PART 2

CALIFORNIA POLICY APPROACHES TO AGRICULTURAL LAND PRESERVATION

Introduction

Agriculture has been and is now many times more sophisticated a venture than space travel could ever become . . . partly because it comes out of living nature and is therefore complex, and partly because more human minds have worked on ways to generate an assured food supply than on any other task.

Wes Jackson, Altars of Unhewn Stone

Since the early 1960s “human minds” began not only to ponder ways of generating food, but also, ways to maintain the land necessary for its generation in the face of increasing population and development pressures. The first significant “wake up” call for Californians arrived after the Second World War when in a span of about twenty years the state lost over 1 million acres of prime agricultural land because of encroaching urban sprawl. In the 1960s and ’70s, concern over shaping and directing growth to avoid urban sprawl and protect agricultural land and open space led to increased state efforts to prevent conversion of agricultural land. Legislation included three types of policy tools: voluntary economic incentives (under the Williamson Act), state regulation (in the coastal zone under the Coastal Act), and acquisition of agricultural land or an interest (e.g. development easement) in agricultural land (through creation of the Coastal Conservancy). A combination of approaches by the state aimed to influence local planning decisions, as well as the behavior of individual landowners.

In the past, policy regarding agricultural land retention and conversion had been exclusively the province of local governments, counties and cities, authorized under state law to adopt general plans and implement them through zoning ordinances. In 1963, the California legislature authorized creation of Local Area Formation Commissions (LAFCOs) in order to discourage urban sprawl, encourage orderly formation and expansion of local government, and guide development away from agriculture and open space resources. Eventually, each county, except San Francisco, created a LAFCO. These effectively became growth planning agencies when the Legislature in 1971 directed them to prepare and adopt a “sphere of influence” for each city and special district. Future annexations by cities would be drawn from the spheres of influence adopted by the relevant LAFCO. Santa Barbara County’s LAFCO is made up of 2 County Supervisors, 2 city officials, 2 special district members, and 1 public member. In the view of some critics, LAFCOs city and county representatives work collaboratively and tend to approve most annexations proposed by member cities. Given their composition, LAFCOs may be heavily influenced by local politics. Despite strong LAFCO policies to protect prime agricultural land, in Santa Barbara County, agricultural land, including prime agricultural land, has been converted to residential and commercial development in urbanized parts of the County’s unincorporated areas (e.g. adjacent to Goleta and Santa Maria and in the unincorporated community of Orcutt).

In 1965, the California Legislature passed the economic incentive-based Land Conservation Act of 1965, also known as the Williamson Act. Under the Williamson Act, farmers with a minimum of 100 acres of agricultural land may contract with participating counties to leave their land undeveloped for a period of ten years in exchange for reduced property tax assessments. The Williamson Act contracts roll over each year unless the landowner opts to begin withdrawal. The withdrawal process occurs over a nine-year period with gradually increasing taxes, unless the county allows for immediate cancellation, which usually includes a hefty penalty payment.

Five years later, when California voters passed an initiative to protect coastal land, they endorsed a regulatory approach to protecting agricultural and other open space on the coast. Frustrated by the inaction of the legislature in the face of public concern over the Northern California Sea Ranch coastal housing development, along with loss of wetlands, habitat, beach access, and open space, the voters approved Proposition 20, The California Coastal Zone Conservation Act in November 1972. Among its priority goals, Proposition 20 aimed to protect coastal agriculture and prevent scattered developments that were carving up agricultural land and producing urban and suburban sprawl. Proposition 20 created a statewide Coastal Zone Commission and six regional commissions to review development in the coastal zone, including lot splits, which required a coastal permit. The 1972 initiative also required the Commission to prepare and submit to the legislature a Coastal Plan, which was intended to serve as the basis for a permanent and legislatively adopted Coastal Act. The authors of Proposition 20 included a “sunset clause” under which the initiative would terminate at the end of 1976, and they correctly calculated that this would put pressure on the legislature to adopt a law to carry out the Coastal Plan. While the legislature did not simply enact the Coastal Plan in its entirety, it did base the California Coastal Act, passed in 1976, on that original plan.

Since Coastal Act jurisdiction only extends as far as the politically determined coastal zone boundary, this state regulatory approach has only been tried and tested within the narrow band of the coastal zone (ranging from approximately 1,000 yards inland from the mean high tide line to as much as 5 miles inland in coastal estuarine, habitat, and recreational areas). The final approach to agricultural land preservation addressed here, the outright purchase of lands or easements, has its origins in both the state Coastal Conservancy (established in conjunction with the Coastal Act) and in the Farmland Conservancy Program Act of 1995. Both programs provide funds for the permanent protection of agricultural land through easement acquisition.

[21] The Act became effective the day after the vote on November 8, 1972.
[22] Phyllis Faber, “Has the Coastal Act Worked?” California Coast and Ocean 12.4 (1997), California Coastal Act, California Public Resources Code, (Deering’s California Codes Annotated, 2004), § 30000 et seq.
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Figure 1: Timeline of key legislative events establishing the different approaches to agricultural land preservation in California.

Figure 2: A brief overview of the three approaches to agricultural land preservation in California.
The Williamson Act, the Coastal Act, and the California Farmland Conservancy Program (CFCP), together with the Coastal Conservancy, provide three distinct methods of agricultural land preservation in California: economic incentive, regulation, and outright purchase of property or property rights. In this section, we examine each of these methods in greater detail in order to ascertain their strengths and weaknesses and understand their implementation inside and outside of the coastal zone. This section examines the language of the codes as well as the influences of judicial decisions, agency policies, and professional criticism. Each of these approaches interacts with the others, creating new questions and issues to be analyzed further in the study.

Synopsis of the current state of agriculture in California

California is a state of crucial but threatened agricultural output. It is currently ranked number one among US states in terms of agricultural production, generating over $25 billion in revenue during the last Census. This measure of success, however, masks the seriousness of the fact that a net 11.5 million acres of prime farmland have been lost since 1965, when the legislature passed the first significant agricultural land protection measure – the Williamson Act. With a population of 36 million that is expected to increase by another 26 million by 2040, it is no wonder that California contains three of the nation’s top 20 most threatened farming regions (with the central coast ranking as number 15). The gravity of this situation makes it prudent to conduct any study, however small, that may shed light on the most effective approaches to preserving the agricultural lands that do remain. While this particular project focuses on coastal agricultural lands, the results apply to any agricultural areas with intense development pressures.

Economic incentive approach

2.2.0 Overview

The major embodiment of the economic incentive approach to agricultural land preservation is the Williamson Act program. According to Alvin Sokolow of UC Davis, the Williamson Act has provided a way since 1965 for farmers to stay in the agricultural business in the face of continually increasing pressure to convert their lands to other uses. As explained in the introduction, under the Williamson Act, landowners enter into a special contract with their local county government agreeing to keep the land in agriculture for ten years. The County then assesses the land at agricultural land use values, rather than market property values. The contracts are automatically renewed each year (even if the ownership changes) until the landowner files a notice of non-renewal, at which point a nine-year withdrawal phase begins, with land taxes rising proportionately.

The Williamson Act theoretically provides benefits for all parties involved. The farmers benefit by not having to pay potentially devastating land taxes, and the counties receive subventions from the state to partially cover lost property tax revenues. Also, counties remain free of the planning and public service headaches that arise with developments requiring utilities, schools, fire stations and other special districts and services. The less farmland that gets transformed into housing developments, the less local governments must expend in time, energy, and money. Over forty

[27] The gross was actually higher but some new prime farmland was settled, and the net loss was somewhat mitigated.
[29] The American Farmland Trust.
studies have found that having farmland nearby actually saves communities money. By 1990, these benefits were appealing enough to the parties involved that approximately half the state’s agricultural land was under Williamson Act contract, a figure that remains accurate today.

These numbers can be misleading, however, since they suggest stasis in Williamson Act lands. In fact, lands surrounding urban areas tend to leave the Williamson Act and, therefore, allow the urban footprint to expand. This, in turn, puts pressure on new lands to leave the Williamson Act and the cycle continues. Acres have remained relatively constant due to new enrollments in more remote areas; however, these areas will eventually be completely tapped. When that happens, there will be a constant decline in Williamson Act acreage that will not end until development does. Underscoring all of this is the undeniable and discouraging fact that prime farmland is most likely to leave the Williamson Act and/or most likely to be developed since it tends to be closer to urban areas than ranch lands. Nevertheless, the Williamson Act does reduce leapfrog development and, as the modeling will show, slows development.

In spite of its benefits, the Williamson Act has not always attained its goals. As previously mentioned, California continues to lose thousands of acres of prime farmland each year. In spite of the hope that the Williamson Act would slow urban sprawl across especially threatened prime farmland, acreage enrolled in contracts has consistently been low near urban boundaries and highest in remote, non-prime land areas. This trend has been disappointing for those who had counted on the Williamson Act to safeguard the most productive soil.

Tax policy has had a significant effect both on participation in the Williamson Act and on growth trends more generally. The 1978 passage of Proposition 13 limited the allowable property tax rate throughout California to 1% of fair market value. Additionally, the growth in taxable value for each parcel is limited to 2% per year until it is sold or there is a significant change in use or improvement value. This not only reduces the amount of tax local governments may collect and use to provide municipal services, it also reduces the value of the tax reduction provided under Williamson Act contracts, particularly for properties with higher fair market value located within and close to urban boundaries. This reduces the incentive for farmers with lands most threatened by development to enter into Williamson Act contracts. However, the tremendous reduction in contracted lands never materialized as many naysayers of Proposition 13 predicted it would. Scholars explained that though farmers faced a decreased comparative advantage enjoyed before the passage of the Proposition, most farmers still found enrollment to be more in their interest than non-enrollment.

[38] to the Santa Barbara LAFCO, September 1, 2005 (A.7), available at http://www.sblafco.org/docs/09-01-05/Item08_MSRs_and_SOI_Updates-Santa_Barbara-Goleta_Valley.pdf (viewed 2.10.08).
2.2.1 Judicial influence

Although the Williamson Act has appeared in four major court cases and dozens of other judicial proceedings, there is one case that had a particularly significant impact on the Act’s implementation. \[40\] Sierra Club v. Hayward, by upholding a strict interpretation of the Act’s cancellation provisions, preserved the legislature’s intent that development of Williamson Act lands remain a slow, controlled process. \[41\]

The case revolved around a ranch that contained land under Williamson Act contract located along the edge of the City of Hayward. The landowners had petitioned the city for cancellation of part of their contract in anticipation of allowing developers to construct a residential subdivision on the property. The city approved the petition, citing the “relatively small” area under discussion, the contiguity of the development to prior developments, and the offer of open space to benefit the city. The Sierra Club repeatedly appealed this decision on the grounds that it violated the requirements of the Williamson Act cancellation procedures as specified in the California Government Code §51282. The case reached the California Supreme Court, which found that the city had not adequately proven that all cancellation requirements had been met. Hayward had not provided enough evidence that: (1) cancellation was “not inconsistent” with the purposes of the Act, (2) cancellation was “in the public interest,” (3) there was “no proximate, non-contracted land suitable for the use to which it is proposed the contracted land be put,” or (4) that there was no “reasonable or comparable agricultural use to which the land [might] be put.” \[42\] Although the city had provided some superficial reasoning for its decision, the evidence was insufficient in the eyes of the court to justify an outright cancellation of the Williamson Act contract.

The people of California did not immediately accept the court’s strict interpretation of the cancellation procedures of the Williamson Act. Some landowners and legislators felt that such an interpretation would deter people from entering into Williamson Act contracts. In response, the legislature passed AB 2074 which allowed for a short period of less stringent cancellation requirements for

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\[42\] Sierra Club v. City of Hayward, at 854-863
those who wished to be released from their contract because they had misunderstood the law.\footnote{43} The legislature also clarified the language of the Act, requiring cities or counties to provide evidence for either the “public interest” or the “consistency” requirements of the cancellation policy, but not both. The legislature added new conditions to each finding, however, so as not to weaken the cancellation policy as a whole.\footnote{44} Overall, the court’s actions reinforced the legislative history showing that “cancellation provisions were included [in the Act(s)] a means of dealing with strictly emergency situations where the public interest no longer dictates that the contract be continued...”\footnote{45}

### 2.2.2 Williamson Act criticism

As a major institutional tool aimed at agricultural land preservation, the Williamson Act has attracted a variety of scholarly criticism. The state’s own evaluations also echo most of this criticism. The most widely-expressed disparagement is that the tax benefits offered by the Act are inadequate to protect prime farmland, especially near urban fringe areas. As John Dean points out in “A Panacea That Wasn’t,” the most productive parcels of land have the highest values under Williamson Act assessment procedures, and thus the lowest comparative tax advantage.\footnote{46} This is true since lands are assessed by farm income, and the most fertile lands produce the highest incomes.\footnote{47} These fertile lands, however, are often the most valuable in terms of market worth due to their frequent proximity to urban areas as well as their flat, well-drained and easily developed soils. In addition to the relatively small tax advantages gained by highly productive farmland, development of the land often offers several times the profits made through farming.\footnote{48} As mentioned before, Prime Farmland tends to be closest to urban areas, further compounding the threats. Unless farmers are highly motivated to remain in farming, it is economically rational for “fringe” farmers to sell out. This is a significant and widely recognized failing of the Act, but solutions remain elusive.\footnote{49}

Another major criticism of the Williamson Act addresses its design and administration. John Dresslar maintained that the Act’s decentralized approach to its administration is entirely inadequate.\footnote{50} He urged the legislature to “act decisively to preserve California’s remaining farm and range land” and lamented that “the primary cause of California’s failure to halt wasteful urban sprawl is its reliance upon local regulation.” Dean agreed, opining that “many of the Williamson Act’s failings may be traced to a complete lack of state guidance and coordination.”\footnote{51} Both suggested stronger state guidance for the program, and Dresslar proposed that the state form an agricultural land use agency with a mandate to create long-term plans for statewide agricultural land preservation. While both of these authors wrote their articles in the 1970s and the Williamson Act has further matured since then, their points are still valid as the Act has never undergone any significant structural changes in regard to state versus local administration. The state Department of Conservation, Division of Land Resource Protection, however, now performs some of the tasks suggested by Dresslar.

In a 1990 review of the Williamson Act program, the California Resources Agency provided its own critique. Sokolow, the primary author, found that while the Act was “effective in protecting the economic viability of California agriculture,” it did not “substantially reduce the conversion” of agricultural lands across the state.\footnote{52} In other words, the Williamson Act helped keep farmers from going out of business, but did not necessarily prevent them from selling their land for other reasons.

[45] Sierra Club v. City of Hayward, at 852
[47] In a response from one of the surveys a landowner touches on this as a main point of frustration with the act. See Part III supra.
[51] Dean, “A Panacea That Wasn’t.”
There is no way to accurately gauge, of course, how patterns of agricultural land conversions might have differed had the Williamson Act never existed. The state study does offer, however, several personal anecdotes from ranchers and farmers who testify that without the Williamson Act they could not have kept their operations alive.

2.2.3 Analysis

As an economic incentive approach to the preservation of agricultural land, the Williamson Act has demonstrated usefulness and longevity. Still functioning after forty years, it is appreciated by landowners and admired by other states. Despite its original ideas and economic benefits, though, the Act cannot stand alone as a method of agricultural land preservation. Its voluntary nature and inability to withstand intense development pressures mean that additional approaches to agricultural land preservation must be considered, especially if the protection of Prime Farmland is considered a priority.

2.3 Regulatory approach

2.3.0 Overview

The California Coastal Act is the state law that most embodies a regulatory approach to agricultural land preservation. Any understanding of the Coastal Act’s regulations and the Coastal Commission’s functioning requires some knowledge of the legislative history of the Act. As stated above, the 1976 Coastal Act was preceded by Proposition 20 in 1972—a statement by the people of California that their coastline was a valuable public resource. Proposition 20 called for a comprehensive study and plan for the protection of coastal resources that would become permanent through the 1976 Act. Between 1972 and 1976, the California Coastal Zone Conservation Commission prepared a detailed Coastal Plan containing numerous recommendations for legislative enactment of coastal policy that would be highly protective of natural resources and open space. The Plan advised that the state offer economic assistance to farming families in the coastal zone in order to help them stay in the farming industry, and that it develop specific criteria for maintaining both prime and nonprime agricultural lands in production. The final California Coastal Act of 1976 implemented some of the 1975 Plan’s provisions but substantially altered some twenty-two other portions. Most of the altered portions reflected a less strict attitude toward natural resources protection and instead encouraged “balancing” the need to protect coastal resources with the desire for orderly growth and development. Many of the challenges inherent in carrying out the Coastal Act’s regulations stem from this “balancing” requirement. The need to abstractly balance two opposing mandates inevitably creates an environment ripe for confusion and dissension. Despite the changes incurred between the publication of the 1975 Coastal Plan and the 1976 Coastal Act, most of the recommendations for agriculture remained. The agricultural provisions of the Act directed coastal communities to place a priority on preserving productive agricultural lands, stating in § 30241 that “the maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas’ agricultural economy, and conflicts shall be minimized between agricultural and urban land uses.” The Act then provides a series of methods by which local governments are required to minimize conflicts with urban uses, including establishing stable urban boundaries, creating agricultural/urban buffer zones, limiting conversions

[53] California Coastal Zone Conservation Commissions, California Coastal Plan, (Sacramento, 1975).
[55] Ca. Pub. Res. Code, Sec. 30001.5(a) and (b).
[57] Ca. Pub. Res. Code, Sec. 30241(a) and (b). Amendment in 1982 expanded possibilities for agricultural land conversion by changed “and” to “or” after “urban uses”. Originally subsection (b) of section 30241 required land to meet two tests
of agricultural land, and “developing available lands not suited for agriculture prior to the conversion of agricultural land”. In order to carry out the tasks mandated by the Coastal Act, each county with land in the coastal zone must prepare a Local Coastal Plan (LCP). These plans describe in more detail how the county will implement programs and regulations that reflect the Act’s directives. They are crucial to determining how effectively local regions will carry out the Coastal Act’s policies. The regulatory approach as evaluated in this project, then, consists of the Coastal Act as an umbrella law, with LCPs further specifying local rules.

before allowing conversion around the periphery of urban areas: first a showing that the “viability of existing agricultural use is already severely limited by conflicts with urban uses” and “where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.” The 1982-Amendment allowed conversions that met either condition.

[58] Ca. Pub. Res. Code section 30241(d). Note also protections of subsections (e) and (f).
The Regulatory Approach: Key Language From the CA. Coastal Act

Cal. Pub. Resources Code § 30241

The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas' agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:

(a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.

(b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.

(c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250. [provision added in 1981]

(d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.

(e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.

(f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of prime agricultural lands.

Cal. Pub. Resources Code § 30250

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are unable to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average of surrounding parcels.

Cal. Pub. Resources Code § 30242

All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such conversion shall be compatible with continued agricultural use on surrounding land.

Cal. Pub. Resources Code § 31050

The Legislature finds and declares that the agricultural lands located within the coastal zone contribute substantially to the state and national food supply and are a vital part of the state's economy.


The Legislature further finds and declares that agricultural lands located within the coastal zone should be protected from intrusion of nonagricultural uses, except where conversion to urban or other uses is in the long-term public interest.


The conservancy may acquire fee title, development rights, easements, or other interests in land located in the coastal zone in order to prevent loss of agricultural land to other uses and to assemble agricultural lands into parcels of adequate size permitting continued agricultural production.
2.3.1 Judicial influence

The California Coastal Commission is a quasi-judicial body with decision-making power in the coastal zone. Until 1984, there were also six regional commissions. The Commission is usually the final authority regarding Coastal Act permits and regulations; however, in cases of significant disagreement, confusion, or ambiguity, Commission decisions are appealed to a California trial court.

By the mid 1980s most counties and cities along the coast had approved LCPs, thus transferring much of the regulatory decision-making from the regional and state commissions to the local governments, with limited rights to appeal local decisions to the Commission. Before LCPs are approved, however, the Coastal Commission must directly resolve all conflicts. The original intent of the legislation was that local cities and counties would play the major regulatory role in governing the coast, taking over the role from the six regional commissions and the statewide commission. But since the LCPs took many years to complete, and some have never been completed, the State Commission has had a much larger case load than the legislature originally anticipated, and is still hearing original proposals from jurisdictions without approved LCPs.

While the Coastal Act has undergone significant legal scrutiny since its inception and the Coastal Commission is nearly always defending one or more of its decisions in the courts, there have been relatively few significant conflicts over coastal agriculture. The Commission has dealt frequently with cases involving coastal access, environmentally sensitive habitat, and coastal armoring. Coastal agricultural issues have not generally made it past the Commission level of decision-making. Nonetheless, disputes do occasionally make it to the courts.

In the 1980 case Billings v. California Coastal Commission, the Coastal Commission denied owners of land in the coastal zone of San Mateo County a permit to subdivide their 118 acres of agricultural land into three parcels. In making its decision, the Commission relied on Coastal Act §§30241 and 30242, which mandate that the maximum amount of prime agricultural land remain in production; and §30250 which requires that new developments not have significant adverse effects on coastal resources. The appeals court, however, rejected the Commission’s findings for several key reasons. The court noted that §§30241 and 30242 referred to prime farmland only, while the Billings land was of marginal agricultural quality. Also, §30250 did not restrict this land division because the Commission failed to indicate how it would adversely impact coastal resources. The Commission argued that the effect would be to encourage future, similar divisions of parcels (and thus development), the court rejected the Commission’s view calling this reasoning “speculative.” In ruling against the Commission in this case, the court also noted that the landowners were not developers and had agreed to place binding restrictions on their property to ensure that it would remain in agricultural production.

While the Billings case does not begin to cover the myriad conflicts and issues that arise with the implementation of the agricultural provisions of the Coastal Act, it does emphasize the higher priority given to protection of Prime Farmland. While we were able to identify some of the cases heard by the Coastal Commission involving agricultural land, staff from the Commission were unable to retrieve from the Commission archives some of the files we requested. These files might have enhanced our understanding of the range and nature of Commission decisions regarding agricultural land.

[60] J. Matthew Rodriquez, Senior Assistant Attorney General in California’s Department of Justice, explained that the Coastal Commission has always been underfunded in part because of the original intention that its role and caseload would diminish with the transfer of authority to local cities and counties, Comments at Yosemite Environmental Law Conference, Panel on “The California Coastal Act – 30 Years Later,” October 22, 2006.
2.3.2 Coastal Act criticism

A small body of commentary exists on the design and effectiveness of the agricultural provisions of the Coastal Act. Myrl Duncan in “Agriculture as a Resource: Statewide Land Use Programs for the Preservation of Farmland” reviewed the Coastal Act as a method of preserving farmland. Duncan, a professor of law at Washburn University, praised the Act in 1987 for its emphasis on the agricultural economy and community, calling it an “integrated approach” that stands in contrast to the more parcel-specific approaches used in other states.\(^{64}\) California Public Resources code § 30241, with its emphasis on minimizing agricultural/urban conflicts while maintaining orderly development provides an example of the balancing or “integrated” language that Duncan admired. Duncan determined that this type of language gave the Coastal Act the structure to better protect farmland than the legislature’s “piecemeal” approach.\(^{65}\) Despite his admiration for the language and structure of the Act, Duncan notes that California’s law failed to go as far as Oregon’s, which mandated that all farmland be zoned for “exclusive farm use.” Duncan also felt that the true effectiveness of California’s Coastal Act lay in the success or failure of the permitting and planning processes. He claimed that both processes showed promise but that it was too soon and insufficient data existed to make any concrete judgments as to the Act’s effectiveness as a farmland preservation tool.

Irving Schiffman, professor of political science at California State University, Chico, also offered praise for the Coastal Act in his 1982 article “Saving California Farmland: The Politics of Preservation,” calling it the “one bright spot in the state’s role in farmland preservation.”\(^{66}\) Schiffman noted that the most beneficial part of the Act was its authorization of the Coastal Commission to review and certify LCPs. The LCPs allow policies to be enforced at the local level while still being subject to state oversight. The state oversight is vital, Schiffman maintained, because “decision-making at a local level...is highly political and based on parochial considerations.” In Schiffman’s view, such state regulation is more effective than incentive approaches such as the Williamson Act. The planned, systematic nature of LCP publication and review stands in contrast, he claimed, to the rather haphazard voluntary implementation of Williamson Act policies.

The Coastal Commission has not historically had the resources to carry out in-depth evaluations of the effectiveness of its agricultural policies. It has, however, recently conducted a series of local coastal plan reviews under the Regional Cumulative Assessment Program, or ReCAP. These assessments provide some analysis of the effectiveness of LCPs in implementing coastal agricultural policies. In a ReCAP review of San Luis Obispo’s program, for example, the Commission expressed concern over the county’s practice of amending its LCP to allow for development on lands previously zoned for agriculture. The review found that the County’s amendment proposals were only consistent with Coastal Act policy in “approximately half of the cases.”\(^{67}\) The review also found fault with the County’s procedures for assessing the agricultural viability of lands being evaluated for possible conversion to other uses. It asserted that San Luis Obispo County policy did not “reflect the guidance of Coastal Act 30241.5 for determining agricultural viability” and the information being used to make viability assessments “has not been developed adequately nor framed appropriately to address Coastal Act requirements for the conversion of agricultural land.” It is these types of detailed, program-specific criticisms that the ReCAP review process is able to elicit. Due to its systematic nature, however, the ReCAP process is time-consuming and expensive; thus, few regions have been reviewed.\(^{68}\) Also, the specific nature of these reviews means that they fail to provide the type of institution-level evaluations that Duncan and Schiffman offer.

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\(^{64}\) Duncan, supra note 59.
\(^{65}\) Duncan, at p. 454 .
\(^{68}\) Links to ReCAP studies for Monterey/Santa Cruz and Santa Monica Mountains/Malibu are available on the Coastal Commission’s website, http://www.coastal.ca.gov/recap/rctop.html (viewed 11/29/07).
One serious critique of the Coastal Commission is the lack of coherent overview of LCP amendments. A 1997 Sierra Club Coastwatch Newsletter contained this sharp critique:

... instead of an LCP protecting coastal agriculture, counties have come to view the LCP’s land use restrictions as mere holding designations, where anyone can propose a subdivision, shopping mall or golf course for a farm, and the county will simply amend the LCP to permit the conversion. The result is no permanent protection for any coastal resources. The Commission has become an unwitting associate in this process by continuing to evaluate and approve the overwhelming majority of proposed amendments.

For example, the County of Santa Cruz, whose LCP was approved in 1981, has processed 58 amendments. The County of Santa Barbara, approved in 1981, has processed 54 amendments.

Explaining why some cities and counties were slow to adopt LCPs, former South Coast Region Coastal Commissioner and LA City Councilwoman Ruth Galanter noted, "Local governments passed the buck to the Coastal Commission on unpleasant stuff rather than take the heat at home. ...Once you do [the LCP], you don’t have the ability to hand the tough decisions off to the Coastal Commission."

### 2.3.3 Analysis

The Coastal Act as a regulatory mechanism has seen both successes and challenges. Its power and scope have been occasionally limited by the courts, and yet it continues to influence daily planning decisions across the state. Despite critical praise for the Act's organization, its implementation is multi-layered and complicated. It is unclear whether the Act has successfully preserved coastal agricultural lands. The fact that the Act’s policies only apply to the coastal zone—in most areas extending less than a mile inland—is an unfortunate reality that makes it difficult to create truly significant agricultural preserves. The Coastal Commission itself admits that “protecting agriculture in the Coastal Zone has been one of the toughest assignments” and that their best efforts often fail where development pressures are intense. The challenges facing the Act’s implementation are not hopeless, however. They are simply an indication that regulation, like economic incentives, cannot stand alone as a method of preserving coastal agricultural lands.

### The Purchase Approach

#### 2.4.0 Overview

Recognizing that in some cases the only way to preserve a parcel of agricultural land is to have a monetary interest in it, the state of California provides funds for that purpose. Legislation enabling the purchase of agricultural lands includes both the California Coastal Act and the California Farmland Conservancy Program (CFCP) Act. The Coastal Act created and authorized the Coastal Conservancy to acquire lands in the coastal zone, while the Farmland Conservancy Act gave authority to the California Department of Conservation to do likewise for all state agricultural lands. The term ‘purchase approach’ for the purposes of this project includes outright (fee simple) acquisition of land and purchase or voluntary transfer of conservation easements on private lands.


[74] Ca. Pub. Res. Code, sections 31100-31120 establishes the Coastal Conservancy within the Resources Agency and gives it the authority to acquire and hold lands necessary to meet the policies and objectives of Coastal Act.
land parcels. Such easements, which restrict the future development of a particular parcel, may either be bought by an agency or donated by a landowner. The California courts have upheld deed restrictions that occurred when property owners purchased development credits on some parcels and permanently restricted building rights to those parcels in exchange for coastal development permits on other parcels. These transfers of development rights resulting in deed restrictions have been upheld against subsequent owners of the restricted property.\(^75\)

The main difference between the two pieces of legislation (in regard to purchasing agricultural land) is that the CFCP Act essentially provided a pool of funds to be released to qualifying organizations while the Coastal Act created the Coastal Conservancy with the authority to obtain and manage lands under state ownership as well as (after 1982) to release funds to private agencies. In practice, both Acts provide funds—when available—to local, private organizations such as land trusts to aid their efforts in preserving regionally important agricultural and open space lands. State bond approvals are continually needed in order to boost the amount of funding available for easement purchases. In a five year period at the beginning of the 21st century, for example, Californians passed three major bond measures totaling over $30 million dollars in support of the CFCP and the Farmland Mapping and Monitoring Program (FMMP).\(^76\)

The advantage of the purchase approach is of course that the land is permanently preserved; unlike Williamson Act lands, there is little danger that the properties will ever be developed. As with the Williamson Act, however, landowners who have transferred development rights through a conservation easement pay reduced taxes because their land has little or no potential for development. Two disadvantages of the purchase approach are that it is expensive and voluntary, thus widespread implementation is difficult. State evaluation of the purchase approach indicates that it is most successful when combined with supportive county land use policies and when the local land trust is well organized and respected.\(^77\)

### 2.4.1 Purchase Approach commentary

A discussion of the purchase approach necessarily differs from the economic incentives and regulatory approaches because the purchase approach’s characteristics do not lend themselves to litigation or extensive criticism. Land preservation organizations and agencies often use funds from a variety of federal, state, and private sources when purchasing a parcel, and such transactions are nearly always completed with the full cooperation of the landowner.\(^78\) The private, good-faith nature of most transactions means that purchasing issues rarely make it into the civil court system. It is not feasible, therefore, to examine the judicial influence or professional criticism of the purchasing approach in the same manner as was done for the economic incentive and regulatory approaches.

In its 1989 “Evaluation of Agricultural Land Trusts,” the Coastal Conservancy itself examined three private land preservation organizations on the California central coast, comparing them both with each other and with its own efforts. Their study found that several conditions had to be met before the acquisition of land or easement could be successful. These critical conditions included the availability of funds, receptive local agricultural landowners, a competent land trust staff, and supportive governmental policies such as consistency in agricultural zoning or the creation of an agricultural element in the general plan.\(^79\) The Conservancy recognized that local land trusts are better

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\(^75\) See Ojavan Investors, Inc v. California Coastal Commission, 26 Cal. App. 4th 516, 32 Cal. Rptr. 2d 103 (1994) affirming restrictions on the development of residential property as a result of the Commission’s transfer of development credits (TDC) program. In upholding a constitutional challenge to a TDC Program in Marin County, the Ninth Circuit stated, “The regulation permitting the accumulation of transfer rights is rationally related to the overall purpose of preserving agriculture in the area.” Barancik v. County of Marin, 872 F.2d 834, 837 (9th Cir. 1988), cert. den., 493 U.S. 894 (1989).


\(^77\) California State Coastal Conservancy, “Evaluation of Agricultural Land Trusts: Pursuant to Government Code Section 51297.5” (Sacramento, 1989).

able to conduct business with the landowners in their area and noted that in all of its own transac-
tions, local nonprofit trusts did much of the negotiating. The primary challenges facing land trusts,
the Conservancy claimed, consisted of establishing a trustworthy reputation in the community
and, for nonprofits, creating a functioning administration. Another issue was the Conservancy’s
inability to provide funds for any agricultural land preservation outside the coastal zone. This made
it somewhat difficult for the land trusts to find qualifying landowners. After passage of the 1995
Farmland Conservancy Program Act, additional state funds became available for the acquisition of
agricultural lands outside the coastal zone.

The Purchase Approach in Writing: Key Language from the Coastal Act
and the Farmland Conservancy Program Act

The conservancy may acquire fee title, development rights, easements, or other interests in land lo-
cated in the coastal zone in order to prevent loss of agricultural land to other uses and to assemble
agricultural lands into parcels of adequate size permitting continued agricultural production.

Cal. Pub. Resources Code § 31156
The conservancy may also award grants to public agencies and nonprofit organizations for the pur-
pose of undertaking improvements to and development of these lands where that action is required
to meet the purposes of this section. The expenditure of any of these funds shall be consistent with
the provisions of this chapter.

Cal. Pub. Resources Code § 10201
A program to encourage and make possible the long—term conservation of agricultural lands is a
necessary part of the state’s agricultural land protection policies and programs, and it is appropriate
to expend money for that purpose. A program of this nature will only be effective when used in con-
cert with local planning and zoning strategies to conserve agricultural land.

Figure 5: The Purchase Approach in Writing: Key Language from the Coastal Act and the Farmland Conservancy Program Act

51297.5.”
A December 2000 study by University of California, Davis professors Ellen Rilla and Alvin Sokolow explored the positive and negative aspects of the purchase approach through interviews with property owners whose lands were covered by an agricultural easement. The property owners in the study resided in Yolo, Marin, and Sonoma Counties and dealt with several different land trusts. When asked to evaluate the success or effectiveness of the land trust in their area, 38 out of 46 participants provided positive responses. In addition to avoiding division or sale of land to pay estate taxes, landowners commented on the benefits of preservation of open space, financial gain from selling the easement, and increased confidence in the viability of agriculture in their area. Of course, the high number of positive responses is to be expected given that all the interviewees voluntarily possessed land with easements.

As with the state’s study, landowners “saw the protective benefits of easements as greatest when they worked in conjunction with other tools.” Respondents from Marin, for example, “lauded the county’s government policies for confining urban expansion…to the cities in the eastern corridor and establishing strong controls in the rural inland and coastal areas.” When their counties showed a political commitment to preserving farming operations, landowners understandably felt more comfortable relinquishing their development rights.

Despite much praise, the landowners also offered criticisms of the agricultural easement system and of the land trusts involved in implementing it. One primary concern was that outside economic forces had a much greater effect on the loss of farmland than any easement program could hope to stem. Given the trends in California farmland loss, this fear is not unfounded. The landowners also expressed worry that the land trusts were “unsympathetic to true farmers” and too concerned with open space or environmental issues. Remaining complaints centered on the bureaucracy of the process and the annoyance of having yearly inspectors come and determine whether the landowners were complying with the easement stipulations. These complaints echo those registered by the State’s study, which also noted landowners’ wariness of bureaucracy and unwillingness to work with the state or federal government. In that sense land trusts have an advantage because, although they may be occasionally slow and cumbersome to work with, they do not have the stigma of being a governmental agency. And some land trusts such as the California Rangeland Trust focus primarily on ranch land and are governed and run by ranchers.

2.4.2 Analysis

The purchase approach is implemented daily across the state of California by some 34 separate organizations seeking to permanently preserve agricultural lands. Thousands of acres of land have been successfully preserved, and yet the total remains a tiny fraction of the active agriculture in California. As of 2007, there were 16,246 acres of existing conservation easements in Santa Barbara County. These cover 34 separate easements or fee purchase parcels, though they vary substantially in size. Only a few are within the coastal zone, but note that Arroyo Hondo on the Gaviota Coast has 778 acres under conservation easement. There is a proposal currently underway to expand the Arroyo Hondo easement to include 3,310 acres to the west. Several of

[81] Ibid.
[82] Ibid.
[83] Ibid.
[85] Rilla and Sokolow, supra note 83.
the parcels with conservation easements straddle the coastal zone boundary. Most conservation easements in the county are on parcels with land use deemed grazing and other (by the County Assessor), not on important farmland parcels. Areas most likely to experience growth in the near future according to our models (e.g., Santa Maria, Cuyama, Lompoc Valley) contain no conservation easement on agricultural land. Most of the easements are located on the South Coast of the County, Gaviota Coast, and the Santa Ynez Valley. Maps 1 through 4 depict the conservation easements in Santa Barbara County.

How should these facts be interpreted? How significant are land trusts as a method of agricultural land preservation? They may help instill more confidence in farming in an area or help urban/rural boundary lines remain intact. The results for individuals and farms under easement are more concrete. And there is no questioning the millions of dollars spent on purchasing easements. Whether or not the easements and land trusts have been useful, then, depends on what goals one expects them to fulfill. As the landowners in the Rilla and Sokolow study attest, the majority have been personally very satisfied with what the purchase approach has done for them and their communities.\footnote{Supra note 83.} For this purpose, then, the purchase method is worthwhile. What remains to be seen is if it can encourage more widespread participation, and how it can work together with other approaches towards furthering agricultural land preservation.
Santa Barbara County Overview Map

Map 1

Santa Barbara County Conservation Easements

Map 2
Map 3

Map 4
Regulatory approaches in Santa Barbara and Ventura Counties

Authority to regulate land uses primarily rests with local government. This study focuses on two counties of south central California in order to better understand the differences among economic incentives, regulation, and acquisition approaches to retention of agricultural land. The analysis reveals substantial differences in the effect of these approaches. In both Santa Barbara and Ventura Counties, local zoning ordinances regarding protection for agricultural lands differ within and outside the coastal zone. Within the coastal zone, in order to maintain regulatory control, counties and cities must adopt LCPs that conform to the state Coastal Act. Thus, after approval of a local government’s LCP by the Coastal Commission, the regulations applicable within the coastal zone follow the state mandate. Outside the coastal zone, in both counties, the regulations are less stringent, particularly with regard to protection of non-prime agricultural land and to protection of agricultural land within and adjacent to urban boundaries.

2.5.0 Santa Barbara County

As in the Coastal Act and Williamson Act, Santa Barbara County divides agricultural land into Ag-I (Agricultural I) and Ag-II (Agricultural II) zones (prime and non-prime). The purposes of each of these zones differ depending upon whether they are in the coastal zone, so that the distinction is not based solely on soil type or productivity, but also upon location. As illustrated in Fig 6 below, the County’s policies in the coastal zone include preservation of agricultural soils (both prime and non-prime) and show intent to retain land appropriate for agricultural use over the long-term, even in areas within and adjacent to urban areas. Santa Barbara County Planner, Dianne Meester Black, regards the County’s LCP as “slightly more stringent than the Coastal Act.”

<table>
<thead>
<tr>
<th>ZONE</th>
<th>PURPOSE</th>
</tr>
</thead>
<tbody>
<tr>
<td>AG-I</td>
<td>Provide standards that will support agriculture as a viable land use and encourage maximum agricultural productivity (minimum parcel size 5-40 acres)</td>
</tr>
<tr>
<td>AG I CZ</td>
<td>Designate and protect lands appropriate for long term agricultural use within or adjacent to urbanized areas and preserve agricultural soils</td>
</tr>
<tr>
<td>AG II</td>
<td>Preserve areas appropriate for agricultural land uses on prime and non-prime lands located within the Rural Area for long-term agricultural use (minimum parcel size 100-320 acres)</td>
</tr>
<tr>
<td>AG II CZ</td>
<td>Provide for agricultural land uses on large properties (a minimum of 40- to 320-acre lots) with prime and non-prime agricultural soils in the rural areas, and preserve prime and non-prime soils for long-term agricultural use</td>
</tr>
</tbody>
</table>

Fig. 6. Purposes of the Agricultural Zones in Santa Barbara County Source: SB County Code 35.21.020 (published Jan. 2007) and Santa Barbara County Coastal Plan 1982, as amended and updated

[90] Interview by Osherenko and Monie, SB County Planning Office, April 20, 2007.
Santa Barbara County’s Land Use and Development Code carries out the Coastal Act’s goal of protecting the “maximum amount of prime agricultural land within the Coastal Zone” in part by somewhat more restrictive rules regarding what uses are allowed on agricultural lands within the coastal zone than would be allowed inland.\textsuperscript{91} We would not expect these differences, however, to result in significant differences between the coastal zone and inland areas with regard to agricultural land retention. The Land Use Element of Santa Barbara County’s General Plan, while not as strict as its LCP, nonetheless has aimed to reserve both prime and non-prime soils for agricultural use. The Plan goals (as revised in October 1991) encouraged infill of urban areas and prevention of scattered urban development, preservation of cultivated agriculture in the rural areas and, “where conditions allow, expansion and intensification” of agriculture.\textsuperscript{92} The Comprehensive Plan divided land into urban, inner-rural, rural, or existing developed rural neighborhoods. Land Use Development Policies of the 1980 Comprehensive Plan (as amended through 1992) did not permit development “beyond boundaries of land designated for urban uses except in neighborhoods in rural areas.”\textsuperscript{93} These policies serve to constrain conversion of agricultural land to urban uses and channel changes from agricultural to urban uses into existing urban areas or rural neighborhoods.\textsuperscript{94} From 1985, the Plan limited subdivision of agricultural land in an “Agricultural Industry Overlay.”\textsuperscript{95}

The Santa Barbara County Plan contained specific policies for Existing Rural Neighborhood(s) (ERNs) such as Tepusquet Canyon (North of Sisquoc), limiting lot sizes to 10 acres on land with a slope of less than thirty percent, 20 acres when 50 percent of the gross area of each lot had a slope of less than thirty percent; otherwise, a 40-acre minimum lot size applied. Other ERNs include Lake Marie Estates, San Marcos Pass, and Bobcat Springs. The plan anticipated development of the Rice Ranch (a 200 lot tract in Orcutt) with urban development limited to the northern portion in order to “prohibit development in areas used and/or suited for cultivated agriculture,” or other significant values.\textsuperscript{96} Development rights to the remaining undeveloped land, including the agricultural land, were to be granted to the County or a third party conservancy.\textsuperscript{97} The Environmental Resource Management Element of the LUP called for preservation of “all existing croplands on prime soils,”\textsuperscript{98} and declared that “Even though [non-prime lands] may not be as productive as prime soils lands, for similar reasons these agricultural lands should be preserved in so far as possible.”\textsuperscript{99} Overall, the Comprehensive Plan for Santa Barbara County from the early 1980s recognized the value of agricultural land, articulated policies to preserve prime agricultural land, and aimed “in so far as possible” to protect non-prime lands as well, particularly in rural areas.

\textsuperscript{91} Examples of uses not allowed on agricultural land within the CZ but for which a conditional use permit (CUP) may be obtained outside the CZ include: extensive agricultural processing (allowed outside the CZ only on AG-II with CUP); some recreational facilities such as country club, public or private non-religious meeting facilities, museums; residential ag in some areas, such as in the Montecito Coastal Zone, maximum size (measured in gross floor area) of residential second units in relation to lot size is smaller in the CZ than inland.


\textsuperscript{93} Land Use Development Policy no. 3, supra note 94 at 81.

\textsuperscript{94} See Land Use Dev. Policy no. 8, at 82a (revised April 1985).

\textsuperscript{95} Land Use Dev. Policy no. 9, at 82-a-b (adopted April 22, 1985).

\textsuperscript{96} LUP, p. 126, 127.

\textsuperscript{97} LUP, p. 126-a

\textsuperscript{98} LUP, p. 192.

\textsuperscript{99} LUP, p. 192.
2.5.1 Goleta Valley

In the Goleta Valley, where carrots once could grow as big as a man, the fate of some of the last, best farmland hangs in the balance. 

Melinda Burns, Santa Barbara News-Press

The Land Use Element of the Santa Barbara County Comprehensive Plan from the 1980s included a section on the Goleta Valley calling for a definite limit on the area available for development, and the Goleta Valley Urban Boundary map delineated an urban boundary beyond which development denser than one residential unit per 40 acres “should be discouraged.”[101] The plan specifically addressed the area at the northern boundary of Goleta Valley, stating “the foothills of the Santa Ynez Mountains north of Cathedral Oaks Road should be preserved in agricultural and other open space uses. The slopes of the mountains should be left essentially in their natural state.”[102] At the western boundary of Goleta Valley, a similar but somewhat less emphatic policy to retain agriculture applied: “lands west of Winchester Canyon, with the exception of portions of the Embarcadero tract, should be left in agriculture and grazing, and retention of agricultural uses east of this boundary should be encouraged.”[103] (With the formation of the City of Goleta in 2002, the City took over land use planning for areas within the city limit and the city’s sphere of influence, but did not finalize its General Plan until 2006.)

Map 5

[101] Supra note 95 at 105.
[102] Supra note 95 at 105.
[103] Supra note 95 at 108.
But pressure to provide more housing as well as commercial development has made implementing strict policies of retention difficult. In the Goleta Valley, population grew from 54,000 in 1970 to 73,000 in 2000, then to 81,000 in 2002. By 2030, the population is expected to exceed 110,000. The second largest remaining agricultural area in the Valley is the 290.6-acre Bishop Ranch. Designated for rural agriculture in 1980, the ranch was located just outside the urban boundary. Nonetheless, owners considered proposals for up to 1,700 residential units throughout the 1980s. In 1993, in response to the Goleta Community Plan, the County moved the boundary to Cathedral Oaks Road, including Bishop Ranch in the urban area while zoning the site for agriculture. Now within the City of Goleta, developers are seeking to convert part of the ranch to residential use while preserving other portions for open space and recreation. Though water rights have been sold on part of the Bishop Ranch, some of the parcel still has limited use for agriculture. At this time, Bishop Ranch remains one of the few parcels with in the City of Goleta zoned for Agriculture (Ag-I-40).

State affordable housing mandates call for 1,180 more homes to be added to unincorporated parts of the South Coast. As a result, the planning department of the County had considered several agricultural or formerly agricultural sites for development including “51 acres at Hollister Avenue and San Marcos Road, where Lane Farms, the McCloskey Ranch and San Marcos Growers have operated for years; 26 acres on North Patterson Avenue (the site of the languishing Noel Christmas Tree Farm); and 17 acres on Calle Real, once a productive lettuce farm and now a vacant lot....” Opposition from neighbors to development of the San Marcos site prompted...
the County to look to rezoning in Isla Vista to meet the housing quotas.) About 1,000 acres of farmland in the Goleta Valley have been converted since the 1960s, leaving 920 acres south of Cathedral Oaks Road zoned for agriculture in 2007.

Of note are the South Patterson Avenue parcels remaining in agricultural use. As a result of the County’s 1991 agricultural policy, urban infill was allowed on agricultural parcels under certain conditions in order to meet development pressure while preventing expansion of urbanization west of what is now the Bacara Resort, located coastally on the far western edge of the urban boundary. Given that the South Patterson block is not in the Williamson Act, it is remarkable that it remains in agriculture today. Even long-term growers find it difficult to continue farming within and adjacent to the urban boundary. Fourth-generation farmer John Lane, who once worked 200 acres, now farms on only 44 (of which he owns only 4 acres). Lane stated, “Once a neighborhood is built next to a farm it is only a matter of time before the farm succumbs to development.”

Water policy has also played a major role in agricultural land retention and conversion in the County, and perhaps nowhere in the County has water been more important in shaping urban growth than in the Goleta Valley. As Lane explained, new farming operations have become impossible to begin in some areas of the state since the cost of installing a new water meter has become prohibitively expensive. A 2002 report credits completion of Bradbury Dam and Cachuma Reservoir with stimulating growth of residential development in the Santa Barbara area, particularly in the Goleta Valley. Agriculture in the Goleta Valley had relied on ample groundwater until a combination of “heavy pumping and a growing human population led to the need for, development of, and eventually dependence on, the Cachuma Reservoir.” In 1973, the Goleta Water Board imposed a moratorium on new hookups, slowing the pace of development. In 1979, Santa Barbara County voters rejected connection to the State Water Project, perhaps in part as a means of limiting growth. When severe drought from the mid-'80s limited permits for new construction, voters finally approved a pipeline to connect Lake Cachuma to the California Aqueduct in 1991. In 1989 the County Board of Supervisors placed a ceiling on growth in Goleta that allowed 200 new homes and 80,000 square feet of commercial development per year. This growth limit remained in place until 1996 when the County increased the limit for commercial development to 120,000. Nonetheless in 1993, the Board of Supervisors had exempted the 500,000 square-foot shopping center at Storke and Hollister from the Goleta growth limits. As David Lackie, Supervising Planner in Long Range Planning for Santa Barbara County, explained, “Once water became available in Goleta, this opened up the gates to a lot of development.”

Amidst the loss of agricultural land, Fairview Gardens stands out as an example of protection of a working farm through purchase. In 1994, a group of local activists organized to purchase the farm and place it under agricultural easement. Claimed to be the oldest organic farm in Southern California, the non-profit Center for Urban Agriculture provides fruits and vegetables to feed 500 families from 12.5 acres of rich agricultural land.

[110] Lane, interview with authors, 2005.
[112] Id.
[114] Comment to authors at meeting June 25, 2007, in offices of Community Environmental Council.
“The Carpinteria Valley is the largest, prime agricultural resource in Santa Barbara County’s coastal zone.” At one time, the entire valley was producing beans, tomatoes and a variety of other crops. In 1980, when the Coastal Commission approved the City of Carpinteria’s LCP, agriculture remained the dominant land use in the Valley, with a trend toward higher return specialty crops. Sixty-four percent of agricultural lands (2,878 acres) were in Williamson Act preserve status; notably, no greenhouses were included in the preserves. As discussed above, the Williamson Act tax breaks diminish with higher crop values typical of greenhouse production.

In 1980, sixty percent of the Valley’s productive agricultural land lay outside the City. The City’s 1980 LCP delineated an urban/rural boundary that allowed 115 acres outside the city limits to be added to the urban area. The maps we generated for Carpinteria show that almost all development in the coastal zone of Carpinteria occurred before 1984, indicating that the LCP’s strong policies on retention of agricultural land have been effective.

[117] Id. But some nursery production occurred on preserve status land (55 acres).

Map 7B. Carpinteria Greenhouses in 1970.

“In Carpinteria, the agricultural land is being sold and then often not used as agricultural land. One large home is built, and the place becomes a big estate that is not farmed though it stays zoned for agriculture.”

Dianne Meester Black, Santa Barbara County Planner, April 20, 2007

Of the 3,900 acres in use for agriculture in 1980, the predominant crops were lemons and avocados (3,200 acres) as well as greenhouse and nursery production (650 acres); the remainder contained irrigated, cultivated crops. Roughly 60 percent of the production took place on the estimated 2,350 acres of prime soils. At that time avocados were the “second most profitable crop,” filling a market niche for late season harvesting, but lemons were declining in economic value and growers were not replanting orchards that had matured beyond profitability. Furthermore, those seeking a rural residential lifestyle purchased agricultural land, driving up prices and increasing the likelihood that agriculture would become secondary to investment goals for some owners. In the Carpinteria Valley, as elsewhere in the study area, agricultural land is converted to non-agricultural uses in this manner without rezoning, redesignation or annexation to a city.

In 2002, competition from foreign avocado growers (first in Mexico and later in Chile) drove down the price for avocados. For landowners not in the Williamson Act, avocado orchards became no longer profitable. Some growers have taken out avocados and replaced the orchards with greenhouses growing flowers in pots to tap into another high yield specialty market. Others are trying to compete by becoming certified organic. Meanwhile, larger houses are springing up on the hillsides. For one avocado grower whose parcel is too small to enroll in the Williamson Act, the doubling in appraised value between 2003 and 2005 coupled with a steep drop in the price for avocados made payment of property taxes a sizable burden.

The strict policies of the Coastal Act as incorporated into the City and County LCPs may account at least in part for the number of agricultural parcels immediately adjacent and near the urban boundary that remain in Williamson Act preserves. Landowners may reason that if their property cannot be developed anyway, they may as well take advantage of the tax breaks. In 2002, these agricultural parcels were predominately east and northeast of the urban area. To the northwest, few of the prime agriculture parcels are in the Williamson Act, and many have converted to greenhouses.

[119] Interview by Osherenko with anonymous landowner, November 14, 2006.
The Gaviota Coast (from Coal Oil Point at the edge of Isla Vista and continuing around Point Conception to Point Sal) has historically been ranchland used primarily for grazing and held predominately in large parcels. Roughly half of Southern California’s remaining rural coastline is on the Gaviota. As shown in Map 7 for the Gaviota region, there is little development currently on the Gaviota Coast. In 1993, the County allowed the owners of 147 acres west of the Ellwood Pier known as Arco Dos Pueblo to sidestep restrictions on rezoning by granting a conditional use permit for conversion of agricultural land to a golf course. As reported by Mark Masara in the Sierra Club’s Coastwatcher, the Coastal Commission, hearing an appeal from the County’s approval, at first denied the project “due to irreparable and catastrophic impacts on agriculture,” but after extensive lobbying of legislators and the governor by Arco, Assembly Leader Willie Brown removed the Commission’s Chair, Tom Gwyn, who had voted against the golf course, and replaced him with a San Francisco lawyer “decidedly more open toward golf.” On a motion for reconsideration in 1994, the Coastal Commission concurred with the County’s decision, and determined instead that the golf course “would actually ‘protect’ agricultural soils by covering them with lawn and fairways.” But the golf course never materialized since new information located wetlands on the property as well as endangered Red-legged frogs, the Tidewater goby, White-tailed kites, and
Monarch butterflies.\textsuperscript{124} When brought to a more conservation minded Commission in December 2002, the Commission unanimously rejected the project. The owners, Dos Pueblos Associates, sued the Commission for $35 million. A court ordered settlement effort resulted in a settlement agreement allowing Dos Pueblos Associates to apply for “up to 10” residential units. That application is now being processed by the County.

Roughly half of the 200,000 acres on the Gaviota Coast are located within Vandenberg Air Force Base, and of the remainder, about 85,000 acres are privately owned, and much of this is under Williamson Act contract. Hollister Ranch, on the other hand, was sold to a development corporation and subdivided into 100 acre parcels in the 1960s, before passage of the Coastal Act. A cattle-cooperative was formed to allow owners within the Hollister Ranch subdivision to qualify for Williamson Act contracts and tax reductions. As Mike Lunsford pointed out, “There is apparently no active mechanism to distinguish between productive and nonproductive agriculture in the Williamson Act.”\textsuperscript{125}

Purchase or conservation easements have been used to permanently retain some of the larger parcels of agricultural land on the Gaviota Coast. The Trust for Public Land (TPL) arranged the purchase of 2,500 acres at El Capitan (known as the Texaco Property), to become part of El Capitan State Beach, with the owners retaining 650 acres. In addition, the Land Trust for Santa Barbara County purchased a conservation easement at El Capitan reducing the development entitlements from 7 to 2 parcels. As of 2006, conservation easements on the Gaviota Coast protected 22 percent of the area (6,434 acres).\textsuperscript{126}

Surfrider’s website calls the Gaviota Coast, “a priceless treasure that has attracted the attention of developers and environmentalists alike.”\textsuperscript{127} In 1998, the Gaviota Coast Conservancy launched a campaign to declare this coastline a National Seashore. Although the U.S. Park Service study concluded in 2004 that the Gaviota Coast met both biological and cultural criteria for national protection, the Bush Administration determined that the area was not appropriate for inclusion in the National Park System and should be managed at the local level. As reported by Mike Lunsford, “Within 18 months, the County was processing 13 applications for residential development on 135 lots.”\textsuperscript{128}

Efforts to prevent development on the Gaviota hit a serious snag in 1994 when the California Supreme Court in Morehart v. County of Santa Barbara\textsuperscript{129} invalidated the County’s merger ordinance. As a result, in 1995, the county issued a new official map of the township of Naples recognizing 274 lots, as opposed to Morehart’s claim to more than 400 lots, despite existing agricultural zoning allowing only one home per 100 acres.\textsuperscript{129} In 1999, the Morehart related interests entered into an agreement with the County which stayed three lawsuits and provided a protocol for process-

[124] Interview by authors, May 4, 2005.
[125] County of Santa Barbara, Gaviota Coast Projects list, dated February 8, 2006, p.8.
[127] Lunsford email to Osherenko, 11.13.2007
[128] Morehart v. County of Santa Barbara, 7 Cal.4th 725 (1994). In response to purchase of the Naples property in the 1970s by a developer, the County used an ordinance requiring merger of substandard lots to require consolidations. The California Supreme Court invalidated the merger ordinance, and the County then recognized 274 lots at Naples
[129] A memorandum of understanding negotiated between the County and landowners has enabled owners to apply for development permits. As of July 2007, the County was revising the draft EIR for the proposed development. The current proposal calls for 54 homes including 9 “mega-mansions.” A Detailed Summary of the Santa Barbara Ranch Project is available on the County’s website at http://applications.sbcountyplanning.org/PDF/projects/03DVP-00041/SB Ranch Project Detailed%20Summary(9-12-07).pdf. A Revised Draft EIR on the project was released November 13, 2007. http://sbcountyplanning.org/PDF/projects/03DVP-00041/November_Revised_Draft_EIR/November_2007-RDEIR.pdf (viewed 11.26.07). See http://www.savenaples.org/naples.htm (viewed 7/24/2007) for a description of the controversy from the perspective of the Naples Coalition, a group of environmental organizations and individuals opposing the proposed development.
ing an application for development at Naples. In 2006, the County projects list for the Gaviota Coast included development applications for 137 homes on reconfigured lots. Environmentalists are seeking compliance with LCP policy 2-13 calling for the transfer of development rights at Naples to appropriate parcels within the urban boundary.

In addition to proposals for development at Naples, a number of other development applications are pending for 73 additional primary residences. And the County has proposed expansion of its Tajiguas landfill, near the small community of Arroyo Quemada.

As the models of future scenarios in our study are based on historical development, they do not predict new development on the Gaviota Coast. This is due to its remote location, away from existing development, as well as its less than desirable slope and the fact that much of it is removed from major roads. But the California Supreme Court decision invalidating the County’s requirement for merger of preexisting lots to conform to existing zoning dramatically increased the probability of urban development in this previously undeveloped ranchland. Due to the high value of the land for residential development and considerably lower value for agricultural production, we can anticipate conversion of agricultural land to large homes, referred to by those who oppose changing the character of the coastline as “mega-mansions” or “trophy homes.” As estates change hands, it becomes more difficult to retain the working landscape, but the Gaviota Coast Conservancy, together with other conservancies and the state, are working to preserve the open space and views along Highway 101. They are achieving this by using conservation easements and transfers of development rights to limit new development, especially on the coastal side of Highway 101.

[130] At the time of the draft EIR (dated October 2006), the Naples town site had four principal sets of owners: Santa Barbara Ranch related interests (219 lots and 485 acres), Dos Pueblos ranch related interest (16 lots and 244 acres), Makar Properties, LLC (25 lots and 57 acres), and Morehart related interests (13 lots and 16 acres).


2.5.4 City of Santa Maria

The City of Santa Maria adopted the text of its Land Use Element in August 1991 and maps at the end of 1993. In the past decade it has steadily annexed agricultural land and approved zoning that allows urban and industrial development. The stated Land Use Goal for the City is to “maintain and improve the existing character of the community as the industrial and commercial retail center for northern Santa Barbara County and southern San Luis Obispo County.”

With substantial arable land, the North County has been more welcoming of development than the South County. The City of Santa Maria has thus been a focal point for conversion of agricultural land to urban uses. In 2003 Santa Barbara County’s LAFCO amended conditions of approval of Santa Maria’s sphere of influence and approved reorganization in 2004. With completion of the Black Road Reorganization, the City added 884 acres to its land use inventory of which slightly over half (252 acres) was pre-zoned AOS II (secondary agricultural open space) in 2003. The City Council had approved pre-zoning for the Mahoney Ranch (447 acres) in 1994, but LAFCO approval for annexation did not occur for another decade (March 4, 2004). Of Mahoney Ranch’s 447 acres, 119 acres (slightly over 25%) is zoned AOS II.

The City had four applications for annexation under consideration in 2005. Two of these, the Bradley Ranch and The Wastewater Treatment Plan Spreading Ponds, required amendment to the city sphere of influence to follow LAFCO MSR review in 2006.

2.5.5 Cities and County of Ventura

In 2003, California was “gaining 660,000 people a year. In the last decade, Ventura County has been growing at about 1.23-1.26 percent per year.”

Carl Morehouse 5/7/03
An editorial in the Ventura County Star based on the county’s annual crop report noted in August 2007 that harvested acreage in the County dropped by 14,000 acres from 1998-2006. Farmers are keeping agricultural revenues high by raising higher value crops on less land and increasing greenhouse growing space (by 14% from 2005-2006). Similar to the situation discussed in section on Carpinteria Valley.

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**FARMING’S CHANGING FACE**

By John Krist

Ventura County Star, August 9, 2007

What [Ventura County’s annual crop] reports reveal in recent years is a nearly stagnant industry operating on a shrinking land base, its overall economic productivity maintained only by shifts to higher-value crops.

Adjusted for inflation, the overall crop value has hovered right around $1 billion a year over the past 30 years. There have been occasional upward and downward blips from year to year, and last year’s figure was indeed the highest ever. But at $1.29 billion, it was only marginally higher than the 2004 total of $1.27 billion (in 2000 dollars), and both represent departures from the long-term average.

That steady value, however, has been produced on a shrinking land base. Harvested acreage exceeded 110,000 acres in 1998; by last year, that had dropped to 96,000 acres. Predictably, the value per acre has risen dramatically. Adjusted for inflation, it climbed from $8,872 in 1998 to $13,352 last year, an increase of more than 50 percent. (The figures refer to gross revenue, not profits.)


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A 1991 study of the impacts of farmland conversion in California focused on Ventura as one of two case studies. The study reported conversion of 14,580 acres of cropland to urban uses between 1969 and 1988, and conversion of 13,120 acres of wildlands to croplands in the same period. In conversions to urban uses, the County lost 5,990 acres of truck crops, 5,150 acres of citrus crops, 1,970 acres of irrigated field crops, 430 acres of deciduous tree crops, and 220 acres of irrigated pasture. Through conversion of previous wildlands, however, the County gained almost 12,000 acres of avocados (9,800 acres) and lemons (1,950 acres) in addition to 760 acres of truck and irrigated field crops and 610 acres of other agriculture. In the two decades covered in the study, the report emphasized the negative impacts on farming operations from urban encroachment, increased production costs from rising land values, and the “spiraling effect” of farmland loss due to urban development. Among the impacts of conversion, the Department of Conservation found housing conditions for farm workers and low-income people worsening. In terms of environmental


[136] Id., Table 2.
impacts, the report noted the negative impacts of both types of conversion on loss of wildlife habitat and increased groundwater scarcity and contamination, among other effects. But the report also pointed to likely improvement in water quality as farmers deal with nearby urban neighbors who demand that farmers make reductions in pesticide use and municipalities replace septic systems with wastewater treatment facilities.\(^{137}\)

**VENTURA IN THE 1980s**

Ventura County’s first attempt to develop a land use element for its Coastal Zone failed to receive approval of the Coastal Commission. The South Coast Regional Commission rejected the December 1980 draft plan in part because the provisions for non-prime agricultural land allowed minimum parcel sizes of 40 acres instead of 200 acres as called for by the Coastal Act. In August 1981, the statewide Commission certified the County’s LUP (except for the Channel Islands Harbour geographic segment) with several conditions including those related to agriculture, and the County Board of Supervisors adopted continuing resolutions approving the Commission’s conditions of certification language or language the County deemed to be substantially equivalent in Nov. and Dec. 1981.

Despite the strong language of §30241 of the Coastal Act, which called for maintaining “the maximum amount of prime agricultural land,” the Coastal Commission allowed conversion of 220 acres of prime agricultural land under the condition that the prime soil be relocated to other coastal non-prime agricultural land through an Agricultural Soil Transfer Program. This enabled construction of residential and commercial (visitor-serving and recreational) water-oriented development on prime agriculture lands in a part of Oxnard Shores known as the Mandalay Beach Assoc. Property. The Coastal Commission eventually approved an LCP for the City of Oxnard that required removal of top soil from the site and its relocation on non-prime agricultural land elsewhere within the coastal zone: the recipient site would then be restricted exclusively to agricultural use for 25 years (through a deed restriction or agricultural easement).\(^{138}\) Part of the recipient land, the Coastal Berry Ranch, lay in the 100-year flood plain, so its soil had to be relocated first in order not to increase the elevation. Under the Ventura Coastal Land Use Plan for Mandalay Bay (approved by the Coastal Commission in January 1985), 220 acres were rezoned from agricultural to marine-oriented development.\(^{139}\) Although most of the agricultural land of the City of Oxnard lay outside the coastal zone, roughly 350 acres within the coastal zone were farmed in 1981.

The 1980s in general were boom years for urban development. Thus it is not surprising that FMMP data (our aerial photo data begins in 1945 and reflects urban land change while FMMP begins in 1984 and details both urban and non-urban land use change) shows the highest rates of land conversion in Ventura County in the period between 1984 and 1990 (0.92% of available agricultural land converted in 1984-86, 0.77% in 1986-88, and 0.86% in 1988-90). Note that the maps also show a large parcel east of the metropolitan area coming out of Williamson Act preserve status in 1990. Rates of agricultural land conversion are lower in the 1990s and then show an increase again in 2000-2002 (0.61%). If this upswing in conversion continues, the current decade would emerge as the highest ever in agricultural land conversion, but the recent downturn in housing is likely to moderate that trend. Additionally, the County’s General Plan as Amended in 1982,

\[\text{[137]}\] Id.


directs land conversion away from unincorporated parts of the County and into areas within City Spheres, thus limiting conversion beyond city CURB and Sphere lines, as will be explained in the next section.\footnote{140}


After a hard fight in which the opponents outsprinted proponents 10-1, the Ventura City voters passed the Save Our Agricultural Resources (SOAR) ballot measure in 1995.\footnote{141} The County and seven other cities within it adopted similar SOAR measures (now renamed to “Save Open Space and Agricultural Resources”) between 1998 and 2002.\footnote{142} Ventura County’s 1998 SOAR ordinance requires a vote of the electorate and/or special findings for changes in the status of agricultural land: the ordinance is effective through 2020.\footnote{143} The other city SOARs (beside Ventura) create so-called CURB boundaries beyond which development cannot occur without a vote, but Oxnard and Camarillo have been developing a considerable amount of farmland inside their CURBs.\footnote{144} Smart Growth advocates credit these SOAR measures with adding another layer of protection to several previous county-wide actions to assist in the retention of the semi-rural character of the area and to help promote higher density mixed use redevelopment within urban boundaries.\footnote{145} Bill Fulton explains, “what SOAR did was use the vote requirement to cement the land use designations and growth policies that had been in place since the 1970s.”\footnote{146}

**AHMANSON RANCH PROTECTED THROUGH PURCHASE**

Another hard fought and long-lasting battle raged for 17 years over plans to develop 3,050 homes and 2 golf courses on the Ahmanson Ranch in the southeastern part of the County adjacent to Los Angeles. The controversy ended with the State purchasing the land in 2003.\footnote{147}

The GIS database created for this project showed no difference between the rates of agricultural land conversion inside and outside the coastal zone in Santa Barbara, but a significantly lower rate of conversion of land inside (as compared to outside of) the coastal zone of Ventura. (See in-
The Coastal Act restrictions and their implementation appear to have reduced agricultural land loss over what might have been expected without Coastal Act rules, especially as we would expect pressure for urbanization to be higher along the coast.

One potential explanation for the difference between Santa Barbara and Ventura Counties in terms of agricultural land protection within and outside the coastal zone is that Ventura’s protections for agricultural land outside the coastal zone may be weaker than those of Santa Barbara County. This might explain the difference between agricultural land protection inside the coastal zone and outside. Therefore, once State oversight was provided via the Coastal Commission, less development occurred in Ventura County’s coast in comparison with the non-coastal area. Article 4 of Ventura County’s land use ordinance contains the purposes of each zone. Ventura County’s Land Use Plan includes zones for Open Space (O-S) [Sec. 8104-1.1], Agricultural Exclusive (A-E) use, and three types of rural residential zones (rural agriculture, rural exclusive, and single-family estates).148

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148 Ventura County Land Use Ordinance, Article 4; Purposes of Zones, Sections 8104-0 through 8104-2, www.ventura.org/ma/planning/pdf.