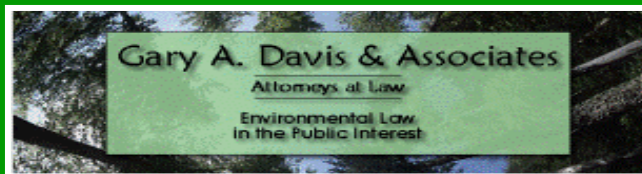


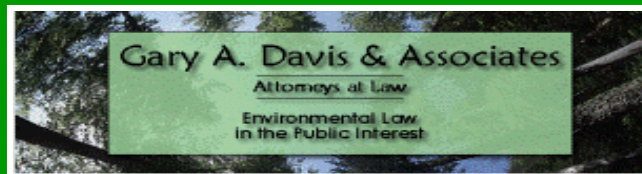
PROGRESSIVE POLICIES TO SAVE OUR SLOPES

Gary A. Davis
Presented at Save Our Slopes
Forum 2
November 9, 2006



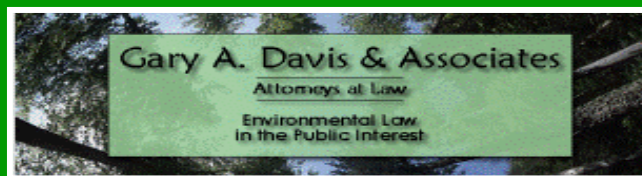
PROGRESSIVE POLICIES TO SAVE OUR SLOPES

- WOLF RIDGE DEVELOPMENT—
MADISON COUNTY
- TOOLS
 - LAND USE REGULATIONS
 - RIDGE LAW
 - STORMWATER REGULATIONS
 - ENVIRONMENTAL IMPACT REVIEW
 - TAX POLICY
 - IMPACT FEES

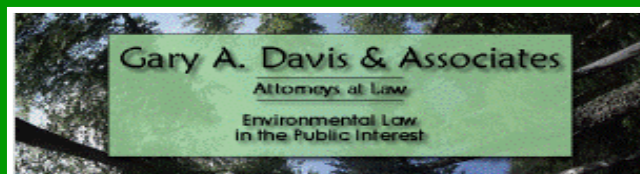


WOLF RIDGE DEVELOPMENT— MADISON COUNTY

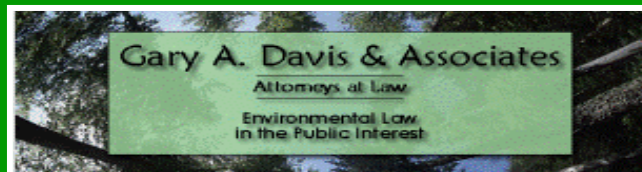
- “RADICAL” DEVELOPMENT
- 800—1,000 HOMES ON STEEP SLOPES SPILLING INTO THE LAUREL VALLEY
- JET AIRPORT WITH 3,250 FOOT RUNWAY ON A 4,000 FOOT RIDGE
- NEW SKI SLOPES, POOL, TOBOGGAN RUN
- NEW SEWAGE TREATMENT PLANT WITH 300,000 GAL PER DAY DISCHARGE INTO SMALL TROUT STREAM
- LAUREL VALLEY WATCH – MORE INFORMATION WWW.LAURELVALLEYWATCH.ORG



“STRIP MINE” DEVELOPMENT

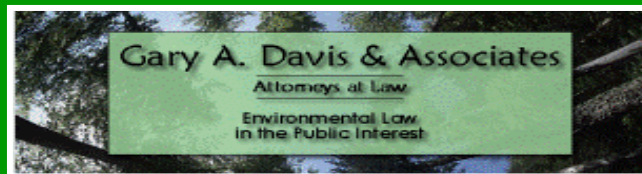


“STRIP MINE” DEVELOPMENT



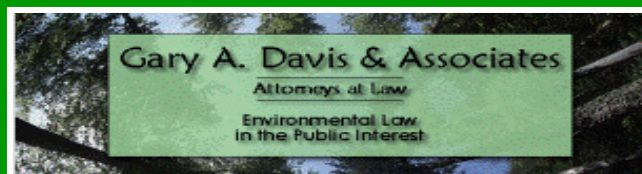
TOOLS: LAND USE REGULATIONS

- **LAND USE PLANNING—PROBLEMS**
 - MANY COUNTIES DON'T HAVE IT
 - MANY DON'T HAVE COMPREHENSIVE PLANS, SO ZONING AND REZONING ARE HAPHAZARD
 - MOST DON'T ADDRESS STEEP SLOPES
 - MOST DON'T ADDRESS PRESERVATION OF FARMLAND OR FORESTS
 - MOST DON'T ADDRESS ENVIRONMENTAL DEGRADATION OR PREVENTION OF SPRAWL
 - SUBDIVISION ORDINANCES GIVE LITTLE DISCRETION



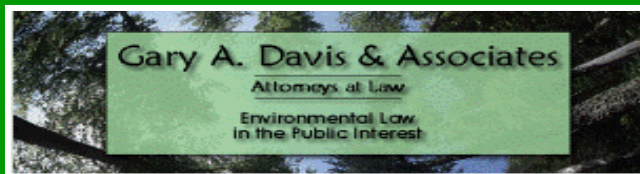
TOOLS: LAND USE REGULATIONS

- **LAND USE PLANNING: STATE DIRECTION, OVERSIGHT AND ASSISTANCE**
 - **TENNESSEE—INCENTIVES TO COUNTIES AND CITIES TO DEVELOP PLANS**
 - STATE ECONOMIC DEVELOPMENT FUNDS TIED TO ADOPTION OF PLANS
 - **FLORIDA—LOCAL GOVERNMENTS REQUIRED TO HAVE COMPREHENSIVE PLANS**
 - STATE SPECIFIES CONTENT
 - STATE MUST APPROVE PLANS AND AMENDMENTS
 - LOCAL GOVERNMENTS MUST REVIEW PERIODICALLY WHETHER PLANS ARE SUCCEEDING



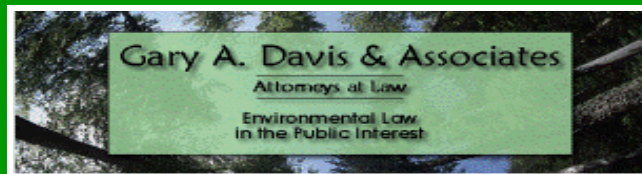
LAND USE REGULATION

- **LAND USE PLANNING**
 - **STEEP SLOPE ZONING**
 - OVERLAY ZONING
 - RESTRICT DEVELOPMENT ON CERTAIN SLOPES
 - REDUCE MAXIMUM ALLOWABLE DENSITY
 - RECOGNIZE SEPTIC ISSUES AND POTENTIAL FOR LANDSLIDES
 - **PRESERVATION OF FARMLAND AND FORESTS**
 - PUT THESE ON THE MAP AS FUTURE LAND USES
 - MAKE IT DIFFICULT TO CHANGE COMPREHENSIVE PLANS
 - MAKE IT MORE DIFFICULT TO REZONE
 - PRESERVATION REQUIREMENTS FOR DEVELOPMENTS



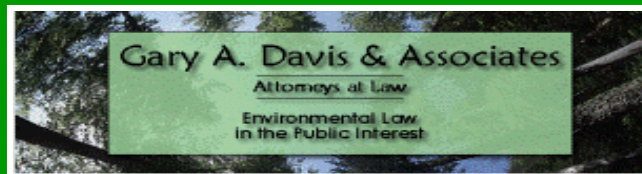
LAND USE REGULATION

- **LAND USE PLANNING: DOWNZONING ISSUES**
 - VESTED RIGHTS
 - REGULATORY TAKINGS
- **SOLUTIONS:**
 - CLUSTER DEVELOPMENT
 - TRANSFERABLE DEVELOPMENT RIGHTS (“TDRS”)

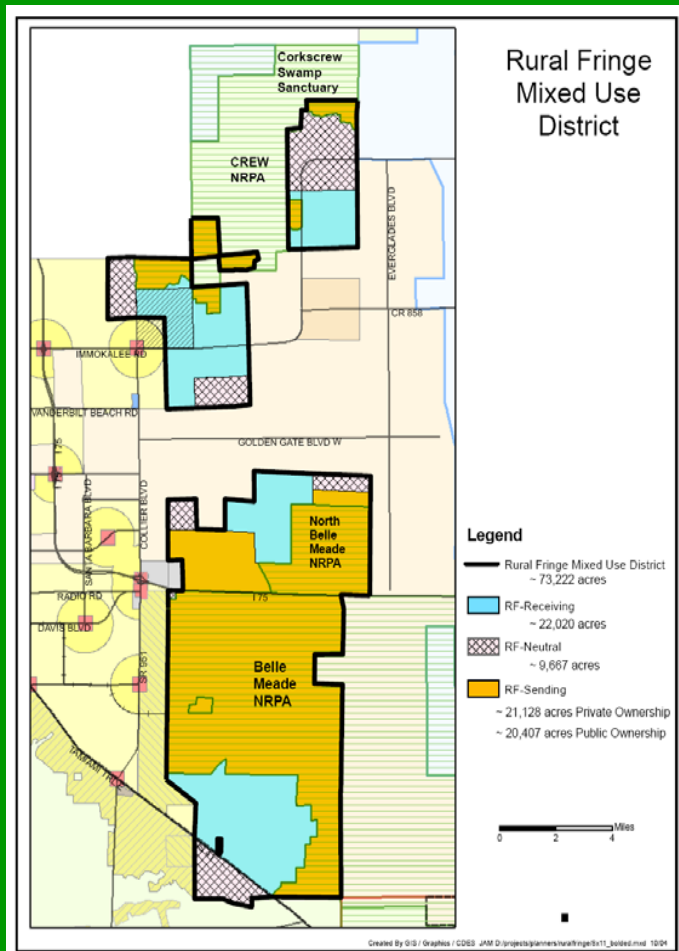


LAND USE REGULATION

- **TRANSFERABLE DEVELOPMENT RIGHTS**
 - RESTRICTIONS FOR SENSITIVE AREAS, CALLED “SENDING” AREAS
 - GREATER DENSITY ALLOWED IN LESS SENSITIVE AREAS, CALLED “RECEIVING AREAS”
 - ONLY WORKS IF THERE IS A DEMAND FOR MORE DENSITY IN RECEIVING AREAS
 - LOCAL GOVERNMENTS CAN PRIME THE MARKET



TRANSFERABLE DEVELOPMENT RIGHTS: EXAMPLE

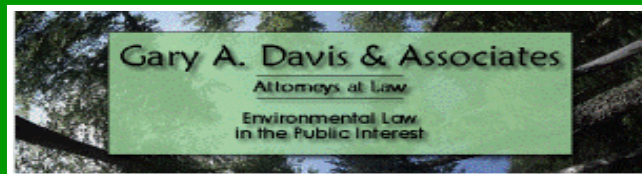


- COLLIER COUNTY, FLORIDA, ABOUT 90,000 ACRES
- PROTECT WETLANDS, ENDANGERED SPECIES HABITAT
- PROMOTES RURAL MIXED USE VILLAGES TO PREVENT SPRAWL



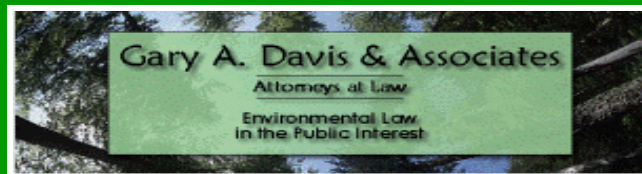
LAND USE REGULATION

- **SUBDIVISION ORDINANCES**
 - **STATE STATUTE HAS MINIMUM REQUIREMENTS**
 - **LOCAL GOVERNMENTS CAN INCLUDE MORE DISCRETION IN ORDINANCES TO TAKE INTO ACCOUNT STEEP SLOPE ISSUES AND ENVIRONMENTAL ISSUES**



RIDGE LAW

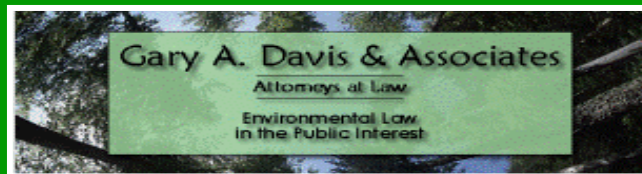
- **NORTH CAROLINA MOUNTAIN RIDGE PROTECTION ACT**
 - **PROTECTED MOUNTAIN RIDGES = 3,000 FT. AND 500 FT. ABOVE VALLEY**
 - **ONLY APPLIES TO TALL BUILDINGS > 40 FT.**
 - **TALL BUILDINGS CANNOT PROTRUDE MORE THAN 35 FT. ABOVE RIDGE CREST**
 - **CITIES AND COUNTIES CAN DENY IF DON'T MEET REQUIREMENTS FOR SEWAGE TREATMENT, WATER SUPPLY, PRESERVING NATURAL BEAUTY**



STORMWATER REGULATIONS

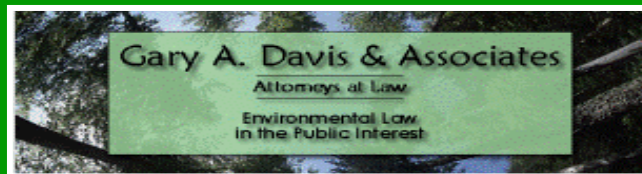


- **STEEP SLOPES = EROSION AND SEDIMENTATION**
- **NC SEDIMENTATION POLLUTION CONTROL ACT OF 1973**
- **LOCAL GOVERNMENTS CAN ADOPT AND ENFORCE MORE STRINGENT RULES**
- **SLOPE STABILITY AND LANDSLIDES SHOULD ALSO BE ADDRESSED**



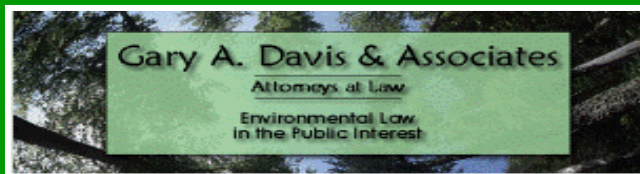
ENVIRONMENTAL IMPACT REVIEW

- NORTH CAROLINA ENVIRONMENTAL POLICY ACT
- LOCAL GOVERNMENTS CAN ADOPT AND APPLY TO “MAJOR DEVELOPMENT PROJECT”:
 - shopping centers, subdivisions and other housing developments, and industrial and commercial projects; > 2 contiguous acres
 - Prepare EA or EIS
 - Mostly procedural—local government can still approve, even if impacts are significant



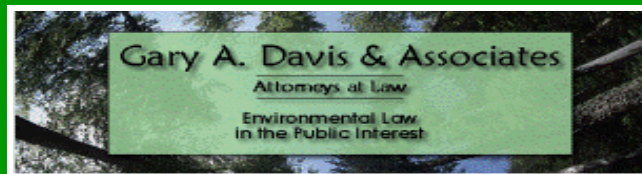
TAX POLICY

- PROVIDE INCENTIVE TO PROTECT SLOPES
- PROPERTY TAXES
 - “HOMESTEAD” EXEMPTIONS PERMANENT RESIDENCE
 - NC HAS EXEMPTION FOR LOW-INCOME ELDERLY OR DISABLED OF \$20,000 OR 50% OF VALUE, WHICHEVER IS GREATER
 - FLORIDA EXEMPTS FIRST \$25,000 OF VALUE FOR ALL OWNERS; ADDITIONAL \$25,000 FOR ELDERLY



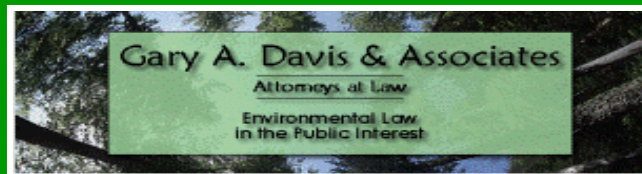
TAX POLICY

- **PROPERTY TAXES**
 - **CAPS ON APPRECIATION OR TAXES FOR PERMANENT RESIDENCE**
 - **TENNESSEE CONSTITUTIONAL AMENDMENT ALLOWS LEGISLATION FOR LOCAL GOVERNMENTS TO FREEZE PROPERTY TAX FOR ELDERLY BELOW CERTAIN INCOME LEVEL**
 - **FLORIDA SAVE OUR HOMES CAPS APPRECIATION AT 3% PER YEAR FOR ALL OWNERS**



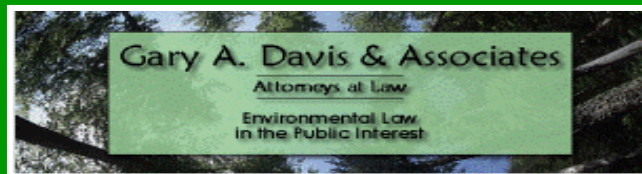
TAX POLICY

- **PROPERTY TAX: GREENBELT RATES**
 - NC CURRENTLY PROVIDES FOR “PRESENT USE” VALUATION FOR AG AND FORESTRY LANDS
 - TENNESSEE ALSO INCLUDES “OPEN SPACE”
 - COULD PROVIDE FOR OPEN SPACE FOR STEEP SLOPES



IMPACT FEES

- SUBDIVISION DEVELOPMENT DOES NOT PAY FOR ITSELF IN PROPERTY TAXES
- IMPACT FEES ARE USED TO FUND INFRASTRUCTURE
 - NEW CONSTRUCTION
 - FLORIDA EXAMPLE, COLLIER COUNTY
 - USED FOR SCHOOLS, FIRE PROTECTION, PARKS, LIBRARIES, JAILS, ROADS, GOVERNMENT BUILDINGS, EMERGENCY MEDICAL SERVICES
 - \$25,000 FOR A NEW 3000 SQUARE FOOT HOME
 - WOULD REQUIRE LEGISLATION IN NC



CONCLUSION

- NEED BETTER TOOLS IN WNC TO SAVE OUR SLOPES
- SOME CAN BE ADOPTED NOW BY CITIES AND COUNTIES BASED ON EXISTING LAW
- OTHERS NEED LEGISLATION
- STOP STRIP MINE DEVELOPMENT
- SAVE OUR SLOPES AND OUR STREAMS
- FURTHER INFORMATION:
 - WWW.ENVIROATTORNEY.COM

