BOARD OF SUPERVISORS
AGENDA LETTER

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Agenda Number:

Department Name:	P&D
Department No.:	053
For Agenda Of:	1/15/08
Placement:	Departmental
Estimated Tme:	2 Hours (On 2/5/08)
Continued Item:	No
If Yes, date from:	
Vote Required:	Majority

TO:	Board of Supervisors	
FROM:	Department	John Baker, P&D Director, 568-2085
	Contact Info:	Dianne Black, Development Services Director, P&D, 568-2086
SUBJECT:	**Santa Barbara Ranch Project – Transfer of Development Rights**	

County Counsel Concurrence
As to form: N/A

Auditor-Controller Concurrence
As to form: N/A

Other Concurrence:
As to form: N/A

Recommended Actions:

That the Board of Supervisors set a hearing for February 5, 2008, to receive a report on the feasibility of transferring development rights at Santa Barbara Ranch and take the following actions:

1. Make a determination that: (i) only a partial transfer of development potential at Naples/Santa Barbara Ranch is possible; and (ii) the land use designation of AG-II-100 should be re-evaluated as provided by Policy 2-13 of the County's Coastal Land Use Plan.

2. Direct staff to finalize the proposed TDR Enabling Ordinance, retaining an unconstrained free-market approach whereby there would be no expressed hold period on entitlements nor would the property owner be compelled to sell development credits to a TDR Bank.

Summary Text:

Santa Barbara Ranch comprises 485 acres and encompasses 80% of the 274 legal lots comprising the Official Map of Naples. Existing land use and zoning designations for the Naples townsite consist primarily of commercial agriculture, with minimum lot size requirements ranging from 10 acres ("U" zone designation for inland lots) to 100 acres (AG-II-100 zone designation for coastal lots) for each parcel. This translates to a hypothetical residential development potential of 14 lots that is far less than the 274 legal lots recognized in the 1995 Official Map of Naples. In short, existing agricultural land use designations and implementing zoning ordinances at Naples do not align with the residential lot densities already in existence. As a means of resolving this conflict, the County's Coastal Land Use Plan ("CLUP") contains policy language that is expressly and solely applicable to Naples. Policy 2-13 was adopted in 1982 at the time of the certification of the County's Local Coastal Program and states:

> *"The existing townsite of Naples is within a designated rural area and is remote from urban services. The County shall discourage residential development of existing lots. The County shall encourage and assist the property owner(s) in transferring development rights from the Naples townsite to an appropriate site within a designated urban area which is suitable for residential development. If the County determines that transferring development rights is not feasible, the land use designation of AG-II-100 should be re-evaluated."*[1]

In compliance with Policy 2-13, a TDR Study has been completed for Santa Barbara Ranch. The TDR Study identifies and evaluates potential receiver sites that would be suitable for residential development within designated urban and rural areas, as well as the financial and administrative apparatus and capacity necessary to accomplish potential transfers. The TDR Study indicates that, for a variety of reasons, a full extinguishment of development rights at Santa Barbara Ranch is not feasible but that it may be possible to transfer development from as much as 57% of the total lots. In order to foster this potential and affirmatively further Policy 2-13 objectives which require the County to "*…encourage and assist the property owner(s) in transferring development rights from the Naples town site…*", a draft Enabling Ordinance has been developed in consultation with key stakeholders. Thus, while it is not feasible to extinguish all development rights at Santa Barbara Ranch, a TDR Ordinance would maximize its potential.

Background:

The Santa Barbara Ranch Project entails a broad array of legislative and quasi-judicial land use approvals. Precedent to all of these actions, the County must first make a determination of TDR feasibility under CLUP Policy 2-13. To facilitate dialogue on the subject, the question of TDR feasibility was addressed to the Planning Commission at its meeting of September 26 and November 7, 2007. Copies of the staff reports and supporting documents are included in the Board packet. In summary, the need to study TDR feasibility arises from the plain and simple reality that legal lots already exist at Naples that could result in a residential density that far exceeds the underlying agricultural land use designation. This conflict is expressly recognized in the County's Coastal Land Use Plan ("CLUP") and provides for a re-designation of land use in the event that development rights cannot otherwise be directed to more appropriate urban locations. The issue is not whether development may occur at Naples, rather, it is a question of how much and where it will be allowed.

In compliance with Policy 2-13, the Solimar Research Group was commissioned to evaluate the feasibility of TDR at Naples. For a variety of reasons, Solimar concluded that a full extinguishment of development rights at Santa Barbara Ranch is not feasible but that it may be possible to transfer at least some development provided that a TDR Bank is sufficiently capitalized. The potential number of lots from which development is extinguished depends on which development scenario is selected and what priorities are placed on areas of the site to be preserved. Solimar has established $20 million as the realistic near-term target for undertaking TDR as compared to the $126 - $205 million required to fully extinguish development at Naples depending on what development configuration is ultimately pursued. The resulting shortfall translates to a lot density that still exceeds the underlying agricultural land use

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[1] The term "feasible" is defined in the California Coastal Act as meaning "…capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Section 30108 of the California Public Resources Code).

designation. If full extinguishment of development potential at SBR through TDR is not possible, the underlying conflict between lot density and existing agricultural designations remains. The means by which to resolve this conflict is through a re-designation of land use.

The Planning Commission concurred with this conclusion on a 4-1 vote. And while TDR may not be entirely feasible, the Commission also acknowledged that an overarching objective implicit in the County's Comprehensive Plan is to preserve rural areas and redirect development to locations within the designated urban limit line. CLUP Policy 2-13 reinforces this objective and requires the County to "*…encourage and assist the property owner(s) in transferring development rights from the Naples town site…*". Thus, while it is not feasible to extinguish all development rights at Santa Barbara Ranch, a TDR Ordinance would maximize its potential. Staff believes that such an Ordinance is implicitly required by Policy 2-13 in order to facilitate transfers no matter how few or many transfers can actually be accomplished. While there is strong consensus on this point, there are disparate points of view on how such an ordinance should be implemented. In this regard, staff has offered a range of options:

a. **Option 1.** This option reflects the basic approach endorsed by the Naples Coalition and is based on the premise that: (i) development must be delayed to enable the TDR Bank to be come fully established and capitalized; and (ii) the sender site applicant must be compelled to sell its lots under a prescribed procedure in order for the Bank to raise capital for a known commodity. Under this option, thee issuance/effectiveness of entitlements on the entire project would be stayed for an initial period of four years, commencing upon County approval, followed by a staged release of lots depending upon capitalization of the TDR Bank. The hold period would be discontinued after eight years. During the period of hold, the applicant would be obliged to sell its lots based on a value determined by a third party appraiser mutually selected by the TDR Bank and the applicant.

b. **Option 2.** This option was fashioned by staff as a mid-range compromised between the opposing points of view and is based on the premise that the period of hold and applicant participation should be moderated relative to benchmarks identified in the Solimar study and concerns regarding possible takings. Under this scenario, the entitlements on a select number of Naples lots, equivalent in value to the $20 million target suggested by Solimar (adjusted for inflation since the Elliwood-Mesa transaction), would be held for an initial period of four years. During this initial period, the applicant would give priority to the TDR Bank for purchase of TDR credits by offering the Bank the right of first refusal to match, within a reasonable time period, bonified offers to purchase individual Naples lots. Provided the Bank successfully exercises this option and acquires lots during the initial period, the first right of refusal would be extended to encompass all lots within designated TDR priority areas.

c. **Option 3.** This option reflects the strong opinion repeatedly stated by the applicant and is based on the premise of free market principles - that is, the price that a buyer could reasonably be expected to pay and a seller could reasonably be expected to accept. Consistent with these principles, the exchange or extinguishment of development rights would be voluntary whereby sellers and buyers would both need to be incentivized to participate for a TDR program to be successful. Under this scenario, there would be no expressed hold on entitlements nor would the applicant be compelled to sell to the TDR Bank. Instead, the

Bank would act like any other potential buyer in the market place, free to tender offers and negotiate TDR transactions.

On a split decision, the Planning Commission endorsed Option 3. This option is embodied in the recommendation to the Board above.

Fiscal and Facilities Impacts:

Costs associated with the TDR Study have been funded by the applicant for the Santa Barbara Ranch Project. The City of Santa Barbara also contributed toward the cost of preparing a Program Framework and the Enabling Ordinance. Permit revenues are budgeted in the Permit and Compliance Program of the Development Review, South Division on Page D-286 of the adopted 2007-08 fiscal year budget.

Special Instructions: None

Attachments:

A. Planning Commission Staff Report for Meeting of September 26, 2007 (With Attachments)
B. Planning Commission Staff Report for Meeting of November 7, 2007
C. Planning Commission Action Letter

Authored by: Tom Figg, Project Planner