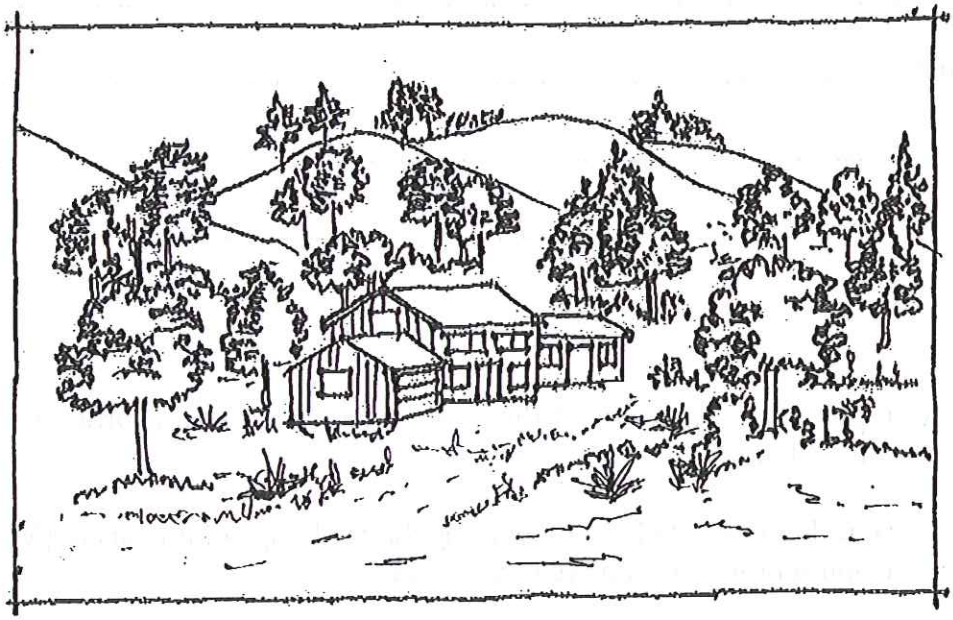
County of Santa Clara

Open Space Easement Compatible Use Determination
DEVELOPMENT HANDBOOK

Applicable to development on lands subject to a
County Open Space Easement Agreement



County of Santa Clara Planning Office

February 2010

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INTRODUCTION

The purpose of this handbook is to provide focused and visual design direction that clarifies the adopted Open Space Easement (OSE) ordinance findings and guidelines, and assists applicants in the formulation of compatible development proposals. It is provided as a reference for OSE Program applicants and easement agreement holders in order to aid owners and designers contemplating development of OSE parcels in preparing project designs that will be compatible with the natural resources of the land and the OSE development requirements.

The primary goal of the OSE Program is to preserve and maintain the natural or scenic character of the land, while allowing limited compatible uses and development that effectively preserve the open space use of the land. OSE lands are devoted to open space for the preservation of natural resources, such as plant and animal life, habitat for fish and wildlife species, rivers and streams, and banks of rivers and streams and watershed lands.

Prior to developing OSE land, the landowner must obtain an Open Space Easement Compatible Use Determination (OSE CUD). The OSE CUD application is made in conjunction with land development applications such as Building Site Approval, Grading, and Design Review, or prior to an application for a building permit if the lot is already an approved building site. The concepts articulated and illustrated within this handbook highlight key compatible site design elements pertinent to the OSE CUD findings that must be made prior to building permit issuance for OSE lands.

The County's Open Space Easement Ordinance (County Ordinance Code Division C13) and "Guideline for Policies Governing the Exchange of an Existing Williamson Act Contract for an Open Space Easement" provide direction for the development of limited uses on open space lands. County Staff must make the following findings in order to approve an OSE CUD.

- Effectively preserves the natural or scenic character of the land.
- Does not significantly impair the open space character of the land.
- Maintains open space in large, contiguous areas and clustering development
- Avoids noteworthy and valuable natural features of the land, such as rock outcroppings, significant stands of mature trees, and riparian areas.
- Considers the topography, visual impacts and conservation of natural resources in siting proposed development.
- Minimizes grading.

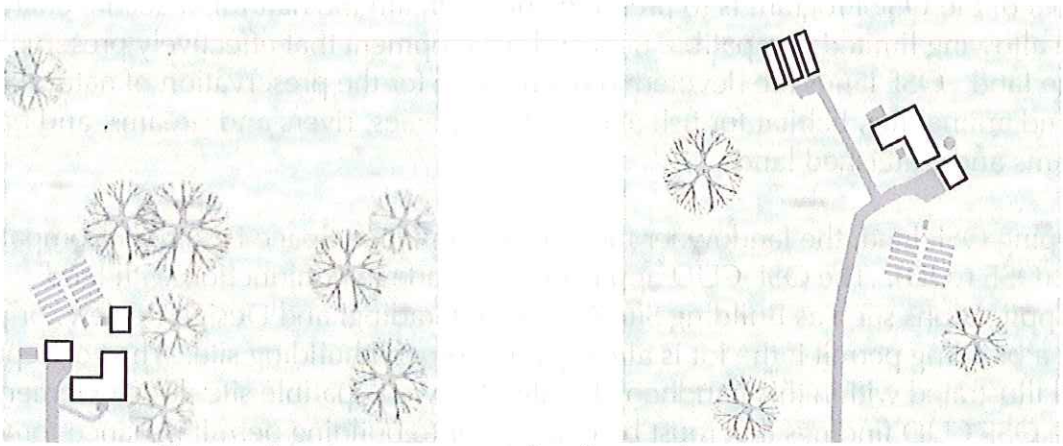
For ease of use, this handbook is divided into topical sections that implement the development policies for the following: Site Design, Grading, Retaining Walls, Building Design, Landscaping, Fencing, and Development Coverage. Each section incorporates specific design principles and illustrations that more fully develop the compatibility policies.

DESIGN CONCEPTS & POLICIES

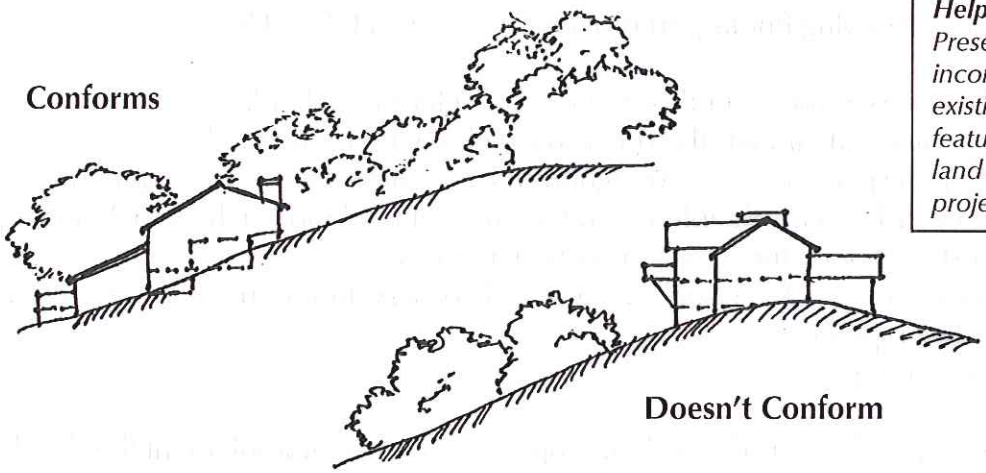
SITE DESIGN

Site buildings and other improvements (e.g., roads and driveways) to minimize grading and maintain the existing natural features of the site. The building site should conform to topography and minimize the visual prominence of development as viewed from surrounding areas.

Conforms **Doesn't Conform**

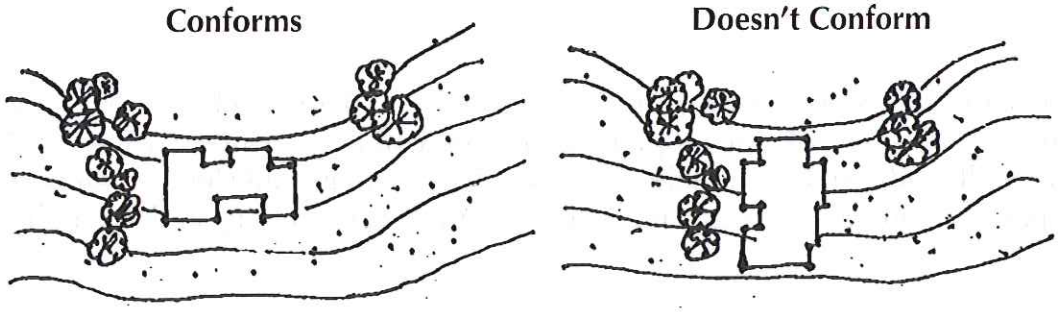


Cluster development to maintain contiguous open space.

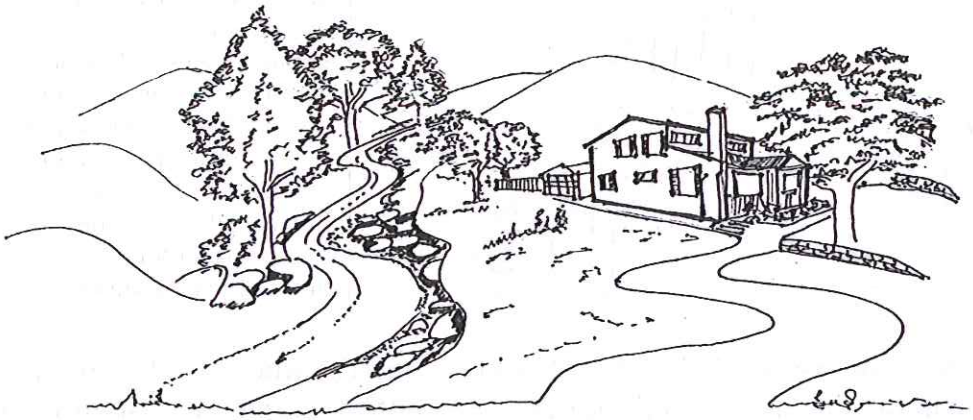


Helpful Tip: *Preserve and incorporate existing natural features of the land into the project design.*

Siting structures in the least visually prominent locations is especially important on open hillsides where the prominence of construction should be minimized by placing structures so that they will be screened by existing vegetation, depressions in topography, or other natural features.

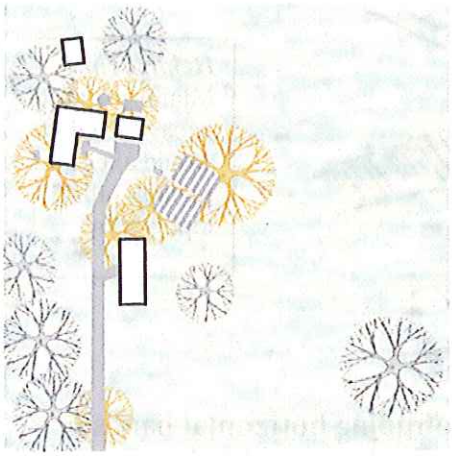


Orient buildings with the natural contour of the land and design the project to fit terrain, versus altering terrain to fit the project.

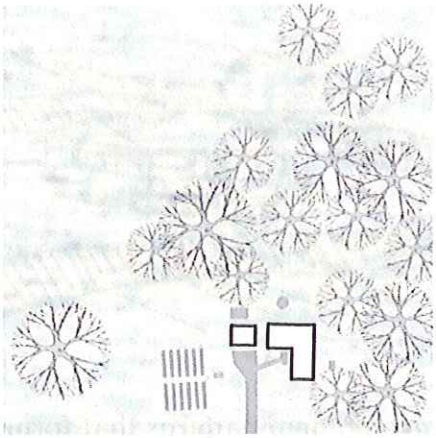


Helpful Tip: *Design of manmade drainage channels should emulate naturally occurring drainage features common to the locale.*

Preserve in place noteworthy and valuable natural features of the land, such as rock outcroppings, significant stands of mature trees, and riparian areas. Incorporate the existing natural features of the land into the project design.



Avoid removal of mature trees.

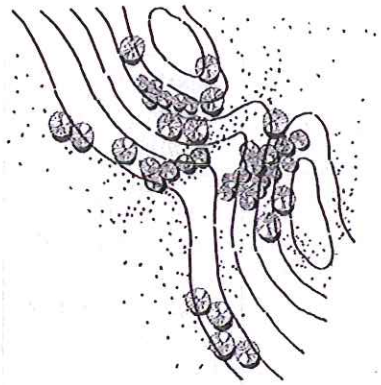


Locate buildings in the most accessible and least visually prominent area of the property.

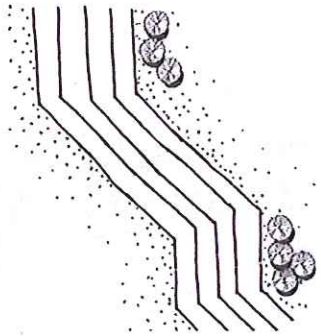
GRADING

Grading should be minimized to conserve natural topographic features, such as knolls, ridgelines, ravines, prominent landmarks rock outcroppings, and natural drainage courses. Minimize the amount of cut and fill, and avoid large-scale slope terracing, or significant slope modification. Permanent flat pads should not be created unless needed for access, parking and turnaround.

Contour Grading Conforms



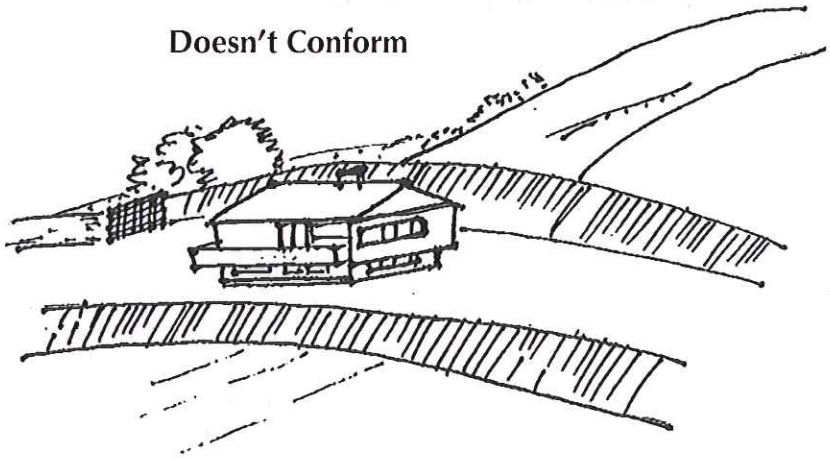
Rectilinear Grading Doesn't Conform



Helpful Tip:
Contour grading and slope rounding involves grading the project with smooth, flowing contours that help integrate access improvements within the surrounding environment. This grading technique also helps reduce erosion and maintain water quality by breaking the slope into many smaller tributary areas dispersing runoff.

Where cut and fill conditions are created, slopes should be varied, rather than left at an angle, which creates an unnatural, engineered appearance. Use contour-grading techniques to help achieve a natural appearing slope.

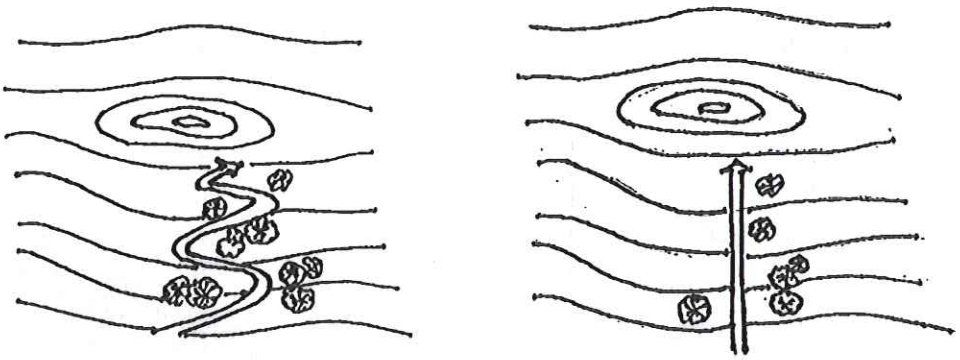
Doesn't Conform



Helpful Tip:
Minimize cut/fill excavation that would alter the natural, hillside topography.

Development patterns that form visually protruding horizontal bands or steeply cut slopes for roads or lots should be avoided.

Conforms **Doesn't Conform**



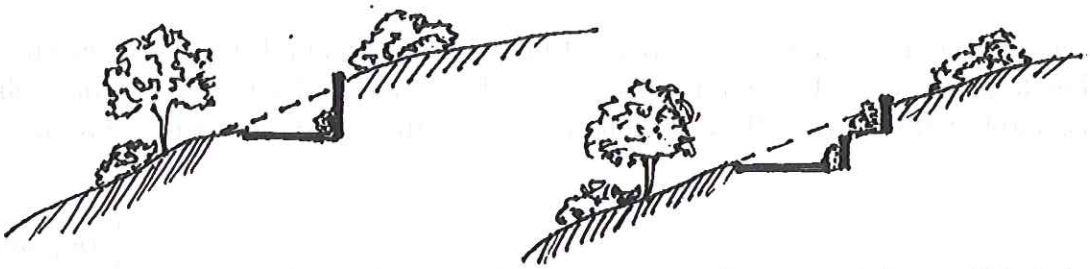
> ***Helpful Tip:***
> Avoid siting development on high points of a site, ridgelines or hilltops to reduce visibility and to avoid the need for a long driveway to access the site.

Driveways must be designed to follow natural grade and topography.

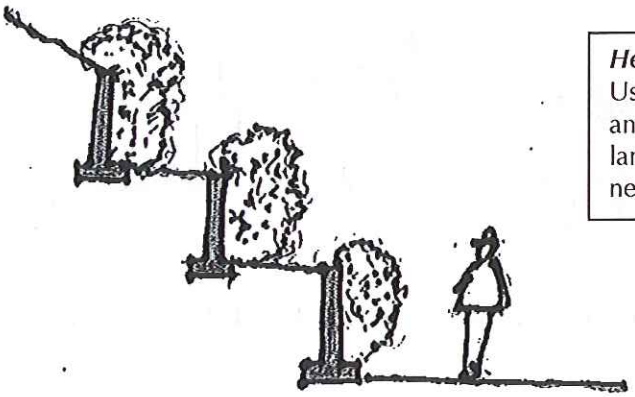
RETAINING WALLS

Retaining walls should maintain the rural character and blend with the natural topography. This can be done by following existing contours and using finish treatments that resemble the natural surroundings, such as a veneer of natural stone, stained concrete, or textured surface. Avoid the visual impact of large retaining walls in a uniform plane.

Doesn't Conform **Conforms**



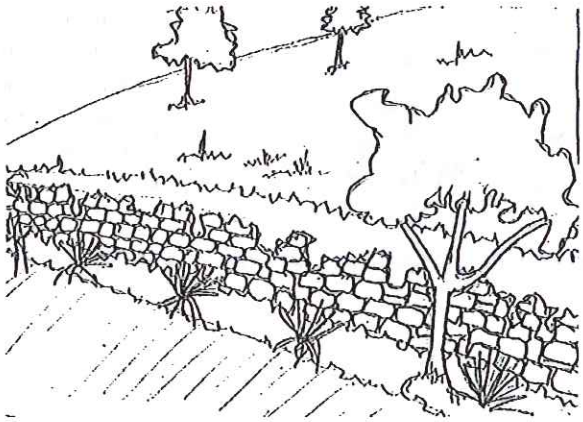
Minimize the height of walls using terraces where significant retaining wall height.

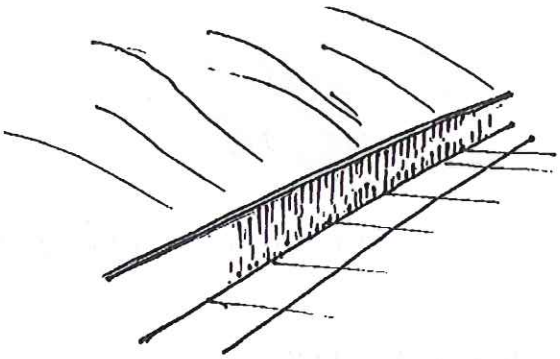


> ***Helpful Tip:***
> Use native trees and shrubs when landscaping is necessary.

Retaining walls should have a landscaped setback or buffer.

Conforms **Doesn't Conform**



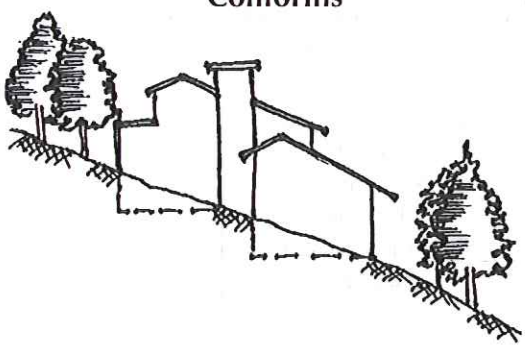


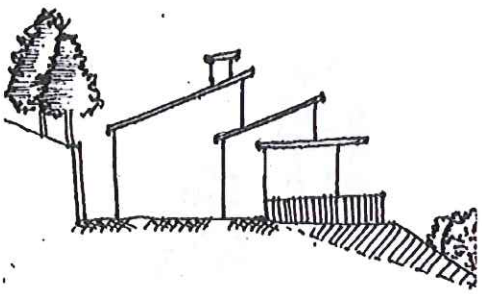
Landscaping should be provided adjacent to retaining walls and should include a combination of native trees and shrubs to screen the wall.

BUILDING DESIGN

Provide a smooth visual transition between the structure and its natural surroundings with building design and material choices. Use varying architectural setbacks and structure heights, split-level foundations, and low retaining walls to visually blend structures into the natural terrain.

Conforms **Doesn't Conform**

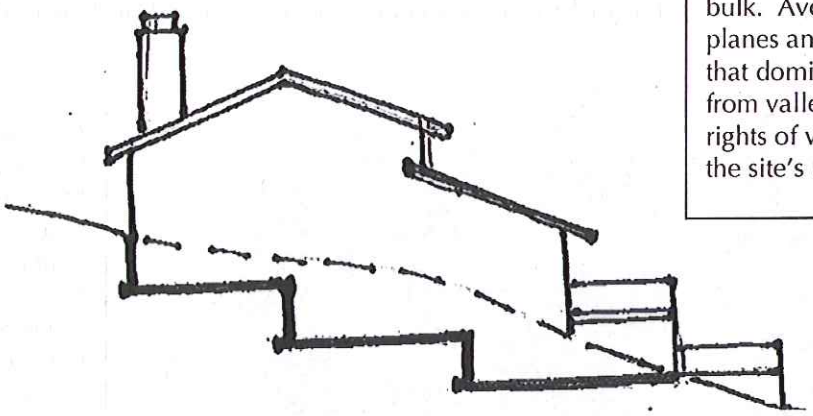




Helpful Tip:
Structures should not call undue attention to themselves when viewed from a public vantage point. Use subdued and unobtrusive exterior finish materials and colors for all structures.

Follow the natural contours of the land with building and roof designs.

Helpful Tip:
Use horizontal and vertical building components to reduce bulk. Avoid two story wall planes and massive buildings that dominate views of the hills from valley floor and/ or public rights of way, and overwhelm the site's natural character.



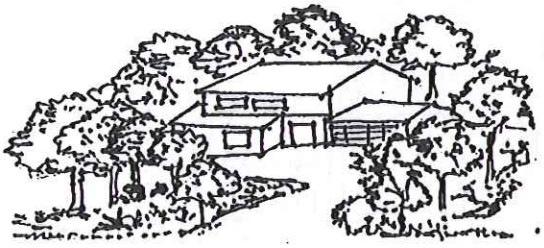
Step the building foundation and roof with the natural slope. Break up the building bulk by incorporating varied roof heights and planes.

Earth tones and colors that occur naturally in area are encouraged. Minimize the use of reflective material. Proposed colors used should have a light reflectance value (LRV) of 35 or less. Highly visible structures should have an LRV of 20 or less.

LANDSCAPING

Maintain the land in its natural state and essentially unimproved. Preserve existing plant materials of significant size (e.g. trees, shrubs, and other natural landscape features) in place or relocate them within the site. If landscaping is proposed or required for visual mitigation, use native or adapted non-native plant species that are appropriate to the site and the objectives of the OSE Program.

Helpful Tip:
Appendix D provides a reference list of native and adapted non-native plants organized by type, plant name, and plant community. Use this list as a design resource.



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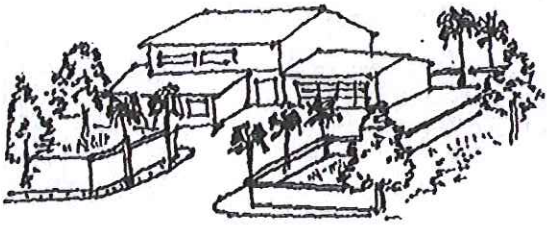
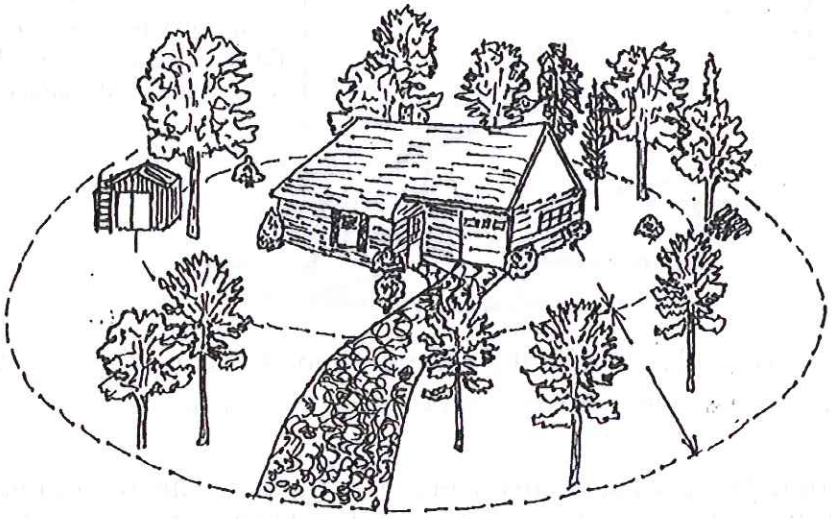


Doesn't Conform

Group plants informally, not in rows, to blend with natural vegetation. Avoid the introduction of extensive areas of exotic plants and sod.

In Wildland-Urban Interface Areas maintain a "defensible space" - an area extending at least 30' outward from the main building cleared of all flammable vegetation and other combustible growth. Beyond this area there should be a larger buffer to protect the main building from an approaching wildfire.

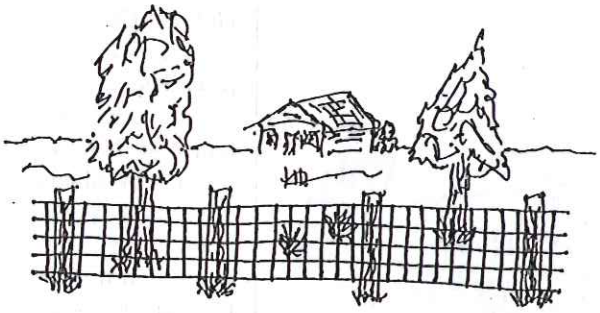


Helpful Tip: Where Fire Marshal requirements conflict with landscaping required for visual mitigation, evaluate the possibility of an alternate building site.

FENCING

Create a continuous, open landscape by minimizing the use of fencing. Use open, rural fencing, gates and minimize fence height.

Conforms



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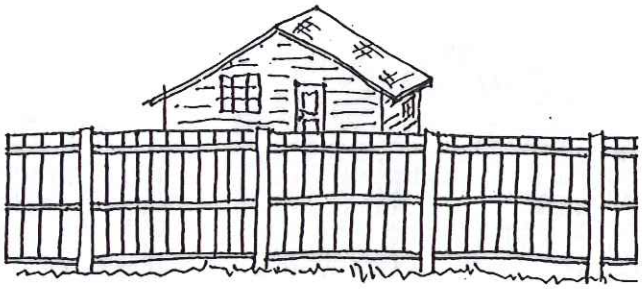

If a site must be fenced, use open fencing, such as welded wire mesh attached to wood posts, or wood rail-type fences. Avoid solid and painted plank fencing, especially where highly visible to the public.

DEVELOPMENT COVERAGE

In addition to the design concepts and policies discussed herein, development of limited uses, including residential, on OSE lands is restricted to a maximum of 5% total coverage of the parcel. Development includes erecting or placing structures or objects on the land and grading or otherwise altering the land for non-agricultural purposes. The calculation of development coverage must include the total square footage of the footprints of all existing and proposed hardscape including residences, accessory structures and recreation facilities (i.e. tennis courts, swimming pools, patios, decks, etc.). Staff determines whether the total development is within the maximum permissible 5% coverage of the parcel.

The following aspects of development are excluded from the calculation of total square footage:

- Subsurface utilities, such as leachfields and septic tanks; and,
- Roadways, driveways, and required turnarounds serving the primary residence; and,
- Landscaping that is in keeping with the natural setting and composed of natural elements and vegetation generally found in the area of the subject parcel.

For a complete list of documentation required by the Planning Office in order to process an application for a compatible use determination, please refer to the application checklist for an Open Space Easement Compatible Use Determination.

APPENDIX A

SANTA CLARA COUNTY ORDINANCE CODE DIVISION C13
CHAPTER II. OPEN SPACE EASEMENT AGREEMENTS

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS

Sec. C13-30. Purpose.

This division sets forth requirements for open space easement agreements pursuant to the Open-Space Easement Act of 1974, Government Code § 51070 et seq.

Sec. C13-31. Definitions

The following definitions apply to this chapter:

(a) All definitions in the Open-Space Easement Act of 1974 and definitions referenced therein.

(b) Agreement means an open space easement agreement pursuant to the Open-Space Easement Act of 1974.

(c) Restricted land means real property restricted by an open space easement agreement pursuant to the Open-Space Easement Act of 1974 and this chapter.

Sec. C13-32. Relationship to other laws.

If there is any irreconcilable conflict between any provision of this chapter and any federal or state law, the federal or state law prevails. Any provision of this chapter that is more stringent than federal or state law is intended to supplement, not conflict with, federal or state law and to apply unless a court of law conclusively determines that the provision is preempted.

ARTICLE 2. AGREEMENTS

Sec. C13-33. Purpose and authority.

This article sets requirements for agreements between land owners and the County pursuant to the Open-Space Easement Act of 1974. This chapter is intended to supplement any other applicable state and local laws, ordinances, regulations and guidelines.

Part 1. Applications for Agreements

APPENDIX A

Sec. C13-34. Application process and fees.

(a) A land owner whose property constitutes open-space land as defined in Government Code §§ 51075(a) and 65560 may file an application for an agreement with the Clerk of the Board of Supervisors on a form prepared by the County. An application must be accompanied by all of the following:

(1) All applicable fees as established by resolution of the Board of Supervisors; and

(2) A completed agreement in a form prepared by County Counsel with notarized signatures of all land owners and all required attachments.

(b) The County may request additional information from the land owner during the application review process to facilitate a thorough and timely review of the application.

(c) Applications to simultaneously rescind a Williamson Act contract and enter into an agreement pursuant to this chapter will be processed in the same manner as applications for unrestricted land.

Sec. C13-35. Report to Board of Supervisors.

(a) Upon receipt of an application for an agreement, the Clerk of the Board of Supervisors will transmit a copy of the completed application to the Planning Office, County Surveyor, Office of the Assessor, and Office of the County Counsel.

(b) Within 60 days of receiving a complete application, the Planning Office will prepare a report to the Board of Supervisors. The Office of the Assessor, County Surveyor, and Office of the County Counsel will provide the Planning Office with any relevant information to assist with preparation of the report. The report will contain an analysis of whether the land meets the criteria for an agreement in the Open-Space Easement Act of 1974, this chapter, and any other applicable County ordinances and guidelines, including whether the agreement is consistent with the County General Plan.

Sec. C13-36. Criteria for evaluating applications for agreements.

(a) No application for an agreement will be approved unless all of the following criteria are met:

(1) The land proposed for inclusion in the agreement is at least 20 acres in size;

(2) All parcels proposed for inclusion in the agreement are devoted to open-space;

(3) There are no other existing or permitted uses or development on the land that would significantly impair the open-space value of the land; and

(4) The Board makes the required findings in Government Code § 51084.

(b) Even if all of the criteria in subsection (a) are met, the Board of Supervisors may, in its discretion, choose not to approve the application.

Sec. C13-37. Recording of agreements.

The Clerk of the Board of Supervisors must record any executed agreement with the Clerk-Recorder within 20 days after the Board of Supervisors executes the agreement and no later than December 31 of the calendar year in which it was executed.

Part 2. Use and Development of Land Subject to an Agreement

Sec. C13-38. General provisions.

The use and development of all restricted land must at all times comply with the Open-Space Easement Act of 1974, this chapter, the terms of the agreement, and any other applicable state or local laws, regulations, ordinances and guidelines.

Sec. C13-39. Compatible uses and development.

(a) All use or development of any restricted land must comply with all of the following criteria:

(1) The proposed use or development effectively preserves for public use or enjoyment the natural or scenic character of the land;

(2) The proposed use or development does not significantly impair the open-space character of the land;

(3) The proposed use or development is not a subdivision; and

(4) The proposed use or development complies with all other federal, state and local laws, regulations, ordinances and guidelines, including the County general plan and this Code.

(b) The following uses and development have been determined by the

APPENDIX A

Board of Supervisors to be presumptively compatible with the open-space use of restricted land if all of the criteria in subsection (a) are also met:

(1) *Residential*:

a. "Residence, Single-Family," as defined in § 2.10.030 of the Zoning Ordinance.

b. "Residential Accessory Structures and Uses" as defined in § 2.10.030 of the Zoning Ordinance.

c. "Agricultural Employee Housing" as defined in § 2.10.030 of the Zoning Ordinance.

(2) *Open space accessory* uses related to the maintenance, enjoyment or operation of the open space use of the land, including:

a. Storage and maintenance facilities.

b. Restrooms.

c. Trail markers.

d. Informational displays.

(3) *Agricultural accessory* uses that support the agricultural use of the land, including:

a. Agricultural Accessory Structures and Uses as defined in § 2.10.040 of the Zoning Ordinance.

b. "Agricultural Processing - Small Scale" as defined in § 2.10.040 of the Zoning Ordinance.

c. "Agricultural Sales - Limited" as defined in § 2.10.040 of the Zoning Ordinance.

d. "Agriculturally-Related Entertainment and Commercial Uses" as defined in § 2.10.040 of the Zoning Ordinance.

(4) Recreational uses, including:

a. "Hunting and Fishing Preserves" as defined in § 2.10.040 of the Zoning Ordinance.

b. Public or private riding or hiking trails.

c. Public or private stables and boarding of horses or other livestock.

d. "Camps & Retreats" as defined in § 2.10.040 of the Zoning Ordinance.

(5) *"Utilities - Minor"* as defined in § 2.10.040 of the Zoning Ordinance.

(6) *Miscellaneous*:

a. A "Bed and Breakfast Inn" as defined in § 2.10.040 of the Zoning Ordinance.

Sec. C13-40. Compatible use determinations.

(a) Prior to undertaking any development or use on restricted land, the land owner must apply for and obtain a compatible use determination from the County. The land owner must file an application with the Planning Office on a form prepared for this purpose together with an application fee in an amount established by resolution of the Board of Supervisors.

(b) Staff from the Planning Office will determine whether the proposed use or development is compatible with the agreement for the property, the Open-Space Easement Act of 1974, this chapter, and any adopted guidelines.

(c) Any interested person may appeal the staff determination made pursuant to subsection (b) to the Director of Planning and Development Services. Any such appeal must be filed within 15 days of the decision and be accompanied by payment of a fee in an amount established by resolution of the Board of Supervisors.

(d) Any interested person may appeal the determination made pursuant to subsection (c) to the Board of Supervisors. Any such appeal must be filed within 15 days of the decision and be accompanied by payment of a fee in an amount established by resolution of the Board of Supervisors.

Part 3. Agreement Termination

Sec. C13-41. General provisions.

An agreement may only be terminated in a manner consistent with state law and this chapter.

APPENDIX A

Sec. C13-42. Agreement nonrenewal.

(a) If either the land owner or the County desires in any year not to renew an agreement, the nonrenewing party must serve written notice of nonrenewal of the agreement upon the other party before the annual renewal date of the agreement. A notice of nonrenewal served by the land owner must be addressed to the Clerk of the Board of Supervisors and be filed with or postmarked at least 90 days prior to the annual renewal date of the contract. A notice of nonrenewal served by the land owner must be addressed to the Clerk of the Board of Supervisors, must be filed with or postmarked at least 90 days prior to the annual renewal date of the agreement, and must identify the parcels to be nonrenewed by Assessor's parcel number. A notice of nonrenewal served by the County will be mailed to the address shown on the latest assessment roll for the property, and must be postmarked at least 60 days prior to the annual renewal date of the agreement.

(b) If no notice of nonrenewal is filed in compliance with the deadlines in subsection (a), the contact will be automatically renewed for another year.

(c) If a notice of nonrenewal is filed after the applicable deadline in subsection (a), the notice will be deemed to apply to the next annual renewal period.

(d) If a land owner objects to an agreement nonrenewal initiated by the County applicable to the owner's land, the owner may file a written protest with the County. The Board of Supervisors may, in its discretion, withdraw the notice of nonrenewal at any time prior to the agreement's annual renewal date.

(e) During November of each calendar year, the Clerk of the Board of Supervisors will provide a report to the Board of Supervisors identifying all nonrenewal requests received pursuant to subsection (a).

(f) The Clerk of the Board of Supervisors will record all notices of nonrenewal with the Clerk-Recorder within 20 days of serving or receiving a notice of nonrenewal.

(g) The Board of Supervisors may delegate its authority to send and withdraw notices of nonrenewal to any County official, department or employee.

Sec. C13-43. Agreement abandonment.

Any petition to abandon an agreement must be filed with the Clerk of the Board of Supervisors on a form prepared by the County for this purpose. The petition must be accompanied by payment of an application fee in an amount established by resolution of the Board of Supervisors. The petition will be processed in accordance with the Open-Space Easement Act of 1974.

APPENDIX A

Part 4. Agreement Compliance and Enforcement

Sec. C13-44. Audits and inspections.

(a) The County may audit any restricted land for compliance with the agreement, the Open-Space Easement Act of 1974, and other state and local laws, regulations, ordinances and guidelines. Such audits may include reviewing available documentation such as aerial photographs and contacting the land owner or manager to obtain additional information or documentation.

(b) If the County has probable cause to suspect that restricted land is not in compliance, it may contact the land owner to arrange for an inspection of the property by the County's officers, employees, contractors or agents. The County shall give the land owner at least 48 hours' written notice of the inspection date, approximate time, the person(s) who will be participating in the inspection, and the reason for the inspection. When scheduling an inspection, the County will make a reasonable attempt to accommodate the land owner's schedule. Any such inspection shall occur during normal business hours (Monday through Friday, 8:00 a.m. to 5:00 p.m.).

Sec. C13-45. Judicial relief.

(a) In addition to any other remedies provided by state law or this chapter, including but not limited to Government Code § 51086, if the County determines that an agreement has been or is being violated, the Office of the County Counsel may bring an action on behalf of the County in a court of law for an appropriate remedy.

(b) If a court determines that an agreement was violated, in addition to any other relief granted by the court, the court may order the land owner to reimburse the County for its costs, including but not limited to staff time and attorneys' fees, associated with investigating the violation and bringing the enforcement action.

(c) Nothing in this chapter is intended to limit a court's ability to grant any relief or issue any order that it deems appropriate in its discretion, including but not limited to specific performance or injunctive or equitable relief.

Part 5. Fees

Sec. C13-46. Fees.

The Board of Supervisors may adopt by resolution any fees necessary to ensure that the County recovers its costs associated with administering and enforcing the Open-Space Easement Act of 1974 and agreements executed thereunder. Such fees shall not exceed the amount reasonably necessary to recover the cost of providing the product or service or the cost of enforcing any

law or ordinance for which the fee is levied. The fee may reflect the average cost of providing any product or service or enforcing any law or ordinance.

Part 6. Disclosure Requirements

Sec. C13-47. Real estate transfer disclosure statement.

Pursuant to Civil Code § 1102.6a, prior to any transfer of restricted land by sale, exchange, installment land sale contract (as defined in Civil Code § 2985), lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, or real property or residential stock cooperative, improved with or consistent of not less than one nor more than four dwelling units, the transferor shall provide the following disclosure: "The real property that is the subject of this transaction is subject to an open space easement agreement pursuant to the Open-Space Easement Act of 1974, Government Code § 51070 et seq., which requires that the land be devoted to open space and imposes restrictions on the use and development of the land." This disclosure shall be provided on a form substantially similar to that provided in Civil Code § 1102.6a or section B29-4 of this Code. The transferor shall ensure that the transferee signs the disclosure prior to completing the transfer.

APPENDIX B

Santa Clara County Williamson Act Program

GUIDELINE FOR POLICIES GOVERNING THE EXCHANGE OF AN EXISTING WILLIAMSON ACT CONTRACT FOR AN OPEN SPACE EASEMENT

Definition of Open Space

Open space land that is subject to a Santa Clara County Open Space Easement is any parcel or area of land which is essentially unimproved and devoted to an open space use defined as any of the following:

A. Open space for the preservation of natural resources, including but not limited to, the preservation of plant and animal life, including habitat for fish and wildlife species; rivers, streams, bays and estuaries; and banks of rivers and streams and watershed lands.

B. Open space used for the managed production of resources including but not limited to, forest lands, rangeland, agricultural lands, and areas of economic important for the production of food or fiber.

C. Open space for outdoor recreation, including but not limited to, areas of outstanding scenic, historic and cultural value; areas particularly suited for park and recreation purposes, including access to rivers and streams; and areas which serve as links between major recreation and open space reservations, including utility easements, banks of rivers and streams, trails, and scenic highway corridors.

D. Open space for public health and safety, including but not limited to, areas which require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, floodplains, watersheds, areas presenting high fire risks, areas required for the protection of water quality, water reservoirs, and areas required for the protection and enhancement of air quality.

E. Open space for the protection of places, features and objects pertaining to Native American historical, cultural and sacred sites.

Easement Duration

Easement must be for a term of at least 15 years or in perpetuity. Like Williamson Act contracts, easements for a term of years automatically renew each year for an additional

year unless notice of non-renewal is provided. The only ways to terminate an easement for a term of years are through non-renewal or abandonment.

Required Easement Findings

The Board of Supervisors must find, by resolution, that preservation of the land as open space is:

A. Consistent with the County of Santa Clara General Plan;
B. A minimum of 20 acres; and
C. In the best interest of the County of Santa Clara because of one or more of the following:
   1. Land is essentially unimproved and, if retained in its natural state, has either scenic value to the public, is valuable as a watershed or wildlife preserve, and the easement contains appropriate restrictions to ensure this;
   2. Is in the public interest because the land will either add to the amenities of living in neighboring urbanized areas or will help preserve the rural character of the area in which the land is located; and/or
   3. The public interest will otherwise be served consistent with the Open Space Easement Act of 1974 or Article XIII, Section 9 of the California Constitution.

Development Restrictions

Holder of easement must effectively preserve for public use or enjoyment the natural or scenic character of such open space land (*Source: Government Code Section 51075(d)*) and shall not carry out or allow any activity, use or action which could impair the open space character of the land. **Easement does not require public access to open space land.**

Limitation of Uses

A. Single-family Residential Uses and Residential Accessory Structures.
   1. Subdivision is prohibited.

B. Accessory structures related to the maintenance, enjoyment or operation of the open space use, including but not limited to, storage and maintenance facilities, bathrooms, trail markers, and informational displays.

C. Agricultural Uses related to the production of agricultural commodities
   1. Short-Term and Long-Term Agricultural Employee Housing, which is defined as dwellings occupied by employees primarily engaged in agricultural operations on land owned or rented by the agricultural operator. Family members of such agricultural employees may also live in the same unit.

2. Agricultural Accessory Structures ancillary to and supporting on-site agricultural operations including barns and sheds, corrals, wells, compost storage, machinery storage, and small offices.
3. Small Scale Agricultural Processing, which is defined as the handling, processing, packing, packaging, storing, and shipping of agricultural commodities grown primarily in Santa Clara County and neighboring counties, not including processing of meat, poultry, or animal products. Use must be limited to 2,400 square feet or less of covered space devoted to processing activity.
4. Limited Agricultural Sales, which is defined as facilities for the retail sale of agricultural commodities grown predominately on-site or on other property within Santa Clara County and operated by a single proprietor on a seasonal basis. May include a stand or similar sales structure not exceeding 400 square feet in area. Includes operations where customers have access to growing areas and pick the product themselves, such as Christmas tree farms, pumpkin patches, and apple or other fruit picking.
5. Agriculturally-Related Entertainment and Commercial Uses which are defined as visitor-oriented services, sales and attractions with an agricultural theme that are conducted in conjunction with on-site agricultural uses. Such uses include food and retail sales, tasting rooms, and reception facilities.

D. Recreational Uses
1. Hunting and Fishing Preserves, which are defined as natural or improved open space areas and related facilities specifically designated for hunting and fishing.
2. Public or private riding or hiking trails.
3. Riding stables, and boarding of horses or other livestock, including associated stables and pastures.
4. Camps and Retreats, which are defined as outdoor-oriented recreational, meeting, lodging, and associated facilities which have a low population density, are a low intensity use, and which minimally alter the natural environment. Includes hostels, guest ranches, lodges, and educational and group retreats, but does not include tourist-oriented resorts or hotels or motels.
5. Bed and breakfast inns, which are defined as commercial establishments providing short term overnight accommodations with a maximum of six (6) guest rooms, including kitchen and dining facilities for guests.

E. Utilities
1. The erection, construction, alteration or maintenance of gas, electric, water, alternative power production (such as windmills) or communication utility facilities; and radio, television or microwave antennas, and transmitters and related facilities up to 35 feet in height.

APPENDIX B

Limitation of Development

Three types of easements are proposed with three different levels of development restrictions. The most restrictive easement will prohibit all development. A second type of easement will restrict the size of any proposed residence to 1,000 square feet and prohibit secondary dwellings. The third type of easement will not restrict the size of any proposed residence.

A. For parcels between 20 and 39 acres:
   1. Total development of limited uses, including residential, restricted to 5% total coverage of parcel.
   2. 95% of the parcel must be maintained in open space use.

B. For parcels between 40 and 99 acres:
   1. Single-family residential uses and residential accessory structures limited to 2 acres.
   2. Total development of limited uses, including residential, restricted to 5% total coverage of parcel.
   3. 95% of the parcel must be maintained in open space use.

C. For parcels 100 acres and over:
   1. Total development of limited uses, including residential, restricted to 5 acres.
   2. Remainder of parcel must be maintained in open space use.

D. Owners of parcels may choose a "no-development option".

"Development" includes erecting or placing structures or objects on the land, grading, or otherwise altering the land for non-agricultural purposes. "Development" does not include use of the land in its natural state for activities such as hunting, fishing, hiking, or outdoor games or sports.

For purposes of calculating the maximum permissible 5% development maximum (parcel coverage) of a parcel, the square footage of the footprint of all hardsacpe including residences, accessory structures and recreation facilities (i.e. tennis courts, swimming pools) shall be aggregated, with the exception the following:

A. Sub-surface utility systems and facilities such as leachfields, leachlines and septic tanks shall be exempt from the five (5) percent maximum development Open Space Easement calculation;
B. Roadways, driveways and required turn arounds serving the primary residence shall be exempt from the five (5) percent development maximum; and
C. Landscaping (softscape) that is in keeping with the natural setting and that is composed of natural features and vegetation generally found in the area of land in question shall be exempt from the five (5) percent development maximum.

APPENDIX B

Siting Criteria for Development of Limited Uses

Development of limited uses, including roads and driveways, shall:

A. Conform to all applicable goals and policies of the General Plan.

B. Be subject to enhanced Design Review, focusing on:

1. Maintenance of the open space in large, contiguous areas capable of serving the various purposes of such open space, including but not limited to recreation and trails, agriculture, viewshed protection, habitat preservation and wildlife corridors.
2. Avoiding those noteworthy and most valuable natural features of the land, such as rock outcroppings, historic or archaeological sites, significant stands of mature trees, and riparian areas.
3. Being located based on a consideration and balancing of factors as topography, visual impacts and conservation of natural resources and landscape features, while also minimizing the need for grading and earthwork to the maximum extent possible.
4. Being clustered on the property to the maximum extent possible.

APPENDIX C

Open Space Easement Compatible Use Determination (OSE)

The following is a list of documentation required by the Planning Office in order to process your application for an Open Space Easement Compatible Use Determination. Your application will **not** be accepted unless the property owner or authorized representative signs the Acknowledgements and Agreements Form, and the application is accompanied by the current filing fee and **all** the pertinent items described below. Following initial distribution and review of submitted materials additional information may be required.

Questions? Contact: Planning Office (408) 299-5770

Checklist of Required Application Materials

The documents listed below are **required** for your application for an Open Space Easement Compatible Use Determination.

All plans must be legibly drawn to an appropriate scale (sheet size 18" x 24" minimum to 24" x 36" maximum).

- ☐ **1 Acknowledgements and Agreements Form** signed by owner or authorized representative.
- ☐ **1 Copy of Assessor's Parcel Map** available at the Assessor's Office - 5th floor, County Government Center.
- ☐ **1 Written Description of all existing and proposed use(s) of the property.**
- ☐ **2 Sets of Site Plans with the following content:**
  - Square footage calculations of the footprints of all existing and all proposed structures, hardscape and associated improvements. *Computations must be calculated, verified, signed and stamped by either a registered civil engineer, licensed land surveyor or licensed architect.*
  - Grading quantities in a table format detailing the amount of cut and fill in cubic yards associated with each individual proposed improvement (e.g. building pad, driveway, access road, accessory structures, and other improvements) and the total amount of cut and fill. Include the maximum height and depth of cut and fill.
  - Proposed retaining walls, including wall height and top/bottom of wall sections.
  - All existing trees at least 12 inches in diameter within 20 feet of the development area with size and type indicated.
  - All existing trees proposed for removal with a companion tree removal table.
- ☐ **2 Sets of Exterior Elevations for all proposed structures**
- ☐ **2 Sets of Floor Plans for all proposed structures.**
- ☐ **2 Sets of Materials (Product Specifications) and/or Color Samples for all proposed structures.**

Additional Application Materials That May Be Required

The documents listed below **may** be required for your application for an Open Space Easement Compatible Use Determination. Please consult staff for a complete determination of submittal requirements for your project.

- ☐ **1 Copy of Current Recorded Grant Deed**
- ☐ **1 Copy of Evidence showing legal creation of lot**
- ☐ **2 Preliminary Landscape Plans with the following content:**
  - Existing and proposed on-site landscaping.
  - Existing and proposed fencing and/or screening.
- ☐ **2 Perspective Views** showing how the development will be viewed as seen from various angles.
- ☐ **Other Reports/Studies**

APPENDIX D: SANTA CLARA COUNTY NATIVE AND ADAPTED NON-NATIVE PLANTS

PLANTS				COMMUNITIES			
TYPE	LATIN	COMMON	NATIVE	OAK WOODLAND	CHAPARRAL	GRASSLAND	REDWOOD FOREST
TREES	*Aesculus*	buckeye	Y	X	-	X	X
	Arbutus	arbutus	Y	X	-	X	X
	Brachychiton	bottle tree	N	-	-	X	-
	Calocedrus	incense-cedar	N	-	-	X	X
	Cedrus	cedar	N	-	-	X	X
	Celtis	hackberry	N	-	-	X	-
	Cercis	redbud	Y	-	-	X	X
	Cercocarpus	mtn mahogany	N	X	X	X	-
	Chilopsis	desert willow	Y	-	X	X	-
	Chitalpa	chitalpa	N	-	X	X	-
	Cotinus	smoke tree	N	-	X	X	-
	Eriobotrya	loquat	N	-	-	X	X
	Feijoa	pineapple guava	N	-	-	X	X
	Ginkgo	maidenhair tree	N	-	-	X	X
	Jacaranda	jacaranda	N	-	-	X	X
	Koelreuteria	goldenrain tree	N	-	-	X	X
	Lagerstroemia	crape myrtle	N	-	-	X	X
	Laurus	sweet bay	N	-	-	X	X
	Leptospermum	tea tree	N	-	-	X	X
	Luma	Chilean myrtle	N	-	-	X	X
	Lyonothamnus	Catalina ironwood	Y	X	-	X	X
	Melaleuca	melaleuca	N	X	X	X	-
	Myrica	wax myrtle	N	X	-	X	X
	Nyssa	sour gum	N	X	-	-	X
	Olea	olive	N	X	-	X	-
	Photinia	photinia	N	-	-	X	X
	Pinus	pine	Y	X	-	X	X
	Pistacia	pistache	N	X	-	X	X
	Pittosporum	pittosporum	N	-	-	X	X
	Platanus	sycamore	Y	-	-	X	X
	Prunus	laurel	Y	X	-	X	X
	Quercus	oak	Y	X	-	X	X
	Rhus	sumac	N	X	-	X	X
	Sambucus	elderberry	N	X	-	-	X
	Sequoia	redwood	Y	-	-	X	X
	Styphnolobium	pagoda tree	N	-	-	X	X
	Ulmus	elm	N	-	-	X	X

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PLANTS				COMMUNITIES			
TYPE	LATIN	COMMON	NATIVE	OAK WOODLAND	CHAPARRAL	GRASSLAND	REDWOOD FOREST
TREES	*Xylosma*	xylosma	N	X	-	X	X
SHRUBS	*Abelia*	abelia	N	-	-	X	X
	Aesculus	buckeye	Y	X	-	X	X
	Aloe	aloe	N	X	-	X	X
	Arbutus	arbutus	Y	-	-	X	X
	Arctostaphylos	manzanita	Y	X	X	X	X
	Artemisia	artemisia	Y	X	X	X	X
	Atriplex	saltbush	Y	X	-	X	X
	Baccharis	coyote brush	Y	X	X	X	X
	Berberis	barberry	N	-	-	X	X
	Buddleia	butterfly bush	N	X	X	X	X
	Callistemon	bottlebrush	N	-	-	X	X
	Calothamnus	silky net bush	N	X	-	X	X
	Carpenteria	bush anemone	Y	X	-	X	X
	Caryopteris	bluebeard	N	-	-	X	X
	Ceanothus	wild lilac	Y	X	X	X	X
	Cercis	redbud	Y	-	-	X	X
	Cercocarpus	mtn mahogany	N	X	X	X	X
	Chaenomeles	flowering quince	N	X	X	X	X
	Chilopsis	desert willow	Y	-	X	X	-
	Choisya	Mexican orange	N	X	-	X	X
	Cistus	rockrose	N	X	X	X	X
	Correa	Australian fuchsia	N	X	-	-	-
	Cotinus	smoke tree	N	X	-	X	-
	Dendromecon	bush poppy	Y	-	X	X	-
	Dodonea	hop bush	N	X	-	X	X
	Encelia	encelia	Y	-	X	X	-
	Euryops	euryops	N	-	X	X	-
	Feijoa	pineapple guava	N	-	-	X	X
	Fremontodendron	flannel bush	Y	X	X	X	-
	Garrya	silktassel	Y	X	-	X	X
	Heteromeles	toyon	Y	X	X	X	X
	Holodiscus	cream bush	Y	X	-	X	X
	Juniperus	juniper	Y	X	X	X	X
	Lantana	lantana	N	X	-	X	-
	Lavandula	lavender	N	X	-	X	X

APPENDIX D: SANTA CLARA COUNTY NATIVE AND ADAPTED NON-NATIVE PLANTS

PLANTS				COMMUNITIES			
TYPE	LATIN	COMMON	NATIVE	OAK WOODLAND	CHAPARRAL	GRASSLAND	REDWOOD FOREST
SHRUBS	*Lavatera*	tree mallow	Y	-	-	X	X
	Lepechinia	pitcher sage	Y	X	-	X	X
	Leucophyllum	Texas ranger	N	X	-	X	X
	Ligustrum	privet	N	X	-	X	X
	Lupinus	lupine	Y	X	-	X	X
	Mahonia	mahonia	Y	-	-	X	X
	Malacothamnus	bush mallow	Y	X	-	X	X
	Melaleuca	melaleuca	N	X	X	X	-
	Myrica	wax myrtle	Y	X	-	X	X
	Nandina	heavenly bamboo	N	X	-	X	X
	Olea	olive	N	X	-	X	X
	Philadelphus	wild mock orange	Y	-	-	X	X
	Prunus	laurel	Y	X	-	X	X
	Quercus	oak	Y	X	-	X	X
	Rhamnus	coffeeberry	Y	X	X	X	X
	Rhus	sumac	Y	X	-	X	X
	Ribes	currant	Y	X	-	X	X
	Rosa	rose	Y	X	-	X	X
	Rubus	bramble	Y	X	-	X	X
	Salvia	sage	Y	X	X	X	X
	Sambucus	elderberry	Y	X	X	X	X
	Solanum	solanum	Y	X	-	X	X
	Styrax	snowdrop bush	Y	X	-	-	X
	Symphoricarpos	snowberry	Y	X	-	X	X
GRASSES	*Aristida*	purple three-awn	Y	X	X	X	X
	Bouteloua	blue grama	Y	X	X	X	X
	Calamagrostis	reed grass	Y	X	X	X	X
	Carex	sedge	Y	X	X	X	X
	Deschampsia	hair grass	Y	X	X	X	X
	Elymus	wild rye	Y	X	X	X	X
	Festuca	fescue	Y	X	X	X	X
	Leymus	lyme grass	Y	X	X	X	X
	Melica	melic	Y	X	X	X	X
	Muhlenbergia	muhly	Y	X	X	X	X
	Nassella	needlegrass	Y	X	X	X	X
	Sporopolus	sacaton	Y	X	X	X	X

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PLANTS				COMMUNITIES			
TYPE	LATIN	COMMON	NATIVE	OAK WOODLAND	CHAPARRAL	GRASSLAND	REDWOOD FOREST
PERENNIALS	*Allium*	wild onion	Y	X	X	X	X
	Artemisia	artemisia	Y	X	X	X	X
	Asclepias	milkweed	Y	X	-	X	X
	Aster	aster	Y	X	-	X	X
	Baileya	desert marigold	Y	X	X	X	X
	Dichelostemma	dichelostemma	Y	X	X	X	-
	Dudleya	dudleya	Y	X	X	X	-
	Epilobium	California fuchsia	Y	X	-	X	X
	Erigeron	fleabane	Y	X	X	X	X
	Eriogonum	buckwheat	Y	X	X	X	-
	Eschscholzia	California poppy	Y	X	X	X	-
	Heuchera	coral bells	Y	X	-	X	X
	Mimulus	monkeyflower	Y	X	-	X	-
	Monardella	monardella	Y	X	-	X	X
	Papaver	poppy	Y	X	X	X	X
	Penstemon	beard tongue	Y	X	-	X	X
	Phacelia	phacelia	Y	X	X	X	X
	Romneya	matilija poppy	Y	X	X	X	X
	Salvia	sage	Y	X	X	X	X
	Solidago	goldenrod	Y	X	-	X	X
	Sphaeralcea	globe mallow	Y	X	-	X	X
FERNS	*Dryopteris*	CA wood fern	Y	X	-	-	X
	Polypodium	polypody	Y	X	-	-	X
	Polystichum	western sword fern	Y	-	-	-	X
VINES	*Bougainvillea*	bougainvillea	N	X	-	X	X
	Campsis	trumpet vine	N	X	-	X	X
	Clytostoma	violet trumpet vine	N	X	-	X	X
	Euonymus	euonymus	N	X	-	-	X
	Macfadyena	cat's claw	N	X	-	X	X
	Parthenocissus	parthenocissus	N	X	X	X	X
	Solanum	solanum	N	X	-	X	X
	Tecomaria	Cape honeysuckle	N	X	X	X	X
	Vitis	wild grape	Y	X	-	X	X
	Wisteria	wisteria	N	X	-	X	X