

Land Conservation Act of 1965

**Santa Clara County's
Williamson Act Program**

Planning Commission Workshop

June 1, 2006

10:00 a.m.

Background

- California Land Conservation Act is state statute passed in 1965, provides substantial tax break.
- Goal is preservation of agricultural land.
- State statute may be implemented by local government entering into contract with property owner.

Background, cont.

- Contract term is 10 years and automatically renews for one year each year.

- Contract may be terminated through non-renewal (9-year roll out) or cancellation (specific findings established by state statute, high fee). Contract restrictions remain in effect during non-renewal period.

- Three types of contracts:
 - 1) Agriculture; 2) Open space; and 3) Recreation which are narrowly defined by state statute.

Background, cont.

- County entered into Agriculture contracts exclusively.
- Contracted land must be devoted to commercial agriculture; compatible uses allowed if incidental to agricultural use.
- State law presumes land can sustain commercial agriculture if at least 10 acres prime land, or 40 acres non-prime land.

Background, cont.

- 2001-02 Planning Office reviewed County's Williamson Act program, Board adopted program revisions as high priority work plan item.
- 2002 State audit raised issues with County allowing subdivision and development of contracted land not in agricultural use.
- 2005 County formed Stakeholder committee and solicited public input on program revisions.

Background, cont.

 March 14, 2006 Board of Supervisors adopted guidelines and programmatic changes that:

- 1) Clarified definition of commercial agriculture and compatible use criteria.
- 2) Adopted Open Space Easement transfer program.
- 3) Adopted monitoring /enforcement program including contract non-renewal procedures.

Background, cont.

- May 2, 2006 Board of Supervisors adopted Agricultural Preserves.
- May 23, 2006 Board of Supervisors adopted ordinance revising County's Williamson Act Ordinance and creating new Open Space Easement program.

Agricultural Preserves

- Required by state statute - areas where County will consider entering into Williamson Act contracts.
- Must be at least 100 contiguous acres.
- Zoning must be consistent with agricultural use
- AR, A, HS (some RR parcels in San Martin).

Agricultural Preserves, cont.

- No harm to owners in Preserve that are not restricted by Williamson Act contract.
- May 2, 2006 Board of Supervisors adopted 10 Preserves (1 large, 9 small).

Santa Clara County's Agricultural Preserves

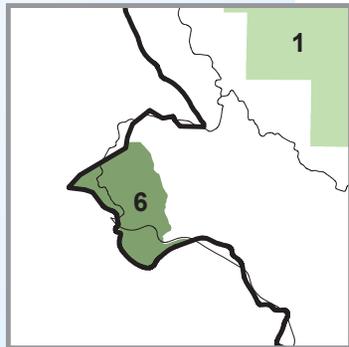
Adopted by the Board of Supervisors May 2, 2006



Preserves 2 and 3



Preserves 4 and 5



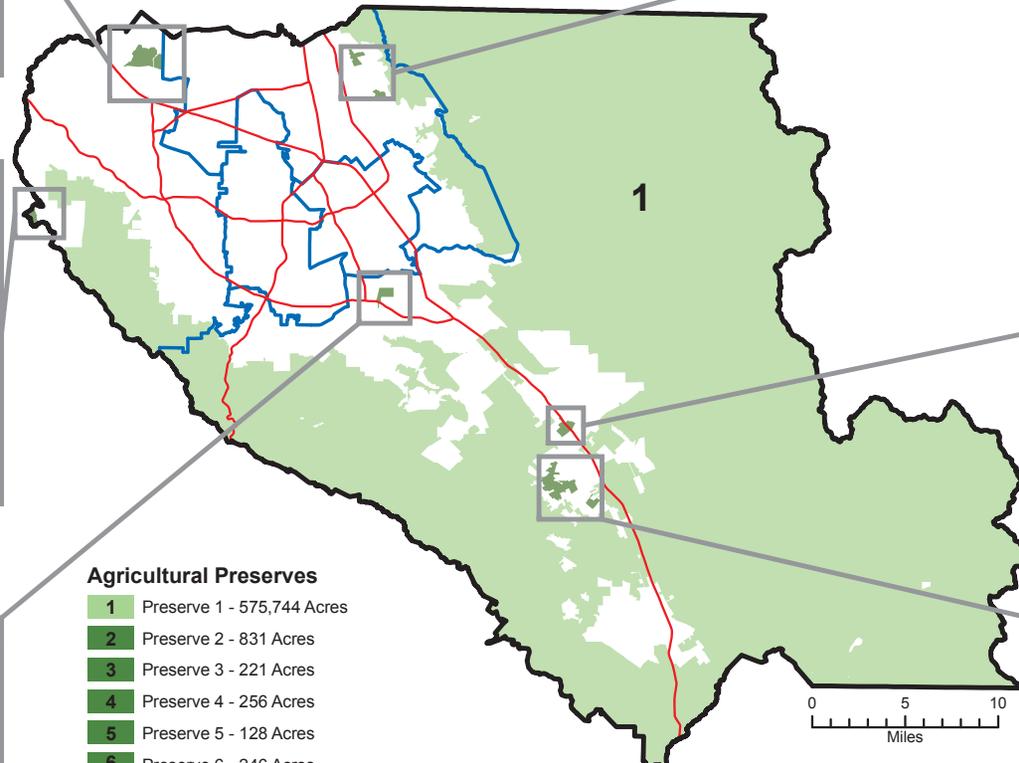
Preserve 6



Preserve 8

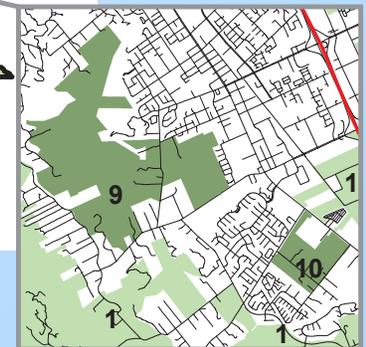


Preserve 7



Agricultural Preserves

- 1 Preserve 1 - 575,744 Acres
- 2 Preserve 2 - 831 Acres
- 3 Preserve 3 - 221 Acres
- 4 Preserve 4 - 256 Acres
- 5 Preserve 5 - 128 Acres
- 6 Preserve 6 - 246 Acres
- 7 Preserve 7 - 300 Acres
- 8 Preserve 8 - 350 Acres
- 9 Preserve 9 - 1,057 Acres
- 10 Preserve 10 - 175 Acres
- Supervisorial Districts
- County Boundary
- Freeways



Preserves 9 and 10

Map by BAZ. May 24, 2006. Produced by Planning Office TeamGIS.

Guideline for Commercial Agriculture

- Contracted land must be devoted to the commercial production of agricultural commodities.
- Agricultural commodities are unprocessed products of farms, ranches and production nurseries.
- Horse-related uses are not considered commercial agricultural production, but may be a compatible use (not primary use of property).

Guideline for Commercial Agriculture, cont.

- Different guidelines for “standard” size parcels (10 acres prime land or 40 acres non-prime land) and “substandard” size parcels.

- Prime and non-prime land classification is based on soil type.

- General evaluation criteria considers: 1) parcel size; 2) % of parcel used for agriculture; 3) revenue; and 4) agricultural history.

Guideline for Commercial Agriculture, cont.

Requirements for “standard” size prime and non-prime land parcels:

- 1) At least 60% of parcel must be used for commercial agriculture; and
- 2) Farm revenue in 3 of last 5 years must be substantiated with verifiable documents (eg. tax records) and validated by affidavit.

No minimum revenue requirement.

Guideline for Commercial Agriculture, cont.

 Requirements for “substandard” size prime land parcels:

1) At least 75% of parcel must be used for commercial agriculture; and

2) At least \$3,500 annual gross farm revenue in 3 of last 5 years must be substantiated with verifiable documents (eg. tax records) and validated by affidavit.

Guideline for Commercial Agriculture, cont.

 Requirements for “substandard” size non-prime land parcels:

- 1) At least 75% of parcel must be used for commercial agriculture; and
- 2) At least \$2,000 annual gross farm revenue in 3 of last 5 years must be substantiated with verifiable documents (eg. tax records) and validated by affidavit.

Guideline for Commercial Agriculture, cont.

 Requirements for “income option” for prime land parcels:

- 1) “Standard” size parcels must have \$1,000 per acre in annual gross farm revenue in 3 of last 5 years substantiated with verifiable documents and validated by affidavit; or
- 2) “Substandard” size parcels must have \$10,000 minimum in annual gross farm revenue in 3 of last 5 years substantiated with verifiable documents and validated by affidavit.

Guideline for Commercial Agriculture, cont.

 Requirements for “income option” for non-prime land parcels:

1) “Standard” size parcels must have \$250 per acre in annual gross farm revenue in 3 of last 5 years substantiated with verifiable documents and validated by affidavit; or

2) “Substandard” size parcels must have \$10,000 in annual gross farm revenue in 3 of last 5 years substantiated with verifiable documents and validated by affidavit.

Guideline for Commercial Agriculture, cont.

Requirements for timber production:

- 1) Property must be “standard” size non-prime land parcel or prime land parcel at least 40 acres in size; and
- 2) Parcel must produce timber or other forest products under active Non-Industrial Timber Management Plan, active Timber Harvest Plan or Timber Harvest Plan filed and executed within last 15 years.

Guideline for Compatible Use Development on Restricted Lands

- Any land proposed for development must be devoted to commercial agriculture and comply with Guideline for Commercial Agriculture.
- Development must be both compatible with and incidental to the agricultural use of the property.
- Commercial agriculture must continue to be the primary use of the property.

Compatible Use Development, cont.

- Compatible uses limited to 10% of the parcel, 5-acre maximum.

- Properties using “income option” of Guideline for Commercial Agriculture must have at least 50% of parcel in commercial agricultural use to ensure agriculture remains the primary use.

- All contract terms, including development restrictions, apply during 9-year non-renewal period.

Exchange of Williamson Act Contract for Open Space Easement

- State law allows for the exchange of a Williamson Act contract for an Open Space Easement under a different state law (Open Space Easement Act of 1974).
- Definition of “open space” under other law is very broad.
- Land must be at least 5 acres and meet other findings.
Public access is not required.

Open Space Easement, cont.

- Easement term is 15 years and automatically renews for one year each year, unless non-renewed.
- Agriculture not required under Open Space Easement.
- Tax benefit will depend on how the easement restrictions affect the property value.

Open Space Easement, cont.

Owner selects level of development restriction depending on desired level of potential tax benefit:

1) No development;

2) Development restricted to 1,000 sq. ft. and no secondary dwelling; or

3) Development restricted to 5% of parcel (5-acre maximum) with enhanced design review required.

No subdivision allowed.

Contract Administration, Monitoring and Enforcement

Non-renewal of “substandard” size parcels:

- 1) In 2006 and 2007 County will non-renew “substandard” size parcels without an existing commercial agricultural use.
- 2) Owner will have 60 days to protest notice of non-renewal.
- 3) County will withdraw notice if owner demonstrates land has existing commercial agriculture.

Contract Administration, Monitoring and Enforcement, cont.

Non-renewal of “substandard” size parcels, cont:

4) Parcels may be used collectively for commercial agriculture and remain under contract if owners sign and record a joint management agreement.

5) Property tax may increase during non-renewal period in accordance with tax code formula established by State law.

Contract Administration, Monitoring and Enforcement, cont.

Non-renewal of “substandard” size parcels, cont:

6) Any resulting tax increase may be delayed for first 3 years if owner “protests” non-renewal.

7) Contract restrictions remain in effect during 9-year roll out period.

Contract Administration, Monitoring and Enforcement, cont.

- Development proposals trigger review of contract compliance. No permits issued until all criteria met.
- Establishment of process for interpretation of guidelines, decisions may be appealed.
- Increased follow-up on Agricultural Questionnaire mailed by Assessor.
- Staff to audit all contracted lands at least every 3 years to ensure contract compliance.

Contract Administration, Monitoring and Enforcement, cont.

- Enhanced public education and outreach. County ordinance requires disclosure as part of real estate transactions.
- Adoption of fees for Open Space Easement transfer, review of development applications, enforcement action, and failure to return Agricultural Questionnaire.
- Enforcement action/penalties for “material breach” of contract under state law (AB 1492).