

**ATTACHMENT C**  
**PLANNING COMMISSION ACTION LETTERS**



# COUNTY OF SANTA BARBARA CALIFORNIA

## PLANNING COMMISSION

COUNTY ENGINEERING BUILDING  
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TO THE HONORABLE BOARD OF SUPERVISORS  
COUNTY OF SANTA BARBARA, CALIFORNIA

PLANNING COMMISSION  
HEARING OF JULY 23, 2008

**RE: Santa Barbara Ranch TDR Ordinance; 08ORD-00000-00008**

The County Planning Commission will receive a report on a draft ordinance, establishing a policy and procedural framework for transferring development rights and make a recommendation to the Board of Supervisors in association with the Naples town site located two miles west of the City of Goleta, AP Nos. 079-080-026 to 081-240-018, Third Supervisorial District. (Continued from 5/07/08, 6/04/08 and 6/05/08)

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Dear Honorable Members of the Board of Supervisors:

At the Planning Commission hearing of July 23, 2008, Commissioner Jackson moved, seconded by Commissioner Blough and carried by a vote of 4-1 (Cooney no) to:

Recommend that the Board of Supervisors: (i) adopt the findings in Attachment A of the staff report, dated July 9, 2008; (ii) adopt the TDR Ordinance in Attachment B of the staff report, dated July 9, 2008, as revised at the hearing of July 23, 2008; (iii) endorse designation of non-governmental organization ("NGO") to serve as the TDR administrative authority pursuant to Section 35.64.090 of the Ordinance; and (iv) provide all reasonable assistance (without financial obligation) to facilitate implementation of the TDR Ordinance, including recruitment of an NGO to administer the program.

Sincerely,

A handwritten signature in cursive script that reads "Dianne M. Black". The signature is written in black ink and is positioned above a horizontal line.

Dianne M. Black  
Secretary Planning Commission

cc: Case File: 08ORD-00000-00008  
Planning Commission File  
Dianne M. Black, Director Development Review  
Ed Yates, Deputy County Counsel  
Mary Ann Slutzky, Deputy County Counsel  
Tom Figg, Planner

Planning Commission Hearing of July 23, 2008  
Santa Barbara Ranch TDR Ordinance; 08ORD-00000-00008  
Page 2

**Attachments:**            **Attachment A – Findings**  
                                 **Attachment B – 08ORD-00000-00008 (redlined copy showing recommended changes by the Planning Commission)**

DMB/jao

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# ATTACHMENT A

## TDR ORDINANCE FINDINGS

### California Environmental Quality Act (“CEQA”)

The TDR Ordinance is statutorily exempted from the California Environmental Quality Act (“CEQA”) insofar as it does not constitute a “project.” CEQA Guidelines Section 15378(b)(4) states that an action is not a “project” for purposes of CEQA, where it involves: “The creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to any specific project which may have a significant effect on the environment.” Several CEQA decisions have opined that fiscal programs are not projects for purposes of CEQA, while other companion decisions assert that actions leading to land use changes (but which do not actually ordain the outcome) do not produce any physical changes to the environment that would otherwise trigger CEQA. These decisions include the following projects:

- The formation of an assessment district to raise revenue for a water district. *Not About Water Comm. V. Board of Supervisors*, (2002) 95 Cal. App.4<sup>th</sup> 982, 1001.
- The formation of a community facilities district under Govt. C. sections 53311 to raise revenue in which no decision committed the agency to any school expansion or development. *Kaufman and Broad South Bay, Inc. v Morgan Hill Unified School District*, (1992) 9 Cal. App.4<sup>th</sup> 464.
- The detachment of 10,000 acres of undeveloped land from a recreation and park district was not considered a project because no land use designation would change. *Simi Valley Recreation and Park District v. LAFCO*, (1975) 51 Cal. App.3<sup>rd</sup> 648, 666.

The present situation is similar. The TDR Ordinance as currently proposed, does not commit the County to providing development credits for any particular sending or receiving sites, nor does it eliminate the possibility that any development rights could be extinguished. Therefore, the approval of an ordinance would not produce any physical changes to the environment that would trigger CEQA. On the other hand, subsequent actions of the County (or participating jurisdictions) to rezone land or amend land use policy documents (e.g., Comprehensive Plan, Coastal Land Use Plan, etc.) would be projects subject to CEQA and appropriate environmental review would have to be prepared before final decisions could be made.

### Land Use Development Code (Section 35.104.060)

- a. *The request is in the interest of the general community welfare.*

The proposed TDR Ordinance specifically responds to Coastal Land Use Plan (“CLUP”) Policy 2-13 which requires the County to “encourage and assist” property owners at Naples to transfer development rights to more appropriate urban locations. This obligation, in turn, responds to a host of Comprehensive Plan and CLUP policies that collective: (i) discourage urban development beyond the urban/rural boundary, the conversion of agricultural land to urban uses, and the extension of urban services and consequent urban sprawl; and (ii) promote infill development, managing growth relative

to its ability to pay for necessary services, and the preservation of sensitive resources. These values are a matter of land use policy of the County that are intrinsic to the general community welfare.

- b. ***The request is consistent with the Comprehensive Plan, the requirements of the State planning and zoning laws, and this Development Code. If the Amendment involves an Amendment to the Local Coastal Program, then the request shall also be found to be consistent with the Coastal Land Use Plan.***

CLUP Policy 2-13 acknowledges the disconnect in agricultural land use designations and the legal lot density already present at Naples. Moreover, the policy provides a mechanism for resolving this conflict through a re-designation of land use, provided that three parameters are satisfied: (i) that the County discourage residential development of existing lots; (ii) that the County encourage and assist the property owner(s) in transferring development rights from Naples town site to urban areas more suited for residential development; and (iii) that the County determines that transferring development rights is not feasible. On the basis of substantial evidence in the record, the Board of Supervisors has declared that the full extinguishment of development potential at Naples through TDR is not feasible. This finding notwithstanding, the proposed TDR Ordinance maximizes the opportunity for transfers in furtherance of 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...". The proposed Ordinance includes a process for designating receiver sites that respects existing land use entitlement procedures. In compliance with state and local planning regulations, notice of the Planning Commission hearing on the proposed Ordinance has been published and circulated in the time and manner prescribed by law.

- c. ***The request is consistent with good zoning and planning practices.***

Transfer of development rights is recognized as an important planning tool to preserve important resources while respecting the rights of private property owners. The proposed Ordinance embraces this tool as a means to both to comply with and affirmatively further the interest of the general community welfare.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING SECTION 35-1, THE SANTA BARBARA COUNTY LAND USE AND DEVELOPMENT CODE, OF CHAPTER 35, ZONING, OF THE COUNTY CODE, BY AMENDING ARTICLE 35.6 (RESOURCE MANAGEMENT), TO ADD A NEW CHAPTER 35.64 (TRANSFER OF DEVELOPMENT RIGHTS) TO IMPLEMENT A TRANSFER OF DEVELOPMENT RIGHTS PROGRAM IN SANTA BARBARA COUNTY.

Case Nos. 08ORD-00000-00008

The Board of the County of Santa Barbara, State of California, ordains as follows:

SECTION 1:

ARTICLE 35.6, Resource Management, of Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to add a new Chapter 35.64, Transfer of Development Rights, to read as follows:

**Chapter 35.64 - Transfer of Development Rights**

**Sections:**

- 35.64.010 - Program Purpose and Intent, Description and Goals
- 35.64.020 - Applicability
- 35.64.030 - Definitions
- 35.64.040 - Program Administration
- 35.64.050 - Sending Sites
- 35.64.060 - Receiving Sites
- 35.64.070 - County Restrictions on Zoning Map Amendments
- 35.64.080 - Amenity Funds
- 35.64.090 - Transfer of Development Rights Authority
- 35.64.100 - Inter Jurisdictional Agreements
- 35.64.110 - General Limitations

**35.64.010 - Program Purpose and Intent, Description and Goals**

**A. Purpose and intent.**

The provisions of this Chapter implement the Transfer of Development Rights program. The intent of this program is to transfer development potential from eligible Naples lots to eligible receiving sites along the South Coast of Santa Barbara County in furtherance of Coastal Land Use Plan Policy 2-13. The overriding purpose is to extinguish the rights to develop Naples lots determined to have the greatest public benefit by the Board.

**B. Description.**

1. The Transfer of Development Rights program is a market-driven program involving willing sellers and willing buyers. Landowners are not obligated to use the program but may participate voluntarily. The Transfer of Development Rights

program allows eligible sending site (lots targeted for preservation) landowners to sever the development right(s), as defined in this Chapter, from rights associated with land ownership. Sending site landowners that choose to participate in the program are compensated at fair market value for the lost development potential through market sales of those development rights. Once the development rights are sold, the land is protected from future development in perpetuity through conservation easements. Sending site landowners are incentivized to participate since they can forego the lengthy and often costly development approval and building process yet receive payments commensurate with the realized profits of their property built to its highest and best use.

2. Eligible receiving sites (lots to accommodate development) in the unincorporated areas of the County may be developed at higher densities than otherwise allowed under current zoning with requisite purchases of “density credits.” So called receiving site developers are incentivized to participate since they are able to realize greater profits through enhanced entitlements.
3. Participating Entities that adopt plans and ordinances to allow for increased density on receiving sites may opt to participate in the County’s Transfer of Development Rights program through legally binding inter-jurisdictional agreements.

#### C. Goals.

1. The primary goal of the Transfer of Development Rights program shall be to transfer the maximum number of development rights from Naples Townsite lots that serve one or a combination of the following objectives onto properties more suitable for development that lie within Urban areas designated on the Comprehensive Plan maps that are located within the South Coast and provide for the:
  - a. Preservation of Naples lots most visible from Highway 101.
  - b. Preservation of Naples lots located within the Coastal Zone.
  - c. Preservation of Naples lots located on or adjacent to a coastal bluff.
  - d. Preservation of Naples lots located on prime agricultural land.
  - e. Preservation of Naples lots within or near environmentally sensitive habitat areas.
  - f. Preservation of Naples lots within or near culturally or archaeologically sensitive areas.
  - g. Preservation of Naples lots for other conservation purposes as the Board may direct, upon a recommendation of the Planning Commission.
2. The preservation objectives appearing in Section 35.64.010 C.1. are listed without regard to order of priority. For funds derived from the purchase of transferable

development credits, the Board, upon a recommendation from the Planning Commission, shall designate and prioritize transfers by Resolution at such intervals as it may so determine is appropriate in relation to funds available to effectuate transfers. For all other funds deposited with the TDR Authority pursuant to Section 35.64.090, priorities may be designated by the contributor (e.g., Participating Entity, private donor, etc.); if priorities are not so established by the contributor, the priorities established by Board Resolution shall apply.

### **35.64.020 - Applicability**

The provisions of this Chapter shall apply to eligible Naples Townsite sender lots and designated receiving sites along the South Coast of Santa Barbara County.

### **35.64.030 - Definitions**

The Section provides definitions of terms and phrases used in this Chapter that are technical or specialized, or that may not reflect common usage. If any of the definitions in this Section conflict with definitions in other sections of this Development Code or other provisions of the County Code, these definitions shall control for the purposes of this Chapter.

**Amenity funds.** A percent of the revenue collected from TDR Authority sales of Transferable Development Credits that are set aside to fund infrastructure and park/recreational enhancements in receiving site neighborhoods as both an incentive and reward for accepting increased density.

**Base density.** The number dwelling units allowed on the receiving site under the property's current zoning.

**Conservation easement.** A legal deed restriction recorded on the title to the property that severs in perpetuity the right to develop dwelling unit(s), commercial, and/or industrial facilities on said property.

**Development right.** One of the rights associated with land ownership that entitles a landowner to develop his property in compliance with the local government General Plan and zoning regulations. For purposes of this Chapter, a development right is limited to principal permitted uses (i.e., uses that do not require the approval of a Conditional Use Permit or Minor Conditional Use Permit in compliance with Section 35.82.060 (Conditional Use Permits and Minor Conditional Use Permits)) that entail physical alteration of real property including residential, commercial and industrial uses; however open space, grazing and agricultural crop production are expressly excluded.

**Grid lots.** Legal lots recognized under the Official Map.

**Inter-jurisdictional agreement:** A legal agreement to transfer development potential between the County and a Participating Entity. The agreement articulates the conditions tied to the transfer of development rights to ensure that both jurisdictions mutually benefit.

**Naples lots.** One or a combination of: (a) grid lots; or (b) reconfigured lots resulting from lawful mergers, line adjustments and re-divisions approved by the County in connection with rezoning



of all or part of the Naples Townsite pursuant to Coastal Land Use Plan Policy 2-13.

**Naples Townsite.** The area encompassed by the Official Map.

**Neighborhood Enhancement Projects.** Infrastructure and park/recreational enhancements constructed in receiving site neighborhoods as an incentive or concession to approving receiver sites which are in addition to any developer impact fees or mitigation otherwise required in compliance with the California Environmental Quality Act..

**Official Map.** The Official Map of Naples approved by the Board on October 3, 1995, and filed for the record on December 19, 1995, in Book 99, at Pages 4 through 9 of Maps.

**Participating Entity.** A governmental organization having land use authority within Santa Barbara County (e.g., incorporated Cities, University of California, California Division of Fairs and Expositions, United States Government, etc.) that has entered into an inter-jurisdictional agreement to participate in the Transfer of Development Rights program.

**Pre-screen.** A preliminary application and non-binding advisory determination of the appropriate density for a potential receiver site.

**Receiving site.** Legal lot(s) the County (or Participating Entity) has determined to be appropriate for increased development density with the purchase of transferable development credits.

~~**Residual land value analysis.** A land residual methodology calculates the value of a development based on its income potential, and subtracts the costs of development and an expected developer profit to yield what a receiver site owner would pay for the land with enhanced entitlements.~~

**Rural and Urban areas.** Rural and Urban areas as designated on the Comprehensive Plan maps.

**Sending site.** Legal lots identified by the County pursuant to Section 35.64.050 (Sending Sites), the underlying development rights to which, at the landowner's discretion, may be severed and sold to the TDR Authority.

**South Coast.** The unincorporated area located east of Highway 101 at Gaviota, south of the ridge of the Santa Ynez Mountains, and west of the Ventura County line.

**TDR Authority.** The Transferable Development Rights Authority established pursuant to Section 35.64.090, which may be a governmental agency, or a non-governmental agency such as a local land trust or national conservation organization, established and given authority by the County to buy transferable development rights and sell transferable development credits..

**Transferable Development Credit.** A certificate which grants one additional dwelling unit above base density, on specified receiving sites, that can only be purchased from the TDR Authority.

**Transferable Development Credit Density Bonus.** The number of additional units above base density that can be built in association with a County approved receiving site project with the purchase of transferable development credits.

**Transferable Development Rights.** Development rights, as defined in this Chapter, from sending sites that can voluntarily severed from the associated with the property's ownership at the initiation of the landowner and sold to the TDR Authority.

### **35.64.040 - Program Administration**

The Department and Director shall have principal responsibility for administration of Transfer of Development Rights under the provisions of this Chapter. Except or unless otherwise noted, the provisions of this Chapter are expressly applicable to the County. Terms, conditions and procedures applicable to Participating Entities shall be clarified through inter-jurisdictional agreements.

### **35.64.050 - Sending Sites**

- A. Sending site eligibility.** Properties that meet all the criteria listed below shall qualify as eligible sending sites:
1. Lots within the Naples Townsite that the Board prioritizes for transfer in compliance with goal number one of Subsection 35.90.010.C.
  2. If lots have not received approval for rezoning from their current agricultural designation pursuant to Coastal Land Use Plan Policy 2-13, then only the development rights that correspond to the lot arrangement shown on the Official Map shall be transferred. If rezoning occurs as provided under Coastal Land Use Plan Policy 2-13, then the development rights associated with the rezoning and lot reconfigurations (if any such lot reconfigurations are concurrently approved) shall be subject to transfer.
  3. All eligible Naples lots shall be ranked as to their priority for transfer by resolution of the Board. The rank shall determine the order by which the TDR Authority purchases transferable development rights from sending sites.
- B. Allocation of transferable development rights to sending sites.** Each eligible Naples lot shall be entitled to one transferable development rights. Each transferable development right shall represent the legal right to build a primary and secondary dwelling unit on a legal lot which can be voluntarily severed from the rights associated with the property's ownership at the initiation of the landowner. Sending site transferable development rights shall only be sold to the TDR Authority.
- C. Sending site application process.**
1. **Application.** Landowners of lots that meet the eligibility requirements under Subsection 35.90.040.A and desiring to sell their transferable development rights shall file with the Department an application containing two copies of a preliminary title report no older than six months concerning the lot.
  2. **Notice of eligibility.** Following submittal of an application, the Department shall prepare a written notice to the applicant that confirms the lot(s) as those the Board

has approved, the lots priority rank, and a statement of the number of transferable development rights that can be allocated to each approved Naples sending lot.

3. **Issuance of sending site certificate.** Following recordation of a conservation easement(s), a certificate allocating transferable development rights shall be issued to the owner(s) of the property by the Department. A transferable development rights certificate shall be issued for each transferable development rights assigned to a legal lot as determined by Subsection 35.64.030.B that has a recorded a conservation easement. The certificate shall include a full legal lot description and its respective priority ranking.
4. **Sending site transferable development rights.** Sending site transferable development rights shall only be available for purchase by the TDR Authority, in order of their respective prioritization, after a certificate allocating transferable development rights has been issued to the lot owner(s) by the Department.
5. **Record of conservation easement.** As a condition prerequisite to the TDR Authority's purchase of transferable development rights, evidenced by certificates issued pursuant to this section, a conservation easement shall be recorded as a deed restriction on the property's title (or equivalent legally enforceable mechanism). The conservation easement (or equivalent legally enforceable mechanism) shall be reviewed and approved by County Counsel prior to its recordation or execution. The easement (or equivalent legally enforceable mechanism) must sever, in perpetuity, the development right(s) from ownership of the property.

### 35.64.060 - Receiving Sites

#### A. Receiving site eligibility.

1. **Unincorporated County sites.** Unincorporated properties that qualify as eligible receiving sites to exceed base zoning density through the purchase of transferable development credits as defined in Section 35.64.030 (Definitions) of this Chapter must comply with all the following criteria:
  - a. The site must be located within the County's South Coast Housing Market Area as delineated in the County's Housing Element.
  - b. The site must be within a designated Urban area.
  - c. The developable footprint of the site must have less than 30 percent slope.
  - d. The developable footprint of the site must not be located in a designated flood or geologic hazard area
  - e. The developable footprint of the site must not be under agricultural production or contain any land rated as Class I or Class II in the Natural Resource Conservation Service land use capability classifications and shall have less than 25 percent Class I soils.

- f. The developable footprint of the site must not be located in an environmentally sensitive habitat area.
- g. The developable footprint of the site must not be located in a culturally or archaeologically sensitive area.

2. **Participating Entity sites.** Properties within the land use authority of a Participating Entity that qualify as eligible receiving sites to exceed base zoning density through the purchase of transferable development credits, as defined in Section 35.64.030 (Definitions) of this Chapter, shall be determined by the Participating Entity in accordance with the terms and conditions of the inter-jurisdictional agreement.

**B. Receiving site application process/determination of density bonus.** The processing of applications for receiver site designation and award of density bonus shall be expedited to the maximum extent feasible. The following procedure shall be used to approve receiving sites and identify the density bonuses obtainable on eligible receiving sites through transferable development credit purchases.

1. Landowners seeking designation of their properties as eligible receiving sites must file an application with the Department. The application must include the lot(s) Assessor's Parcel Number(s), current property ownership, preliminary title report not more than six months old, current zone designation and evidence supporting that the site meets the eligibility criteria.
2. The Department shall, within 30 days of the date an application is accepted as complete, notify the applicant if the site is an eligible receiving site based on the criteria of Subsection 35.64.050.A.
3. Sites that are determined to be eligible receiving sites shall require a pre-screen by the Commission, upon recommendation of the Director, to set: (a) the base density, and (b) the maximum allowable density obtainable on the site with transferable development credit purchases. The applicant must submit a preliminary draft conceptual plan and processing fee for the pre-screen analysis. The Director shall evaluate the application and report its findings to the Commission in the form of a recommendation as follows:
  - a. The matter shall be considered by the Commission at a noticed, public hearing with notice provided in the time and manner required for Development Plans in compliance with Section 35.82.080 (Development Plans).
  - b. The base density shall represent the number of dwelling units allowed on the property under its existing zone designation;
  - c. The Director shall recommend an assignment of maximum density based upon neighborhood compatibility and existing surrounding land uses. This preliminary staff study shall serve as an initial assessment in an eventual

disparate values of sending site transferable development rights and receiving site transferable development credits;

2. Manage a fund for continued land preservation with the Transfer of Development Rights program;
3. Hold and/or transfer conservation easements to a third party trustee;
4. Manage and allocate amenity funds;
5. Maintain records of all commodity transactions; and
6. Facilitate the drafting of inter-jurisdictional transferable development rights agreements between County and Participating Entities.

**B. Administration of the TDR Authority.** The County shall designate, by resolution of the Board, the entity which shall be empowered and authorized to serve as the TDR Authority. The entity designated by the County shall be a non-profit organization, among whose purpose it is to conserve open space and/or natural resources of the conservation easement, preferably with experience in administrating TDR programs and conservation easements. The designation may be changed from time to time at the convenience of the Board and shall be formalized by written agreement between the County and the TDR Authority which stipulates the terms and conditions of participation, including, at a minimum, compliance with the provisions of this Chapter.

**C. Voluntary participation.** ~~The transferable development rights purchase and selling price of transferable development rights and credits shall be mutually agreed-upon by the TDR Authority and the seller/buyer of transferable developments such rights owner and credits. The~~ The valuation methodology shall be established under rules approved by the Board pursuant to Section 35.64.090.J., and neither the TDR Authority, and/or nor the seller/buyer of the transferable development rights owner or credits shall not be obligated to participate in transactions if one or both parties find the appraisal valuation inappropriate. For the specific purpose of transferable development credits, the maximum price for each such credit shall calculated as a percentage of land value, sufficiently discounted to induce participation, and shall be established in connection in Section 35.64.090.J. The transferable development credits selling price shall be mutually agreed-upon by the TDR Authority and the transferable development credit purchaser. Either party shall not be obligated to participate in transactions if one or both parties find the determination of selling price inappropriate. Subject to such refinements and modifications as may be authorized under the rules approved by the Board pursuant to Section 35.64.090.J., the valuation of transferable development rights and credits shall be governed by the following:

1. ~~For all transactions, a third party fair market valuation shall be required by a certified MAI appraiser using before and after standards as set forth by the Standards of Professional Appraisal Practice (USPAP).~~

2. ~~The appraiser shall be mutually agreed upon by the buyer, seller and TDR Authority. The appraiser's determination of value (both as to transferable rights and credits) shall serve as the price at which the TDR Authority engages in its negotiations with the parties.~~
3. ~~A residual land value analysis shall be used as the basis of determining the price of transferable credits. The difference between the current price of land, with its base density, and the residual land value with extra units allowed via transferable development credit density bonus, shall serve as the price benchmark.~~

**D. Conservation easements.** As part of each transaction involving the purchase of development rights, the TDR Authority shall record a conservation easement on the title of the sending site property (or equivalent legally enforceable mechanism). The conservation easement (or equivalent legally enforceable mechanism) must sever, in perpetuity, all rights to develop or use the property except for open space, grazing and agricultural crop production. The TDR Authority shall hold, or transfer to a third party trustee (the "Trustee") the conservation easement from said property (or equivalent legally enforceable mechanism). The Trustee shall be designated by the Board and shall be a conservation organization, among whose purposes it is to conserve open space and/or natural resources of the conservation easement.

**E. Sender site priorities.** The TDR Authority shall obtain transferable development rights from sending sites in order of priority as set forth by resolution of the Board in Subsection 35.64.050.A.3. In so doing, the TDR Authority shall be required to purchase transferable development rights from lots with higher priority ranking before purchasing transferable development rights from lots with lower priority ranking. As an example, and by way of illustrative purposes only, if the preservation of bluff lots is selected by the Board as the top priority and the overall estimated development right value of such lots is \$115 million, the purchase of development rights shall be restricted to bluff lots until the amount of funds on deposit with the TDR Authority exceed this threshold. Once funds exceed the amount of \$115 million, development rights can be purchased from the next highest priority category. In the event no secondary priority is selected, any lot at Naples would be eligible.

**F. Transferable development credit seller authorization.** The TDR Authority can be designated as the sole seller of transferable development credits and shall be allowed to sell transferable development credits to applicants of approved receiving sites as determined in Section 35.64.060 (Receiving Sites) or other interested parties.

**G. TDR Authority expenditures of funds.** The TDR Authority shall only use the revenue collected from the sales of transferable development credits in the following ways:

1. Purchase transferable development rights from Naples sending sites.
2. Allocation of amenity funds.

3. Cover administrative and overhead costs.
  4. Repay investment contract obligations made with the TDR Authority.
  5. Purposes explicitly agreed to by any contract between the County and the TDR Authority.
- H. TDR Authority management of investment funds.** The TDR Authority Board, in addition to buying transferable development rights and selling transferable development credits, may seek to attract private capital and public loans or grants to capitalize the TDR Authority's revolving fund for continued land preservation.
- I. Facilitate inter-jurisdictional agreements.** The TDR Authority shall serve to facilitate and negotiate with Participating Entities the terms and conditions of any inter-jurisdictional agreement involving the transfer of transferable development rights and/or transferable development credits. The TDR Authority Board shall, prior to finalization of an inter-jurisdictional agreement, seek Board approval of the conditions put forth.
- J. Adoption of rules.** The TDR Authority Board shall adopt bylaws or operating guidelines that include rules for the transaction of business and shall keep a public record of its resolutions, transactions and investments. The bylaws and rules adopted by the TDR Authority Board shall be subject to review and approval by the Board of Supervisors.

#### **35.64.100 - Inter-Jurisdictional Agreements**

- A. Purpose.** The County and any jurisdictions that voluntarily participate in the County's Transfer of Development Rights program shall enter into an inter-jurisdictional agreement. The purpose of such an agreement shall be to ensure that each jurisdiction can condition development right transfers such that both parties mutually benefit.
- B. Key components.** A binding inter-jurisdictional agreement between the County and Participating Entity shall address at minimum the following components:
1. Specific sending sites mutually-agreed upon by the County and the Participating Entity from which to transfer development rights.
  2. The ways by which the Participating Entity interfaces with the TDR Authority; at minimum these shall include:
    - a. The terms by which the Participating Entity and the TDR Authority negotiate to determine the transferable development rights purchase price.
    - b. The terms by which the Participating Entity agrees to transfer funds to the TDR Authority.
    - c. The terms by which the Participating Entity uses the TDR Authority, if at all, to sell density credits in its jurisdiction.
  3. The process by which the TDR Authority pays receiving site amenity funds, if

Chair, Board of Supervisors  
County of Santa Barbara

ATTEST:

MICHAEL F. BROWN  
Clerk of the Board of Supervisors

By \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM:

DANIEL J. WALLACE  
County Counsel

By \_\_\_\_\_  
Deputy County Counsel





COUNTY OF SANTA BARBARA  
CALIFORNIA

MONTECITO PLANNING COMMISSION

COUNTY ENGINEERING BUILDING  
123 E. ANAPAMU STREET  
SANTA BARBARA, CALIFORNIA 93101-2058  
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TO THE HONORABLE BOARD OF SUPERVISORS  
COUNTY OF SANTA BARBARA, CALIFORNIA

MONTECITO PLANNING COMMISSION  
HEARING OF JUNE 18, 2008

***RE: Santa Barbara Ranch TDR Ordinance, 08ORD-00000-00012***

The Montecito Planning Commission will receive a report on a draft ordinance, establishing a policy and procedural framework for transferring development rights and make a recommendation to the Board of Supervisors in association with the Naples town site located two miles west of the City of Goleta, AP No.'s 079-080-026 to 081-240-018, Third Supervisorial District.

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Dear Honorable Members of the Board of Supervisors:

At the Montecito Planning Commission hearing of June 18, 2008, Commissioner Bierig moved, seconded by Commissioner Phillips and carried by a vote of 3-2 (Overall, Gottsdanker no) to:

1. Receive a report on a draft Transfer of Development Rights (TDR) Ordinance; and
2. Not recommend that the Board of Supervisors: (i) adopt findings as proposed (Section 6.0 of the staff report, dated June 9, 2008); and (ii) adopt the proposed Ordinance (Attachment A of the staff report, dated June 9, 2008) with the changes recommended by the County Planning Commission (Section 5.0).

Sincerely,



Dianne M. Black  
Secretary Planning Commission

cc: Case File: 08ORD-00000-00012  
Montecito Planning Commission File  
Montecito Association, P.O. Box 5278, Montecito CA 93150  
Matt Osgood, Vintage Communities, Santa Barbara Ranch, LLC, 18401 Von Karman Ave. 350, Irvine, CA 92612  
Henry Shulte, Shulte Trust, Dos Pueblos Ranch, Dos Pueblos Canyon Road, Goleta, CA 93117  
Morehart Land Company, 3393 Padaro Lane, Carpinteria, CA 93013  
Sean Finnegan Makar Properties, LLC, 4100 MacArthur Blvd., Suite 200, Newport Beach, CA 92660  
Dianne M. Black, Director Development Review

Ed Yates, Deputy County Counsel  
Tom Figg, Planner

DMB/dmv

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