



TDR DOA?

It's Supposed to Save the Gaviota Coast, but the Transfer of Development Rights Ordinance the Supes Are About to Adopt Is Bogus

By Kalon L. Kelley

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The Board of Supervisors is poised to adopt a new transfer of development rights (TDR) ordinance. In principle, it's a good idea. The purpose of the ordinance is to reduce or eliminate residential development on the Gaviota Coast—especially the Naples townsite.

If it worked—as numerous TDR ordinances across the United States do—it would allow urban developers to pay into a TDR bank in exchange for permission to build more densely, with the banked money to be used for buying and extinguishing development rights on Gaviota. In effect, it would transfer that development to urban areas where the infrastructure to support people exists, rather than in sensitive areas more suited to agriculture or open space.

So will the proposed ordinance do its job? Unfortunately, no. The county, ignoring the strong recommendation of its own consultant, has made TDR just one among several ways that a developer may increase density. It has thereby greatly reduced or eliminated the ability of the ordinance actually to generate funds for the purchase of Gaviota development rights. If the county was serious about this

ordinance, it would have produced a feasibility study to estimate what funds this approach might produce, and thereby assess the viability of the ordinance in accomplishing the policy objective, but no such study was performed.

But this is just the beginning of the problems. The ordinance grants an entirely free hand to the developer at Naples, there being no obligation to sell development rights nor grant the county a right of first refusal. Rather, as drafted, the ordinance simply contemplates the county (in the unlikely event that it generated money from its sale of TDR credits) standing in line with any other buyer of lots at Naples. In short, there is no obligation on the part of the developer to sell anything to the county.

But as the developer will always choose to sell a lot with a home built on it over selling the development rights to the lot, even if the county could raise some money it would be trying to purchase something that really wasn't for sale—namely, development rights.

But it gets worse: what the county would be interested in purchasing are development rights at Naples, not the actual lots. Purchasing the right to develop a residence on a lot should cost less than purchasing the lot itself. But as the developer will always choose to sell a lot with a home built on it over selling the development rights to the lot, even if the county could raise some money it would be trying to purchase something that really wasn't for sale—namely, development rights.

The general consensus is that to eliminate development at Naples will require a robust TDR ordinance and participation by municipalities in terms of providing a few specific receiver sites (the cities of Goleta and Santa Barbara have expressed considerable interest in a workable TDR program), as well as funding from the government, land conservation organizations, and the public.

But because it is contemplated that there be no obligation on the developer to sell any development rights at any price, the ability to raise funds will be virtually nonexistent. Government entities, organizations, or individuals will question donating money to a fund when there is no certainty whatsoever that any funds raised can actually be used to accomplish the objective at Naples.

This ordinance could have been drafted in any number of ways that would have eliminated these problems, and, in fact, alternatives were put on the table when this subject was being reviewed. Why the county has chosen the direction it has is a question that should be addressed to the Planning Commission and the Planning and Development Department. It appears that a decision was made to create a completely ineffectual ordinance that might, nonetheless, be adequate to establish legal compliance with Santa Barbara County Policy LCP 2-13, dating from 1982, which states that the county “shall discourage residential development of existing lots [at Naples]. 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.” No one expects this ordinance to work and it is unlikely that the responsibilities of LCP 2-13 have been met.

It is to be hoped that the Board of Supervisors will choose not to further this charade, but remand the subject to the Planning Commission with instructions to create a viable ordinance that will accomplish the policy objective at the Naples townsite. That policy objective was important to the county when the policy was adopted and remains even more important today

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