use on the property, but not in the context of large open spaces. By the nature of this request, an existing contiguous 1,600-acre open space easement may eventually be replaced by multiple easements located elsewhere within the community which in total are of a larger acreage. As mentioned in section B, potential impacts to biological resources and cultural resources will be evaluated once an application for a development agreement and applications for all applicable discretionary permits to implement the development agreement are submitted. If the Board authorizes the Applicant

to file a Development Agreement application, further research of this proposal will be conducted.

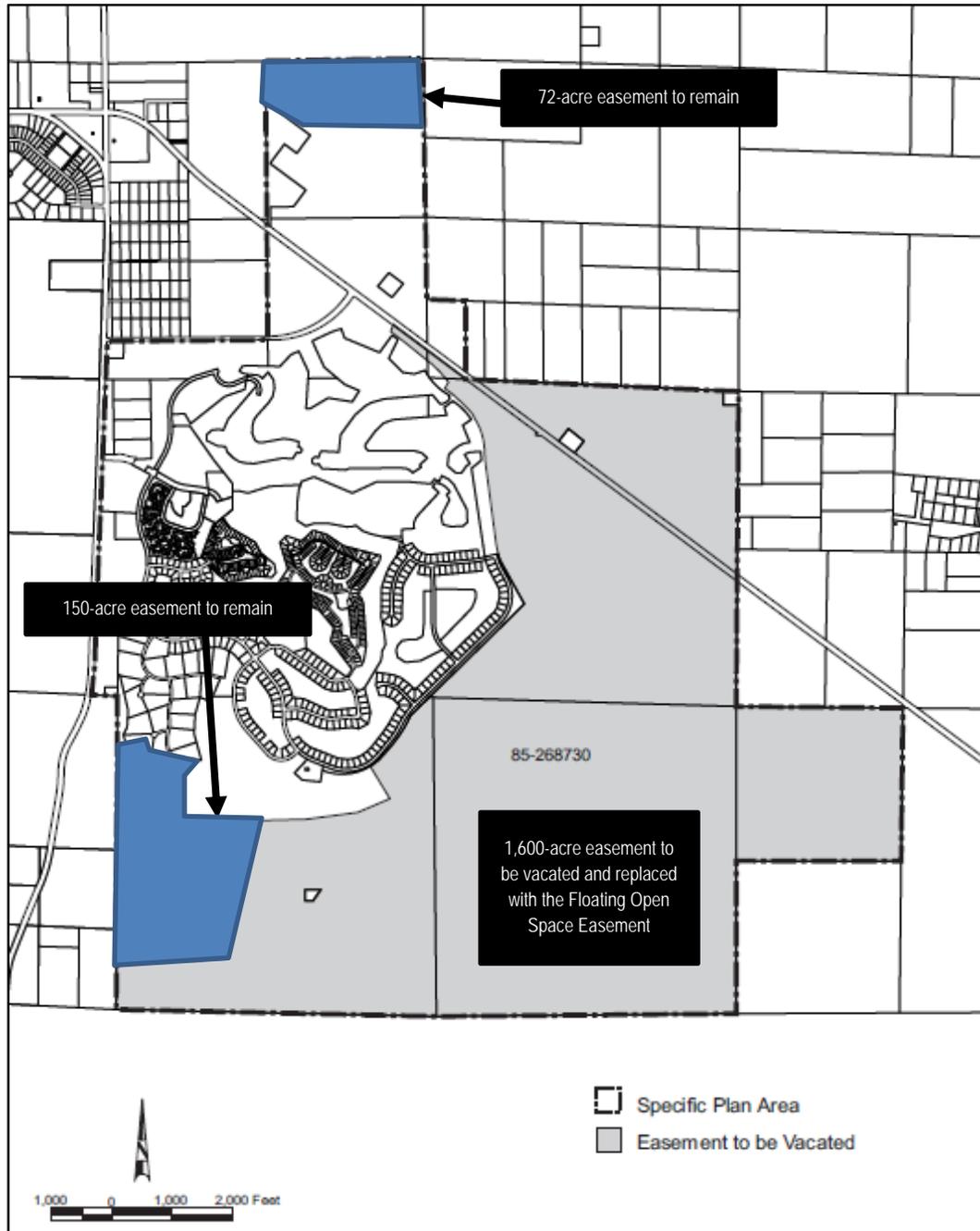


Figure 4: Existing Open Space Easement to be vacated.

- f. Subsequent Development Approvals – The proposed changes to the Rams Hill Specific Plan may require additional discretionary permits in order to implement the development agreement project. These subsequent discretionary permits could include tentative maps, major use permits and site plans. The project

may require a modification to the existing Major Use Permit for the North Golf Course (P86-062) and either a modification or minor deviation to the existing Major Use Permit for the South Golf Course (P79-130). Modifications or minor deviations to the other existing Major Use Permits for the Recreation Center and the Planned Developments may also be necessary depending on the extent of any changes proposed for those areas. Once the application for a development agreement and applications for all applicable discretionary permits are submitted by the Applicant, staff will determine what, if any, other discretionary permits will be necessary to implement the development agreement project.

#### **4. Public Benefits**

Through the Development Agreement, the Applicant is requesting to establish and maintain the proposed rules and rights (“vested rights”) contained in the Specific Plan and related documents over a minimum term of 30 years in exchange for the benefits described below.

- a. Voluntary Reduction in Groundwater Pumping – The Applicant will forgo pumping of 2,000-acre feet of water (651.7 million gallons) that Rams Hill will be entitled to pump per the Water Rights Holders Stipulated Agreement (“Stipulated Agreement”), or the Draft Final Groundwater Sustainability Plan for the Borrego Springs Groundwater Sub-basin, if either is implemented. This represents a retail water value of approximately \$2,500,000 according to current Borrego Water District rates. 2,000-acre feet is equivalent to the average annual water usage of 4,000 single-family residences.

##### *Background Information on the Borrego Springs Groundwater Sub-basin:*

On September 16, 2014, Governor Brown signed into law the Sustainable Groundwater Management Act (SGMA) which provided a framework to regulate groundwater in designated basins for the first time in California history. SGMA became effective January 1, 2015, requiring local public agencies to form Groundwater Sustainability Agencies (GSA) by June 30, 2017. The purpose of a GSA is to develop a Groundwater Sustainability Plan and sustainably manage groundwater resources within 20 years of the plan’s implementation. San Diego County contains four of the basins that are mandated to be sustainably managed under SGMA, including the Borrego Springs Groundwater Sub-basin (Sub-basin).

On October 24, 2016 the Board of Supervisors entered into a Memorandum of Understanding (MOU) with the Borrego Water District to establish the Borrego Valley GSA for the sub-basin. The purpose of the MOU was to memorialize roles and responsibilities for the County and Borrego Water District to develop a sustainability plan. The state mandated deadline to complete a sustainability plan is January 31, 2020.

The “Groundwater Sustainability Plan for the Borrego Springs Groundwater Sub-basin” (Sustainability Plan) was finalized on August 30, 2019. The Sustainability Plan concluded that current groundwater use in the sub-basin

greatly exceeds groundwater recharge. About four times as much groundwater is currently being pumped from the basin compared to the amount that is naturally replenished. In 2018 it was estimated that 18,691 acre-feet of groundwater was pumped from the sub-basin, which far exceeds the approximately 5,700 acre-feet that are recharged into the sub-basin per year. The sub-basin is considered to be critically over-drafted and a substantial 75% reduction in groundwater use is needed to bring the basin into sustainability. State law requires the 75% reduction in groundwater use to occur within 20 years.

As a GSA, the next steps would have been to adopt and implement the Sustainability Plan. However, existing groundwater pumpers in the Sub-basin are developing a Stipulated Agreement as a legal alternative to a GSA-implemented plan. Since January 2019 representatives from agriculture, golf courses, and the Borrego Water District have been voluntarily working together to develop this Stipulated Agreement for future groundwater management of the sub-basin. The Stipulated Agreement would provide a determination of all water rights in the sub-basin, establish the terms for the reduction in groundwater usage and provides the pumpers the ability to determine future governance for groundwater management decisions, and would require approval from both the Superior Court of California and the California Department of Water Resources. The Borrego Water District has indicated that after finalizing the Stipulated Agreement with the other groundwater pumpers in the sub-basin, they will submit the Stipulated Agreement to court prior to the State-mandated deadline of January 31, 2020.

On October 16, 2019 the Board of Supervisors authorized the County to withdraw from managing the sub-basin as a GSA since the County does not have water supply or water management responsibilities in the sub-basin. The effective date of withdrawal will be the date a Stipulated Agreement is filed with the Superior Court of California or December 31, 2019, whichever occurs earliest. While it is anticipated that the Stipulated Agreement will go forward in timely fashion, should the parties not reach terms for an agreement the Sustainability Plan may be adopted by the Borrego Water District, as the sole GSA, or the State Water Resources Control Board could take over groundwater management.

- b. Retiring Residential Development Rights – On land outside of the plan area the Applicant will record a covenant on a parcel or parcels sufficient to eliminate the potential for 120 new residential units based on the parcel(s) General Plan Land Use Designation.

*Background Information on Potential Residential Buildout in the Sub-basin:*

The Applicant's proposal to eliminate the potential for 120 new residential units on land outside the plan area will reduce the number of units as shown in the Additional General Plan Capacity row of Table 3 from 8,689 units to 8,569 units. Table 3 shows the number of existing residential units in the sub-basin, the number of vacant buildable lots and the number of lots that could be built upon

if the land were subdivided to its full general plan capacity. The 1,570 dwelling units allocated within the Specific Plan are included in the number of units. Within the Specific Plan area there are currently 264 existing residential units, 411 vacant buildable lots, and the capacity for 895 additional units if the land were further subdivided.

*Table 3: General Plan Residential Buildout in Borrego Springs Sub-basin\*.*

<b>General Plan Residential Capacity</b>	<b>Number of Units</b>
Existing Residential Units	2,615
Vacant Buildable Lots (Without Further Subdivision)	3,000+
Additional General Plan Capacity (Requires Future Subdivision)	8,698
<b>Total</b>	<b>14,304</b>

*\*Information provided by Table 2.1-5 from the Groundwater Sustainability Plan*

- c. Increased Open Space – The Applicant will dedicate a net ten percent (10%) increase in open space through implementation of replacement open space easements. The Applicant’s proposed floating open space easement would replace the vacated 1,600-acre easement and the Applicant would be required to dedicate new, replacement open space easements prior to recordation of each final map when portions of the floating open space easement are released for development. For example, under the Applicant’s proposal, if the Applicant desires to record a new final map to subdivide a 100-acre portion of the future 1,600-acre floating open space easement, that 100-acre portion will be released from the floating open space easement but a new 110-acre open space easement within or outside of the plan area will be dedicated. Each portion of the floating open space easement that is released will require the dedication of a minimum of 10% more open space than what was released. If all 1,600 acres of the floating open space easement are released for development, then a minimum total of 1,760 acres of lands will be preserved in new open space easements, which is an increase of 160 acres. As noted earlier in this report, the County will need to fully evaluate this proposal during the development agreement negotiation and determine how the designation of future open space can be accommodated.
- d. Improved Fire Protection – The Applicant will design and construct a new fire station on the designated Fire Station site of the Rams Hill Specific Plan. The Applicant will finance the design and construction of the station and will be reimbursed per the *Fee Credits or Assessment District Reimbursement* portion of the development agreement.

The existing fire apparatus travel time from Borrego Springs Fire Protection District Station # 1 on Stirrup Road to the beginning of the primary existing residential area within Rams Hill is approximately 13.06 minutes. This current

travel time greatly exceeds the 5-minute General Plan travel time standard which encompasses the existing primary development footprint. If a new fire station is constructed on the designated Fire Station site, fire apparatus travel time from the new station to the beginning of the primary existing residential area within Rams Hill will be reduced to approximately 2.35 minutes.

Further development of the plan area under the existing Specific Plan authorization would require the construction of a new fire station in order for new development to meet General Plan travel time standards. However, given the existing status of the plan area as described in this report, further development and investment in the plan area which would require the construction of a fire station is not likely to occur without approval of the proposed modifications to the plan area.

- e. Planning & Maintenance Grant for Groundwater Sustainability Lands – The Applicant will grant up to \$500,000 to community groups or non-profits which seek to transition fallowed agricultural land into geotourism attractions. The grant will be conditioned so that the community groups or non-profits must match the grant at a two-to-one ratio in order to raise an additional total \$1,000,000. If all of the \$500,000 has not been distributed prior to the occupancy permit for the 300<sup>th</sup> unit, the Applicant will grant the balance of the funds to one or more community groups or non-profits at the Applicant's choosing without a matching requirement.
- f. Low Cost Renewable Energy – The Applicant will conduct and fund up to \$100,000 for a feasibility study for a pumped hydro storage facility (PHES). If the study reveals a PHES is not feasible or the Applicant does not commence local permitting for the studied PHES, the Applicant will grant up to \$100,000 to community groups or non-profits for the installation of rooftop solar or a micro-grid with energy storage. The grant will be conditioned so that the community groups or non-profits must match the grant at a two-to-one ratio in order to raise an additional total \$200,000. If all of the \$100,000 has not been distributed prior to the occupancy permit for the 600<sup>th</sup> unit, the Applicant will grant the balance of the funds to one or more community groups or non-profits at the Applicant's choosing without a matching requirement.

#### **D. COMMUNITY SPONSOR GROUP**

On October 3, 2019 the Applicant presented the development agreement threshold decision at the Borrego Springs Community Sponsor Group (CSG) meeting. The Borrego Springs CSG voted to recommend approval of the terms described in the draft Rams Hill Development Agreement by a vote of (5-Yes, 2-No, 0-Abstain, 0-Vacant/Absent). The recommendation of the Borrego Springs CSG can be found as Attachment D.

## **E. RECOMMENDATION**

The Director's preliminary recommendation is that clear potential benefits of the proposed development agreement are likely to accrue to the public and the County should proceed to enter into the development agreement negotiation process based on the assessment described below.

- a. Voluntary Reduction in Groundwater Pumping – The Draft Final Groundwater Sustainability Plan for the Borrego Springs Groundwater Sub-basin finds the current groundwater use in the sub-basin greatly exceeds groundwater recharge (i.e., the basin is being over-drafted). The applicant's proposal to forego pumping of 2,000-acre feet of water (651.7 million gallons) that Rams Hill will be entitled to pump is a significant amount of water that will remain in the aquifer at a time of basin overdraft.
- b. Retiring Residential Development Rights – The proposal to eliminate the potential for existing parcels outside of the plan area to be subdivided to their full General Plan capacity (which would equate to 120 units on parcels that do not already have entitlements) will benefit the community. The average annual water usage of 120 single-family residences equates to 60 acre-feet of water. The elimination of the potential for 120 new units will eliminate the corresponding water usage needed for those units.
- c. Increased Open Space – The replacement open space easements, which shall be a minimum of 10% larger than the floating open space easement segments they are replacing, will benefit the community by increasing the amount of land protected by open space easement by 160 acres. Clear benefits will occur when land areas that are desired by the community to be protected outside of the plan area (such as locations of currently unprotected land within Anza-Borrego Desert State Park) are selected for a replacement open space easement.
- d. Improved Fire Protection – The construction of a new fire station on the designated Fire Station site of the Rams Hill Specific Plan will clearly benefit the community by providing decreased emergency response times for the existing residents of Rams Hill as well as other residents outside of Rams Hill who are also located within the southern portion of the Borrego Springs Community Planning Area.
- e. Planning & Maintenance Grant for Groundwater Sustainability Lands – This proposed contribution of up to \$500,000 will clearly benefit community organizations attempting to transition fallowed agricultural land into geotourism attractions. If the grant funds are matched there will be an increased benefit to the community as more funds can be deployed to proposed projects.
- f. Low Cost Renewable Energy – This proposed benefit has two components, where one or the other will occur. For the first component the feasibility study for PHES and the implied potential of the Applicant attempting to permit a PHES facility may be of benefit to the community. The feasibility study will determine the potential benefits of a PHES facility to the community. For the second component the

proposed contribution of up to \$100,000 will clearly benefit community organizations attempting to install rooftop solar or a micro-grid with energy storage. If the grant funds are matched there will be an increased benefit to the community as more funds can be deployed to proposed projects.

**ATTACHMENTS:**

Attachment A – Development Agreement

Attachment B – 1986 Amended Specific Plan Map

Attachment C – Conceptual Master Plan

Attachment D – Borrego Springs Community Sponsor Group Recommendation

# Attachment A – Development Agreement

## Proposed

### Rams Hill Development Agreement Terms<sup>1</sup>

The following proposes key terms for a development agreement between T2 Borrego, LLC and T2 B Holdings, LLC (“Developer”), which is the fee title owner of the real property (“Specific Plan Amendment Area”) described and depicted in Exhibits A and A-1 to be encumbered by the Development Agreement (“DA”), and the County of San Diego (“County”) with respect to the Rams Hill Specific Plan Amendment (“Specific Plan Amendment”) project in Borrego Springs. The Developer and County are each a Party (collectively “Parties”) to the DA. The Project is the Authorized Development described herein.

1. Authority and Purpose. The Parties acknowledge that development agreements were codified in Government Code 65864, et. seq. because the Legislature found the following:
  - a. The lack of certainty in the approval of a development project can result in a waste of resources, escalate the cost of housing and other development to the consumer, and discourage investment in and commitment to comprehensive planning which would make maximum efficient utilization of resources at the least economic cost to the public.
  - b. Assurance to the applicant for a development project that upon approval of the project, the applicant may proceed with the project in accordance with existing policies, rules and regulations, and subject to conditions of approval, will strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development.
  - c. The lack of public facilities, including but not limited to, streets, sewerage, transportation, drinking water, school and utility facilities, is a serious impediment to the development of new housing. Whenever possible, applicants and local governments may include provisions in agreements whereby applicants are reimbursed over time for financing public facilities.

County Code 81.1301 defines the purpose of a development agreement as “intended to provide certainty to a developer proposing a long-term development project, to protect against changes in local law during the life of the project while

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<sup>1</sup> Developer and County acknowledge that the DA Terms are only a proposal pursuant to the County DA ordinance and that any initial Board of Supervisors approval of the DA terms only represents permission to apply for an actual Development Permit. The County makes no pre-commitment to any DA term, the underlying project, or any definite course of action in advance of its independent review of a fully developed and negotiated DA following CEQA compliance. Any initial approval of these DA terms shall not be interpreted to restrict the County from considering any feasible mitigation measures and alternatives, or from denying the project. (CEQA Guidelines 15004(b)(4); County Code 18.1303(g).)

at the same time having the developer provide public benefits in exchange for the certainty granted to the developer.”

Accordingly, the Parties desire to fulfill the Legislature’s purpose in providing certainty in development rules applicable to the Specific Plan Amendment Area so as to provide housing opportunities, reduce the economic costs of development to encourage new housing supply, promote job-producing commerce, and encourage private participation in comprehensive planning that can help address the Borrego Springs water supply issues threatening the economic vitality, job-housing balance, and general welfare of the Borrego Springs community.

2. Status of Existing Specific Plan and Importance of Project to Sustaining the Community.

a. The existing Rams Hill Specific Plan (“Existing Specific Plan”) is partially built out. In connection with such past development, substantial community benefits have already been received, including a donation of land for a fire station, health clinic, and development and operation of the award-winning Rams Hill Golf Course.

b. The Rams Hill Golf Course, by itself, employs more local residents than all agricultural landowners in Borrego Springs combined, who utilize seventy percent (70%) of Borrego’s ground water supply. All the resort businesses in Borrego combined provide the most jobs, while efficiently utilizing only twenty percent (20%) of Borrego’s groundwater.

c. Developer wants to help ensure a long-term sustainable community in Borrego. To this end, Developer has provided significant private resources to foster a stipulated agreement among major water producers that would solve Borrego Springs’ severe water crisis.

d. Developer is also focused on improving the local economy, stabilizing government services, and supporting other community efforts. By providing resort tourism economy jobs that (1) minimize water consumption compared high water use agricultural jobs, and (2) supports Borrego’s geotourism industry, the Project provides for a more sustainable community.

e. In small, rural communities like Borrego, the Project and its jobs have a noticeable, beneficial ripple effect, including preserving and restoring land values; growing and a stabilizing the tax base; maintaining or increasing population to support local schools, the fire department, the water district, cell phone infrastructure, thus allowing teachers, fire fighters, water district employees to keep their jobs and maintain services levels; and promoting further private investment in the community, thus transforming Borrego into a more sustainable local economy with a stronger tax base.

f. By way of example, implementation of the DA provides a path forward for the only entitled residential development project in Borrego Springs that is not located in a FEMA flood plain and is connected to sewer services provided by the Borrego Water District. Completion of the development will nearly double the number of residential customers

paying for water service from the Borrego Water District thereby improving the District's financial stability. The Borrego Water District has estimated that its liability for deferred replacement and repair of its physical infrastructure is between 24% and 32% of total system costs today, or potentially more than \$7,000 per dwelling unit. New users of the Borrego Water District system are important to reducing the per unit maintenance costs of the water system.

g. Rams Hill Golf Course draws tourists who support the growing geotourism industry that enhances visitor appreciation of Borrego's natural wonders. The geotourism and resort enterprises make Borrego Springs the true Heart of Anza-Borrego Desert State park. A recent estimate of the revenue to the region that is generated by visitation to ABDSP is approximately \$40 million annually.<sup>2</sup>

h. Without Rams Hill's housing and hospitality assets, tourists and the employees who serve them and the park would have to travel great distances each day to experience the park thus increasing air pollution, greenhouse gas emissions, and vehicle miles traveled.

i. Moreover, the existing Rams Hill Golf Course also contributes towards the County's goal of reducing reliance upon fossil fuels because the Developer constructed a 1.6 million kWh solar system to support operations.

j. Implementation of the DA provides some certainty for the Developer to undertake significant investments that support a sustainable and healthy Borrego Springs community, which further supports the operation of the ABDSP. Moreover, implementation of the DA provides a jobs-housing balance that will allow employees and tourists to live or stay overnight in Borrego Springs without excessive daily trips to San Diego's and Palm Springs' urban cores that increase vehicle miles traveled, reduce air quality and increase greenhouse gas emissions. Continued build out of Rams Hill will lead to additional investments in solar energy, preserve jobs, and stimulate economic growth essential for the stability and prosperity of the local Borrego Springs community as it transitions to less water intensive land uses to employ its population

3. Extraordinary Public Benefits. In addition to the public benefits described above, the Developer will provide the following public benefits to the County ("Extraordinary Benefits"):

- a. Voluntary Reduction in Groundwater Pumping: Developer shall forego pumping of 651.7 million gallons, or 2000 acre feet, of water that it is entitled to pump pursuant to the groundwater management plan for the Basin. Accounting for the saved water shall be pursuant to the reporting requirements established for the Basin during the 20-year Sustainable Groundwater Management Act (SGMA) timeline and will be described in the Annual Review. By way of background, the Basin has long experienced overdraft conditions, which is being rectified through SGMA. Developer's contribution of 2000 acre feet of water represents a retail water value of approximately \$2,500,000 according to current Borrego Water

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<sup>2</sup> See page 2-6 of the Draft Groundwater Sustainability Plan for Borrego Valley Groundwater Basin (March 2019).

District rates.. Developer's one-time contribution is equivalent to 120% of what the local water district supplies to all of its customers in a year. Said differently, 2000 AF of water is equivalent to all homeowners and local businesses shutting off their water for a year. Developer shall not credit the 2000 AF of water that will remain in storage toward water rights Developer will need to acquire in the future to obtain residential building permits for the Specific Plan.

- b. Retiring Residential Development Rights. Prior to issuance of the first Annual Review, Developer will voluntarily record a covenant not to develop on land outside Rams Hill Specific Plan sufficient to eliminate the potential for 120 new residential units based on the land's General Plan Land Use Designation. By way of background, the Borrego Springs Community Plan expresses the community's concern regarding excess buildable lots in Borrego Springs and long-term water demands from such lots. The County estimates that there are approximately 3,000 existing vacant buildable lots in the Borrego Valley Groundwater Basin ("Basin"), and approximately 8,689 additional lots that could potentially be created if existing parcels of land are subdivided to their full Land Use Designation potential. Therefore, the Developer's voluntary elimination of 120 of the 8,689 potential lots would assist the community in reducing its potential excess residential density and the long-term water demands from such lands.
- c. Increased Open Space. Developer shall dedicate a net ten percent (10%) increase in open space prior to build-out, which will create more of a desert-like community that protects plants and animals and creates a lower-impact neighborhood. This increase will be in addition to any mitigation requirements that arise pursuant to CEQA analysis. Developer shall identify and complete the dedication of new and replacement open space for each phase prior to issuance of a final map for such phase.
- d. Improved Fire Protection. As part of the proposed Development Agreement, Developer will design and construct the fire station without relying upon up-front contributions from other landowners that will benefit from the fire station. As a result, the entire Borrego Springs community, not just residents of Rams Hill, will have much improved fire and emergency protection. By way of background, a Cost-Sharing Agreement dated November 20, 2006 provided that Developer's obligation for designing and constructing the fire station was limited to 36.62%, with other property owners bearing responsibility for the balance of the fire station. That Cost-Sharing Agreement also required the Borrego Springs Fire Protection District ("Fire District") to assume responsibility for designing and constructing the fire station and collecting required contributions from the parties to the agreement. The agreement further contemplated that an assessment district would be formed to reimburse Developer for the cost share and fund ongoing operations and maintenance.
- e. Planning & Maintenance Grant for Groundwater Sustainability Lands: Prior to the occupancy permit for the 200th unit, Developer shall commence a request for proposals to grant up to a combined total of \$500,000 to one or more community

groups or non-profits of the Developer's choosing and on mutually acceptable terms that do not expose Developer to any liability and conditions the community group(s) or non-profit(s) to match the grant at a two-to-one ratio to raise an additional \$1,000,000. If Developer has not distributed all \$500,000 in grant funds by the occupancy permit for the 300th unit, then Developer shall grant the balance of the funds without a matching requirement to one or more community groups or non-profits of the Developer's choosing and on mutually acceptable terms that do not expose Developer to any liability. All funds shall be used to plan the integration of lands fallowed to reduce groundwater impacts, which may include, but is not limited to, the creation and connection of designated recreation trails, additional dark-sky viewing sites, land stewardship under the management of the Anza Borrego Desert State Park ("ABDSP") or a local community group, or other geotourism attractions. Grant funds are for planning, installation, and maintenance, but may not be used for land acquisition. Grant recipients shall be responsible for all required permitting and Developer shall not direct which lands receive the benefit of the planning and maintenance grants.

- f. Low Cost Renewable Energy: In order to improve the reliability and affordability of electric power in Borrego Springs, Developer will conduct and fund up to \$100,000 for a feasibility study for a pumped hydro storage (PHES) facility. If the study reveals a PHES is not feasible or Developer does not commence local permitting for the studied PHES within three years of obtaining an occupancy permit for its 500th dwelling unit, then Developer shall commence a request for proposals to grant up to a combined total of \$100,000 to one or more community groups or non-profits of the Developer's choosing on mutually acceptable terms that do not expose the Developer to liability and on the condition the community group(s) or non-profit(s) can match the grant at a minimum of a two-to-one ratio to raise an additional \$200,000. If Developer has not distributed all \$100,000 in grant funds by the occupancy permit for the 600th unit, then Developer shall grant the balance of the funds without a matching requirement to one or more community groups or non-profits of the Developer's choosing and on mutually acceptable terms that do not expose the Developer to any liability. All funds shall be used either (i) to install rooftop solar on dwelling units outside the Rams Hill Specific Plan Area; or (ii) to install a micro-grid with energy storage batteries or other energy storage technology. Grant recipients shall be responsible for all required permitting and Developer shall not direct which residents receive the benefit of the rooftop solar or microgrid system. By way of background, Borrego Springs is a Severely Disadvantaged Community<sup>3</sup> under state law<sup>4</sup> because its

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<sup>3</sup> Median Household Income < \$38,270

<sup>4</sup> [California Water Code](#) Section 79505.5

median household income is less than 60% of the State of California's median household income. Due to the fact that Borrego Springs consistently experiences 100% temperature in the summer months and is located at the end of the SDG&E service line, residents suffer very high-cost electricity, thus reducing economic vitality and quality of life in the community. Developer recognizes this important community issue and believes the community should explore creative, renewable options to solve this problem.

g.

4. Term. The DA will terminate a minimum of 30 years from the DA Effective Date (defined herein). The DA's 30-year term shall be extended automatically for the length of time a vesting tentative map would be extended pursuant California Subdivision Map Act procedures, as if the DA were a vesting tentative map. Accordingly, the term of the DA is automatically extended by the filing of a qualified final map (by 3 years for each final map, not to exceed 7 years), a moratorium event (not to exceed 5 years), a litigation-based extension (not to exceed 5 years) or a legislative extension for VTMs. In addition, the DA terminates automatically upon the sale of any completed residence to a member of the homebuying public, as to that residential lot only. The term of any existing entitlements listed on Exhibit B attached hereto ("Existing Entitlements") or other concurrent or subsequent approval issued for the Project shall have a term that expires no earlier than the term of the DA. Once an Existing Entitlement or other concurrent or subsequent approval is initiated, they shall not expire. The Developer may initiate an Existing Entitlement or other concurrent or subsequent approval by compliance with any condition of approval, applying for a ministerial permit to commence build-out of the Project, or participating in the defense of any claim filed against the Existing Entitlement or other concurrent or subsequent approval.
5. Vested Rights. Developer shall have the vested right to develop the Project in accordance with the DA, Specific Plan Amendment (defined in Section 6), Zoning Amendment (defined in Section 6) and Vesting Tentative Map (defined in Section 6) approved concurrent with or after the DA, Existing Entitlements, and the General Plan, Community Plan, and other policies, rules and regulations existing as of the Vested Rights Effective Date of the DA ("Current Land Use Rules"). The Vested Right Effective Date shall be the date the Vesting Tentative map is deemed complete, which shall be 30 days after the VTM application is filed regardless of information requests or changes to the VTM. From and after the Vested Rights Effective Date (i) no future modification of the County's General Plan, the Borrego Springs Community Plan, the County Code of Regulatory Ordinances (including the Zoning and Subdivision Ordinances), or other ordinances, polices or regulations shall apply to the Specific Plan Amendment Area that purports to limit (or has the effect of limiting) the Permitted Uses (defined in Section 6) of the Specific Plan Amendment Area, the density and intensity of use, or the maximum height and size of proposed building; (ii) no new impact fees, exactions, requirements for reservation or dedication of land for public purposes, the subdivision of land, or requirements for infrastructure, public improvements, or public utilities, other than as provided in the Current Land Use Rules, (iii) no new conditions may be imposed upon development other than as may be permitted by the Current Land Use Rules, and (iv) no restriction on the rate of development of the Specific Plan Amendment Area shall be imposed, except for compliance with any Project phasing plan

or as required to avoid placing the residents of the Specific Plan Amendment Area in a condition imminently dangerous to their public health and safety.

- a. Reservation of Rights. Notwithstanding the grant of vested rights described above, County reserves the right to (i) apply regulations adopted after the Vested Rights Effective Date, but only to the extent necessary to protect persons or property from dangerous or hazardous conditions which create a threat to the public health or safety or create a physical risk, based on findings adopted by the Board of Supervisors identifying the dangerous or hazardous conditions requiring application of such new regulations, why there are no feasible alternatives to the imposition of such new regulations and how such regulations would alleviate the dangerous or hazardous conditions; (ii) apply regulations adopted after the Vested Rights Effective Date as required to comply with state or federal law; and (iii) apply ministerial building, fire, plumbing, mechanical and electrical codes that have been adopted by the County.
6. Authorized Development. Developer obtains the vested right to develop in Substantial Conformance (defined herein) with following permitted uses (“Permitted Uses”), maximum height, building size, density and intensity in the following locations with related easement vacations, floating easement grant, replacement open space easements, and other related entitlement approvals (collectively “Authorized Development”):
    - a. Permitted Uses, Height, Building Size, Density and Intensity
      - i. 1172<sup>5</sup> residential units Specific Plan Amendment Area. Note that the 325 existing residences within the Old 1986 Specific Plan Area (described and depicted in Exhibits C and C-1) have been subtracted from the 1,570 allotment in the Old 1986 Specific Plan, such that at build out, the Specific Plan Amendment Area and the Old 1986 Specific Plan Area do not exceed the 1,570 residential units approved in the Old 1986 Specific Plan.
      - ii. 364.4 acres of commercial recreational uses, which may include, but is not limited to, the Golf Pavilion, County Club, Tennis Center, Putting Courses, and Golf Courses.
      - iii. 29 acres of commercial retail
      - iv. 16.5 acres of commercial hotel.
      - v. 1,832.2 acres of on-site or off-site dedicated passive Open Space, of which 222 is existing Permanent Open Space (defined herein).

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<sup>5</sup> Note that of the 1510 units approved, 325 homes have been constructed and there are approximately 75 additional final mapped residential lots without homes. Prior to performing technical studies for future CEQA documentation, the 1172 number could increase by up to 75 units depending upon if those empty lot owners and the Developer agree to a transaction and Developer decides to include those empty lots in the Specific Plan Amendment Area. In no case will the number of existing homes, empty lots, and Developer proposed lots exceed the 1570 original allotment.

- vi. 183.2 acres of on-site or off-site extra-ordinary benefit dedicated passive Open Space.
  - vii. Solar, Pumped Hydro Energy Storage, or any other renewable energy facilities that are ancillary to and support existing and planned development in the Borrego Springs area.
  - viii. The maximum height and size of proposed buildings and other objective development standards shall be those described in the Specific Plan Amendment to be processed concurrent with the DA. The Parties acknowledge that the Authorized Development and Specific Plan Amendment are sufficient to satisfy the requirements of Government Code section 65865.2 regarding contents of a DA.
  - ix. Changes in the above acreage, intensity and density of the above Permitted Uses substantially conform so long as the changes (a) do not generate more than a total of \_\_\_ ADT<sup>6</sup> identified in the environmental documentation for the Specific Plan Amendment; (b) allow the Project to receive more residential units; or (c) supersede any applicable Housing Element requirements related to achieving the County's Regional Housing Needs Allocation ("Substantial Conformance").
- b. Location of Land Uses. Except for the Replacement OSE (defined herein), the Permitted Uses may be located anywhere within the Specific Plan Amendment Area, except the areas designated "Permanent Open Space" on Exhibit A-1 and described in Exhibit A hereto, so long as density, intensity, acreage and use types Substantially Conform with the Authorized Development. The Permanent Open Space is described in the Specific Plan Amendment (SPA 86-A83-05) for Rams Hill County Club ("Rams Hill Specific Plan") and the Supplemental Environmental Impact Report prepared for the Rams Hill Specific Plan dated August 1986 ("SEIR") as (A) a 72-acre easement over the northern portion of the site to protect biologically sensitive mesquite woodland and alkali sink scrub communities and (B) a 150-acre easement over the southwestern portion of the site to protect archeologically and biologically sensitive resources. (Existing Specific Plan, Figure 9 at p. 29, text at p. 34; SEIR, Enclosure A-2 and A-3, Figure 7, pp. 61-62 and 66-67.)
- c. Vacation of Open Space Easements (Except with respect to Permanent Open Space). Concurrent with consideration of the DA and the Vesting Tentative Map, and pursuant to Board of Supervisors Policy I-103 and Streets and Highways Code, Section 8300 et seq., the Board of Supervisors will vacate open space easements, based on substantial evidence in support of the necessary findings, encumbering the Specific Plan Amendment Area, except for the Permanent Open

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<sup>6</sup> The 1980 and 1986 traffic reports for Rams Hill identified a total of 43,684 total ADT and only 27,889 external ADT. Some portion of that would be subtracted for the land uses in the 1986 Old Specific Plan that are not part of the Specific Plan Amendment Area (ie. The 325-400 of the 1570 homes, clinic, fire station, wastewater reclamation facility

Space (“Easement Vacation”). The Easement Vacation is necessary so that Permitted Uses may be developed over areas that are currently encumbered by open space easements protecting low value biological resources.

- d. Grant Floating Open Space Easement / Replacement OSE. Concurrent with the approval of the Easement Vacation, Developer will grant to the County and the County will accept and within 10 days of approval of the Easement Vacation record a “floating open space” easement, attached hereto as Exhibit D, over all lands included in the Easement Vacation (depicted and described in Exhibit D-1 and Exhibit D-2). The floating open space easement will permit development of Permitted Uses subject to the requirement that the Developer grant a replacement open space easement elsewhere within the Borrego Springs Community Plan area or Anza Borrego State Park (“Replacement OSE”) prior to issuance of a final map for property encumbered by the floating open space easement. The Replacement OSE will be in the form of Exhibit D-3 and will identify the location of easement thus effecting a partial release of the floating open space easement and creating in its place a permanent open space easement over the property identified in the Replacement OSE. Replacement OSEs and corresponding releases of the floating open space easement may occur in phases, on an acreage basis, as Easement Vacation-encumbered lands are included in phased final maps. The Replacement OSE shall protect a biological habitat area that is 110% of the area of the Permitted Uses’ encroachment into the lands affected by the Easement Vacation. In other words, Developer is providing replacement open space at a 1.1:1 ratio with habitat of equivalent or greater habitat value than the open space affected by the Easement Vacation. It is acknowledged that the open space easements to be vacated are mostly occupied by Sonoran Creosote Bush Scrub, which is of low value and is assigned a mitigation ratio of only 1:1 under current County guidelines. Prior to selecting the location of the Replacement OSE, Developer shall consult with the County or a non-profit conservation entity regarding the availability of purchase of infill parcels within the Anza Borrego State Park.
- e. Vesting Tentative Map. Concurrent with the DA, County will approve a vesting tentative map (“Vesting Tentative Map” or “VTM”), based on substantial evidence in support of the necessary findings, to subdivide as conceptually shown on the Specific Plan Amendment site plan attached hereto as Exhibit F.
  1. The Vesting Tentative Map will recognize the existence of the floating open space easement, with a notation authorizing automatic release of the floating open space easement upon recordation of a Replacement OSE meeting the objective criteria described in Section 6 (d) above. To facilitate this, the floating open space easement will contain terms providing that it automatically terminates (in part, with phased final maps, and in full at build-out of the Permitted Uses) upon the recordation of future final maps and Replacement OSEs for the Specific Plan Amendment Area.

2. The term the Vesting Tentative Map shall run concurrent with the term of the Development Agreement pursuant to Government Code section 66452.6(a)(1).
  3. The Vesting Tentative Map shall expressly state that any final map consistent with Authorized Development under the DA substantially conforms to the Vesting Tentative Map.
  4. Conditions of approval imposed on Vesting Tentative Maps, MUPs, the Specific Plan Amendment and other land use approvals issued to implement the Project will replace and supersede conditions of approval contained in existing entitlements, to the extent inconsistent or redundant. The intent of this section is to modernize the conditions of development to conform with Current Land Use Rules.
- f. Specific Plan Amendment. Concurrent with approval of the DA, the County will approve, based on substantial evidence in support of the necessary findings, a Specific Plan Amendment that authorizes the DA's Authorized Development. The Specific Plan Amendment will also provide specific land development standards applicable to the Project, including with respect to setbacks, building height, building size, infrastructure and other objective standards that will guide development of the Specific Plan Amendment Area.
- g. Zone Amendment. Concurrent with approval of the DA, the County will approve, based on substantial evidence in support of the necessary findings, a Zone Amendment that rezones the Specific Plan Amendment Area to "Specific Plan" so that Developer may process future approvals (future vesting tentative maps, MUP, etc.) implementing the Authorized Development without further processing a legislative zone change. The Specific Plan Zone shall be consistent with the existing Specific Plan designation for the Specific Plan Amendment Area in the existing General Plan such that no Community Plan Amendment or General Plan Amendment is required.
- h. Subsequent Development Approvals. To the extent, subsequent development approvals are required to implement the Project, subsequent approvals shall be expeditiously processed by the County in accordance with the vested rights granted herein unless Developer opts in writing to be governed by a rule, policy, ordinance or regulation adopted after the Current Land Use Rules. A future amendment to the Easement Vacation, Grant of Floating Open Space Easement, Replacement OSE, VTM, Zone Amendment, Specific Plan Amendment, or subsequent development approval shall not automatically require an amendment to the DA.
- i. Development Impact Fees. Only generally applicable development impact fees being imposed upon development within the Specific Plan Amendment Area as of the Vested Rights Effective Date may be charged, levied or assessed against the

Project. The Project shall not be required to pay development impact fees enacted, adopted, amended or increased (aside from regularly scheduled escalators currently authorized) to apply to the Specific Plan Amendment Area after the Vested Rights Effective Date.

- j. Processing Fees. Developer shall pay all fees and charges intended to cover County costs associated with processing and inspecting Authorized Development including application processing, inspections, and plan review due at the time the application for processing services or request for inspection services are requested, provided, however, such processing and inspection fees are in force and effect on a County-wide basis at the time of application or inspection request.
  - k. Timing of Development. Developer has the discretion to develop the Specific Plan Amendment Area in one phase or in multiple phases at such times as Developer deems appropriate within the exercise of its sole business judgment, except if the Authorized Development requires a phasing plan.
7. Fee Credits or Assessment District Reimbursement. Developer will construct or post performance bonds to construct a fire station on the 2.5 acre parcel granted for a fire station in the Old 1986 Specific Plan Area prior to issuance of the first occupancy permit under the Specific Plan Amendment that needs the fire station for the County to meet emergency response time requirements for the project. The County shall cooperate in encouraging the Borrego Springs Fire Protection District to grant a license to access the fire station parcel to the Developer for no charge for fire station construction purposes. Developer shall have no obligation to construct the fire station if free access is not granted to this off-site fire station parcel. Developer shall be entitled to fee credits against development impact fees in an amount equal to 90% of the actual design and construction costs incurred for the fire station (“Reimbursable Amount”). All fee credits shall be transferrable inside or outside the community plan area. County will support formation of an assessment district to fund design, construction and operation of the fire station and, if formed, agrees to provide reimbursement to Developer from assessment district’s proceeds in exchange for the Developer’s return of development impact fee credits up to the Reimbursable Amount. Developer shall not be entitled to development impact fee credits for SANDAG’s Regional Transportation Congestion Improvement Program fee unless Developer constructs infrastructure on SANDAG’s Capital Improvement Program list.
8. Amendments. When a formal amendment to the DA not in Substantial Conformance is required, the DA shall be amended by mutual consent of the parties to the agreement or their successors in interest. A decision on such amendment or cancellation shall be made in accordance with Government Code 65868 prior to approval.
9. Assignment/Successors/Covenant Running With the Land. Upon the Effective Date, the DA shall constitute a covenant running with the land such that the benefits and burdens of this Agreement inure to the Parties, their assigns, and successors-in-interests. Developer may assign the DA, in whole or in part, at any time during the term in connection with the conveyance of the property or portion thereof covered by the DA

upon 30 days written notice to the County. Consistent with County Code 81.1305, the assignment is complete when the successor/assignee is deemed commercially and financially suitable. The successor / assignee is deemed commercially and financially suitable and the Developer is released from the DA obligations as to the property or portion thereof transferred to the assignee upon the assignee providing security to replace any security Developer provided the County to assure Developer's DA obligations regarding the transferred property. The County shall not unreasonably reject the form of replacement security offered by the assignee and is deemed to have accepted it if the County makes no written objection with 5 days after security is tendered. For the sake of clarity, the Parties acknowledge that the transfer of individual lots to homeowners does not require an assignment because the DA automatically terminates as to an individual lot transferred to a homeowner.

10. No Joint and Several Liability. If the Specific Plan Area is owned by multiple developers, each is responsible only for compliance with Development Agreement obligations as to the property owned by such developer. A default of one developer shall not constitute the default of any other developer under the DA. No developer shall be bear joint and several liability for the default of another developer under the Development Agreement.
11. Notice, Cure, Default & Remedies. An event of default is deemed to have occurred if an event, condition, act or omission by County or Developer materially interferes with the terms of this Agreement. County shall provide Developer with written notice of any alleged event of default and a 30 business day period to commence a cure of the alleged event of default. If Developer does not commence and diligently pursue a cure of the alleged event of default, then the event of default shall become a default and the County may seek remedies. Likewise, the Developer shall provide the County with written notice of any alleged event of default and a 30 business day period to commence a cure of the alleged event of default. If the County does not commence and diligently pursue a cure of the alleged event of default, then the event of default shall become a default and the Developer may seek remedies. Remedies available to each Party include all legal and equitable remedies available, including specific performance. However, neither Party shall be entitled to consequential, punitive or special damages.
12. Mortgagee Protection. **[insert standard mortgagee protection provisions.]**
13. Estoppel Certificates. County will provide estoppel certificates within 10 business days of written request as to (i) no amendments, (ii) no defaults, (iii) the Development Agreement continues to be in full force and effect, and (iv) other matters reasonably requested.
14. Annual Review. Developer shall submit annually an affidavit within 30 days of the anniversary date of the Effective Date of the DA demonstrating good faith, substantial compliance with the terms of the DA. Developer may elect to demonstrate good faith, substantial compliance through its participation in the County's Mitigation Monitoring and Reporting Program for the Project's environmental impact report or some other means of demonstrating compliance.

15. CEQA Compliance. The form of CEQA compliance required for the Development Agreement will be determined upon the completion of necessary technical studies, but is expected to be either an addendum pursuant to CEQA Guidelines section 15164 or a supplemental EIR pursuant to CEQA section 21166 / CEQA Guidelines section 15162 depending upon the results of future Project technical studies to be prepared in accordance with County Guidelines for Determining Report Format and Content Requirements.
16. Water Supply Assessment & Verification. To the extent required, a Water Supply Assessment & Verification (“WSA”) pursuant to Water Code section 10910 and the Subdivision Map Act will be prepared for the Project. The WSA will discuss the availability of ground water and other water supplies during normal, single dry, and multiple dry water years during a 20-year projection to meet the projected water demand associated with the Project, in addition to existing and planned future uses, including agricultural and manufacturing uses.
17. Notice of Developer’s Agent. Consistent with County Code 81.1305(b), Developer’s designated agents for service of all notices, including legal process are the following:

T2 B Holding, LLC’s registered agent:

Harry Turner  
1881 Rams Hill Road  
Borrego Springs, CA 92004

With copy to:

Shannon Smith  
Considine Companies  
c/o T2 Borrego, LLC  
4582 S Ulster St. Pkwy. #1410.  
Denver, CO 80237

With copy to:

Jeffrey W. Forrest, Esq.  
Sheppard Mullin Richter & Hampton  
501 W. Broadway  
San Diego, CA 92101

18. Indemnity Consistent with County Code 81.1305, the applicant or the applicant's successor in interest shall: (1) defend, indemnify and hold harmless the County, its agents, officers and employees from any claim, action or proceeding against the County, its agents, officers or employees to attack, set aside, void or annul the decision to enter into the development agreement or any of the proceedings, acts or determinations taken, done or made prior to that decision, and (2) reimburse the County, its agents, officers or employees for any court costs and attorney's fees which the County, its agents, officers or employees may be required by a court to pay as a result of the approval of the agreement. At its sole discretion, the County may participate at its own expense in the

defense of any such action, but the participation shall not relieve the applicant or the applicant's successor of any obligation imposed by this condition. The County shall promptly notify the applicant or the applicant's successor of any claim or action and cooperate fully in the defense.

19. Recordation. Consistent with County Code 81.1311(f), within 10 days following complete execution of the DA, the Clerk of the Board shall record a fully executed copy of the DA including a legal description of the land subject to the agreement and a copy of the approved ordinance.
20. Development as a Private Undertaking. It is specifically understood by the County and Developer that (i) the Authorized Development is a private development; (ii) the contractual relationship between Developer and County arising out of the DA is one of independent contractor and not agency; (iii) the DA does not create any third party beneficiary rights; and (iv) Developer shall have the full power and exclusive control of the Property subject to the obligations of Developer set forth in this Agreement.
21. Effective Date. The Effective Date shall be the later of (1) the date the ordinance approving the DA goes into effect and (2) the date of the last signature of the last party to sign the DA. Developer shall not be bound by any Developer obligations in the DA unless the County approves the Zone Amendment, Specific Plan Amendment, Easement Vacation, Grant of Floating Open Space Easement, and Vesting Tentative Map consistent with the DA's Authorized Development. Thereafter, the DA shall be binding on the parties and their successors in interest, and the benefits of the agreement shall inure to the parties and their successors in interest.

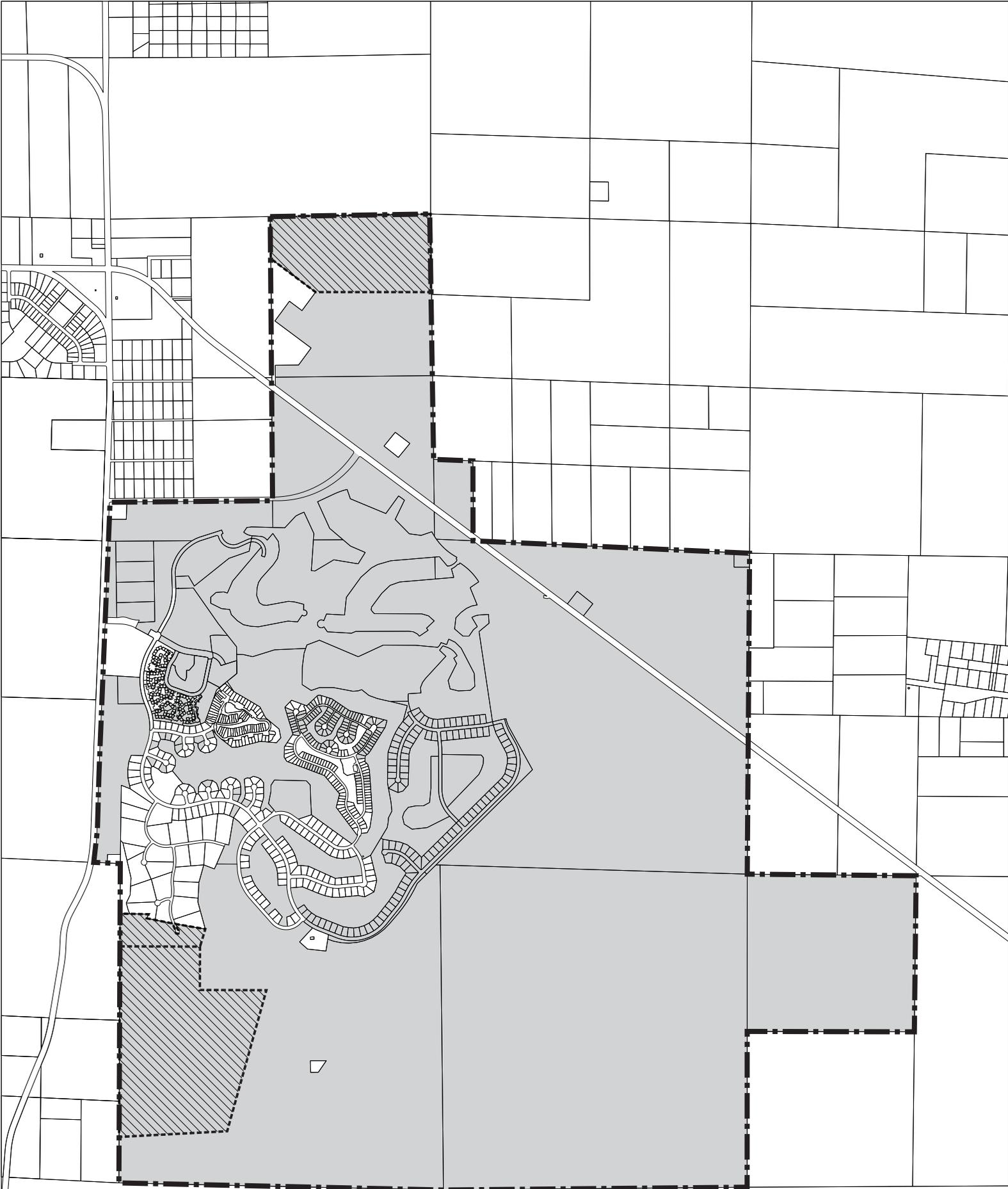
10/23/19

**Exhibit A**

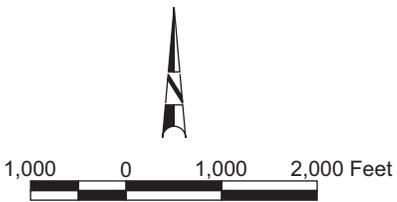
**Rams Hill Specific Plan Amendment Area  
(also identifying Permanent Open Space)  
Plat**

*See Next Page*

Exhibit A  
Rams Hill Specific Plan Amendment Area



-  Specific Plan Area
-  Specific Plan Amendment Area
-  Permanent Open Space



10/23/19

**Exhibit A-1**

**Rams Hill Specific Plan Amendment Area  
(also identifying Permanent Open Space)  
Legal Description**

*To Be Determined*

**Exhibit B****Existing Entitlements<sup>7</sup>**

<b>Name</b>	<b>Permit Number</b>	<b>Approval Date</b>
Golf Course (South)	P79-130	5/7/80
Golf Course (North)	P86-062	11/7/86
San Felipe Rec Center	P79-131	5/7/80
Santa Rosa PRD	P82-020	8/6/82
Santa Fe-Carrizos PRD	P83-081	1/19/84
Casitas PRD	P84-088	12/20/84
Sewer Plant	P79-132	5/7/80

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<sup>7</sup> Including all prior approved minor deviations to the listed entitlements

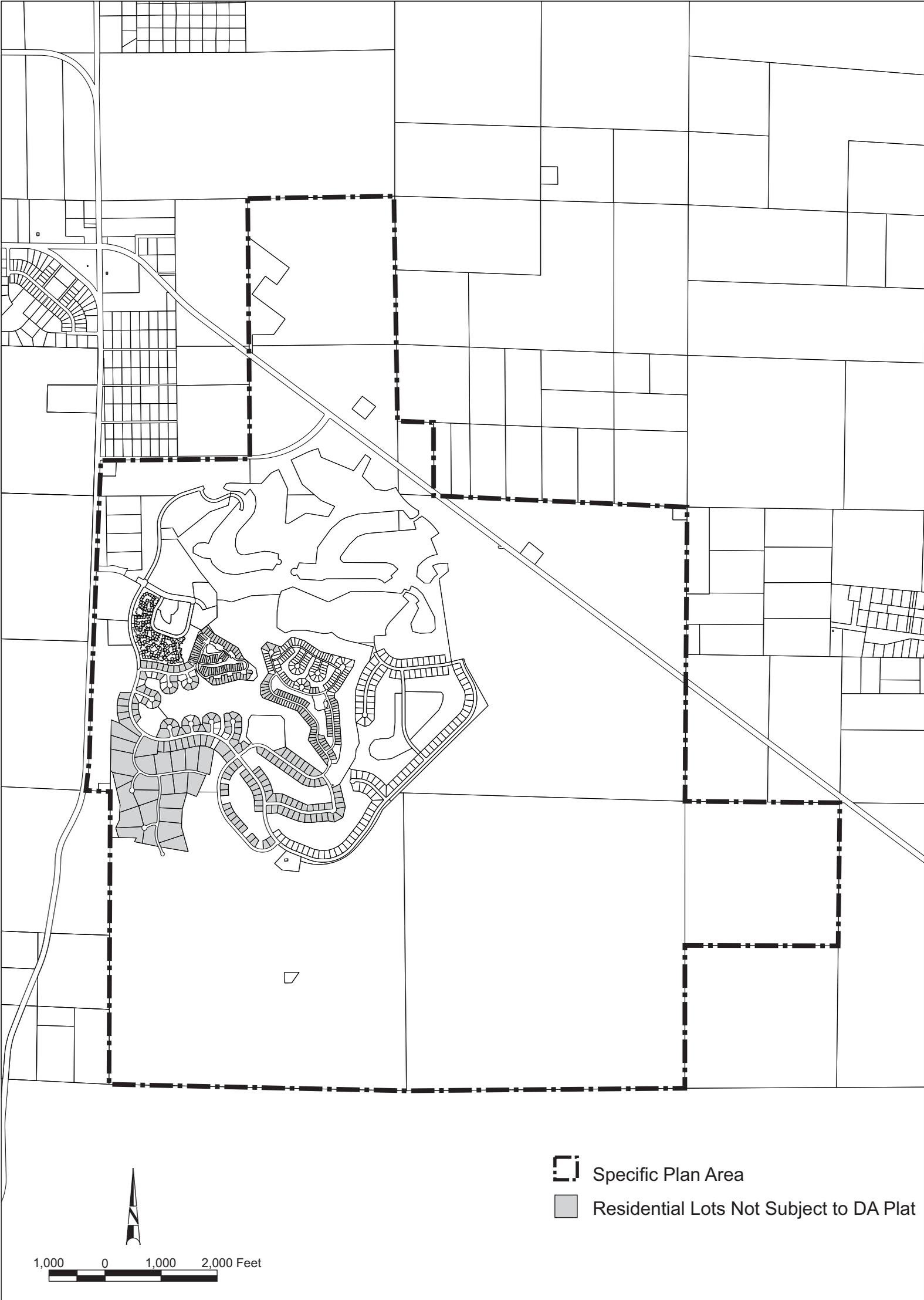
10/23/19

**Exhibit C**

**Old 2006 Specific Plan Constructed Residential Lots Not Subject to DA  
Plat**

*See Next Page*

Exhibit C  
Old 2006 Specific Plan Constructed Residential Lots Not Subject to DA Plat



10/23/19

**Exhibit C-1**

**Old 2006 Specific Plan Constructed Residential Lots Not Subject to DA  
Legal Description**

*To Be Determined*

**Exhibit D**

**Grant of Floating Open Space Easement**

[Developer to sign grant prior to final BOS hearing. Grant is conditional on BOS approval of Easement Vacation and acceptance of the grant so that the easement vacation and grant of the new floating open space easement occur simultaneously. If BOS does not approve the Easement Vacation, then the grant of the floating easement expires and cannot be accepted]

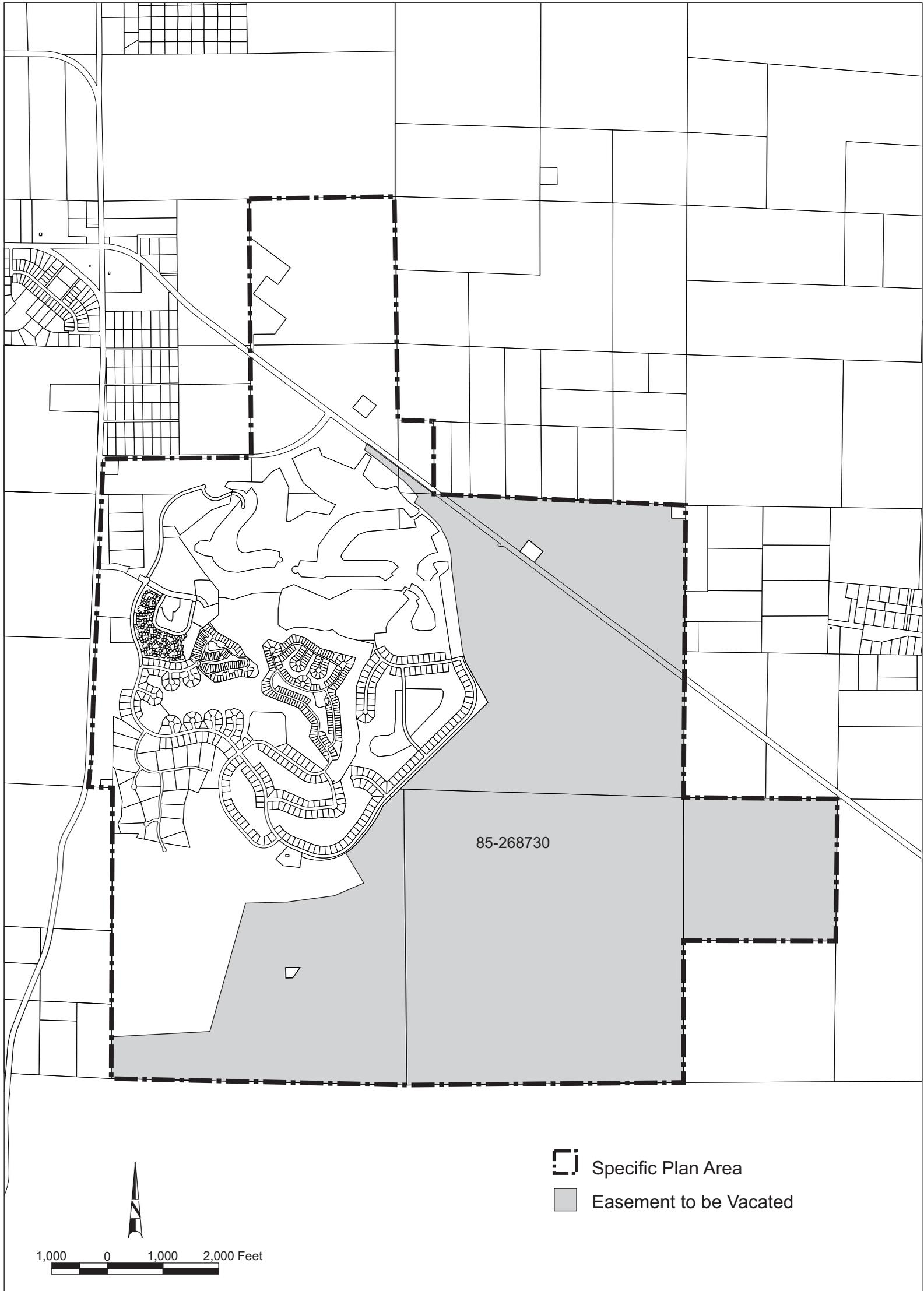
*To Be Determined*

10/23/19

**Exhibit D-1**  
**Easement Vacation Lands**  
**Plat**

*See Next Page*

Exhibit D-1  
Easement Vacation Lands



85-268730

-  Specific Plan Area
-  Easement to be Vacated

1,000 0 1,000 2,000 Feet

10/23/19

**Exhibit D-2**  
**Easement Vacation Lands**  
**Legal Description**

*To Be Determined*

10/23/19

**Exhibit D-3**  
**Replacement OSE Form**

*To Be Determined*

10/23/19

**Exhibit E**

**Rams Hill Specific Plan Amendment Site Plan**

*To Be Determined*

## **Attachment B – 1986 Amended Specific Plan Map**

# Amended Specific Plan Map RAMS HILL COUNTRY CLUB SPECIFIC PLAN

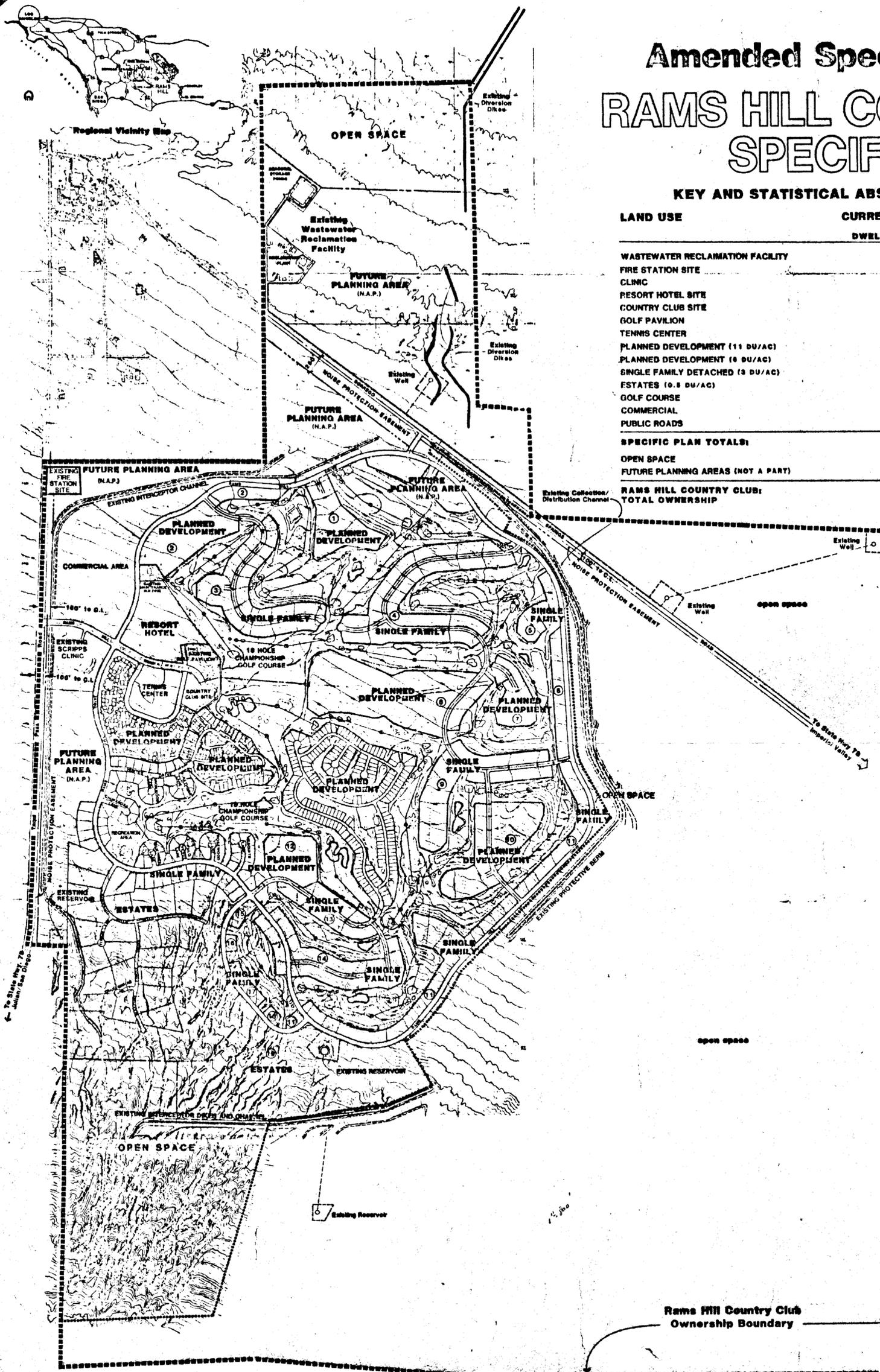
KEY AND STATISTICAL ABSTRACT July 1986 - Rev. per SPA 86-006

LAND USE	CURRENT SPECIFIC PLAN SP-A83-05		AMENDED SPECIFIC PLAN	
	DWELLING UNITS	ACRES	DWELLING UNITS	ACRES
WASTEWATER RECLAMATION FACILITY	—	16.67	—	16.67
FIRE STATION SITE	—	3.00	—	3.00
CLINIC	—	12.78	—	12.78
RESORT HOTEL SITE	—	16.40	—	16.40
COUNTRY CLUB SITE	—	4.09	—	4.09
GOLF PAVILION	—	4.48	—	4.48
TENNIS CENTER	—	9.48	—	9.48
PLANNED DEVELOPMENT (11 DU/AC)	130	22.54	123	22.54
PLANNED DEVELOPMENT (8 DU/AC)	401	92.83	860	163.43
SINGLE FAMILY DETACHED (3 DU/AC)	199	122.69	520	190.19
ESTATES (0.5 DU/AC)	50	134.30	67	174.12
GOLF COURSE	—	169.29	—	346.37
COMMERCIAL	—	—	—	29.10
PUBLIC ROADS	—	3.00	—	3.00
<b>SPECIFIC PLAN TOTALS:</b>	<b>780</b>	<b>611.65</b>	<b>1570</b>	<b>995.65</b>
OPEN SPACE	—	1800.00	—	1832.16
FUTURE PLANNING AREAS (NOT A PART)	—	928.80	—	312.64
<b>RAMS HILL COUNTRY CLUB: TOTAL OWNERSHIP</b>		<b>3140.45</b>		<b>3140.45</b>

## RESIDENTIAL AREAS SUMMARY

AREAS	LAND USE	ACRES	NO. DWELLING UNITS
1	PLANNED DEVELOPMENT	11.53 AC.	89 D.U.
2	PLANNED DEVELOPMENT	18.56 AC.	111 D.U.
3	SINGLE FAMILY DETACHED	21.57 AC.	65 D.U.
4	SINGLE FAMILY DETACHED	30.14 AC.	90 D.U.
5	SINGLE FAMILY DETACHED	5.20 AC.	16 D.U.
6	SINGLE FAMILY DETACHED	6.40 AC.	19 D.U.
7	PLANNED DEVELOPMENT	6.75 AC.	41 D.U.
8	PLANNED DEVELOPMENT	83.86 AC.	203 D.U.
9	SINGLE FAMILY DETACHED	19.05 AC.	57 D.U.
10	PLANNED DEVELOPMENT	18.15 AC.	108 D.U.
11	SINGLE FAMILY DETACHED	28.81 AC.	86 D.U.
12	PLANNED DEVELOPMENT	8.76 AC.	52 D.U.
13	SINGLE FAMILY DETACHED	9.49 AC.	28 D.U.
14	SINGLE FAMILY DETACHED	18.50 AC.	56 D.U.
15	SINGLE FAMILY DETACHED	1.84 AC.	5 D.U.
16	SINGLE FAMILY DETACHED	0.85 AC.	2 D.U.
17	SINGLE FAMILY DETACHED	2.43 AC.	7 D.U.
18	SINGLE FAMILY DETACHED	0.83 AC.	2 D.U.
19	ESTATES	108.87 AC.	42 D.U.
		<b>349.59 AC.</b>	<b>1059 D.U.</b>

OVERALL DENSITY: 3 D.U./AC.



Rams Hill Country Club  
Ownership Boundary

prepared for:  
**DiGiorgio Corporation**  
3230 Fifth Avenue, Suite A  
San Diego, Ca. 92103  
Telephone: (619) 291-4918

**RECEIVED**  
JUL 09 1990

prepared by:  
**PRC Engineering Inc.** San Diego County  
401 West A Street, Suite 2505  
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19701

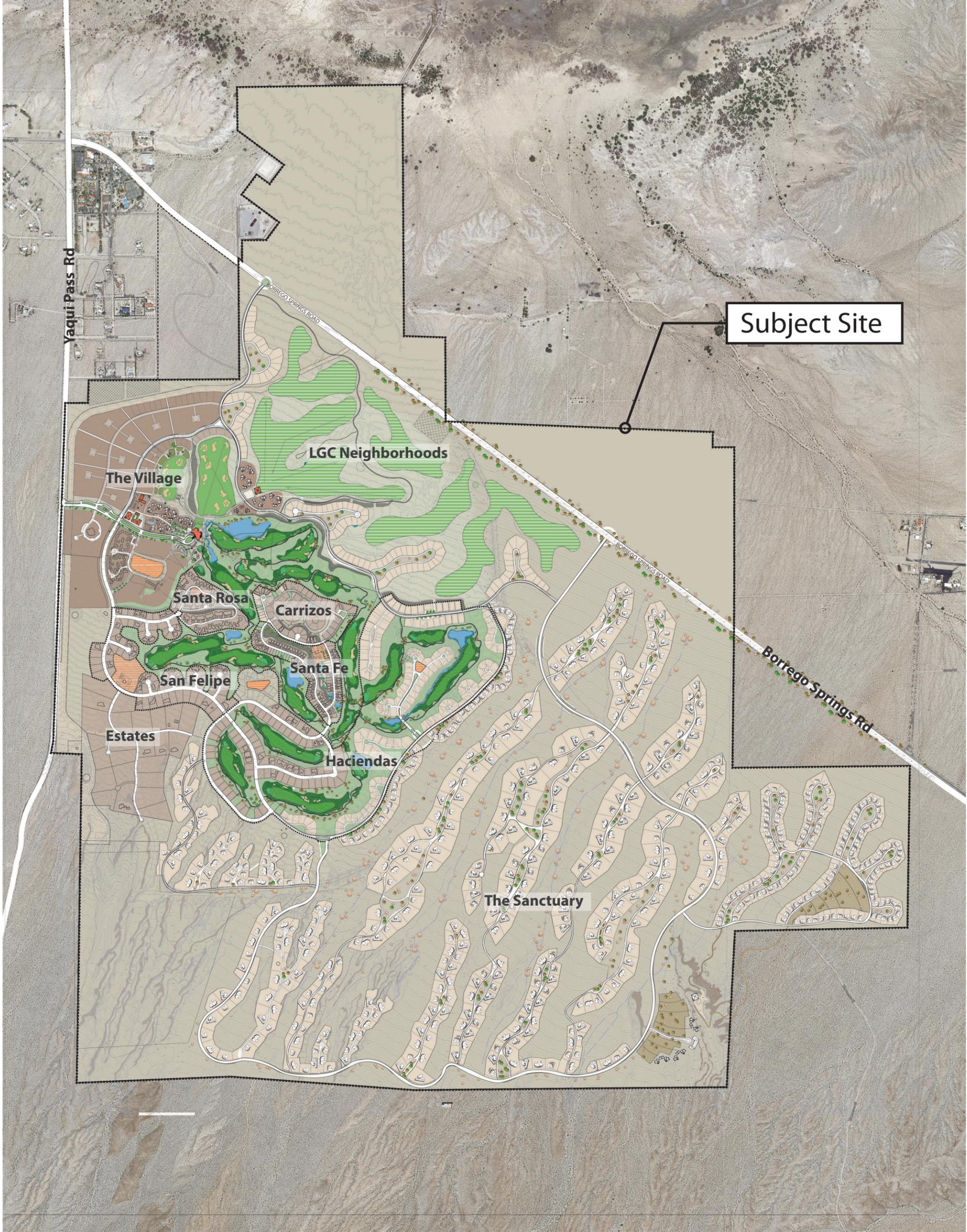
### FOOTNOTES:

A. Areas designated as "Future Planning Area" are subject to future detailed planning consistent with the requirements of general plan amendment 78-02.

B. The owner and all lines may be adjusted to meet the technical requirements set forth in said tentative and final maps.

# Attachment C – Conceptual Master Plan

**FIGURE 4 - Conceptual Master Plan**



0ft 1000ft 2000ft 4000ft



**Attachment D – Borrego Springs Community  
Sponsor Group Recommendation**



County of San Diego, Planning & Development Services  
**COMMUNITY PLANNING OR SPONSOR  
 GROUP PROJECT RECOMMENDATION**  
 ZONING DIVISION

Record ID(s): PDS2019-DA-19-001

Project Name: Ram Hill Development Agreement Threshold Decision

Planning/Sponsor Group: Borrego Springs Community Sponsor Group

Results of Planning/Sponsor Group Review

Meeting Date: 10-3-19

Group comments were: "lets start the conversation" and "this uses too much water".  
 A. Comments made by the group on the proposed project. *of our sustainable yield*

*See attachments. 37 letters in support were handed to the chair, all but 5 are Ram Hill residents; the rest may be former residents i may or may not still live in SD County. Copies were being sent to Supervisor Desmond.*

B. Advisory Vote: The Group  Did  Did Not make a formal recommendation, approval or denial on the project at this time. *In advance of the meeting, chair received 3 letters in opposition, 37 in favor (part of the 37 one received later)*

If a formal recommendation was made, please check the appropriate box below:

- MOTION:
- Approve without conditions
  - Approve with recommended conditions
  - Deny
  - Continue

VOTE: 5 Yes 2 No 0 Abstain 0 Vacant/Absent

C. Recommended conditions of approval:

Ø

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Reported by: Rebecca Falk Position: Chair Date: 10-7-19

Please email recommendations to BOTH EMAILS;  
 Project Manager listed in email (in this format): Firstname.Lastname@sdcounty.ca.gov and to  
CommunityGroups.LUEG@sdcounty.ca.gov

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<http://www.sdcounty.ca.gov/pds>

