

## UNIFORM RULE 2

### Compatible Uses and Development on Contracted Land

#### I. GENERAL REQUIREMENTS FOR COMPATIBLE USES

The intent of the Williamson Act is the preservation of a maximum amount of the State's limited supply of agricultural land (*Government Code Section 51220 (a)*). In order to preserve agricultural lands for future generations, uses of the land for other than agricultural uses must be compatible with the agricultural use and in a scale that maintains agriculture as the primary use of the land.

The County shall not approve applications for non-agricultural uses on contracted land, including use permits, development permits, Site Development Review, or subdivisions, unless there is an existing agricultural use that meets one of the commercial agricultural thresholds established in Rule 1 of this document.

#### A. Principles of Compatibility

Uses approved on contracted lands shall be consistent with all of the following principles of compatibility:

1. The use will not significantly compromise the long-term productive agricultural capability of the contracted property or on other contracted lands in agricultural preserves (*Government Code Section 51238.1*).
2. The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the contracted property or on other contracted lands in agricultural preserves. Uses that significantly displace agricultural operations on the contracted property may be deemed compatible if they relate directly to the production of commercial agricultural products on the contracted property or neighboring lands, including activities such as harvesting, processing, or shipping (*Government Code Section 51238.1*).
3. The use will not result in the significant removal of adjacent contracted land from agricultural use or open-space use (*Government Code Section 51238.1*).
4. The use will not result in the significant increase in the density of the temporary or permanent human population that could hinder or impair agricultural operations on the contracted property (*Government Code Section 51220.5*).

## **B. Building Intensity and Location of Compatible Uses**

### **1. Building Intensity**

In accordance with the East County Area Plan and Measure D, the maximum building intensity for non-residential buildings in the A-District shall be .01 FAR but not less than 20,000 square feet of total floor area. (The FAR, or Floor Area Ratio, is the total covered area on all floors of all buildings in terms of the total area of the parcel in question.) Residential and residential accessory buildings in the A-District shall have a maximum floor space of 12,000 square feet. Where permitted, greenhouses shall have a maximum intensity of .025 FAR.

### **2. General Building Location**

- a. Each legal/buildable parcel, whether under its own contract or as one of two or more legal/buildable parcels under the same contract, shall have a building envelope, generally rectangular in shape. In accordance with the East County Area Plan and Measure D, all buildings shall be located on a contiguous rectangular building envelope not to exceed 2 acres except that they may be located outside the envelope if necessary for security reasons or, if structures for agricultural use, necessary for agricultural use.
- b. In the Cultivated Agriculture District and the Planned Development District in the Vineyard Area of the South Livermore Valley Area Plan, the building envelope criteria outlined in *Section 17.30.170 C. of the Zoning Ordinance* and the South Livermore policies in the East County Area Plan shall be more specifically applied.

### **3. Location by Types of Use**

- a. All residential uses shall be located on a contiguous 2-acre building envelope with the exceptions noted in Section I.B.2.a. of this Rule.
- b. Accessory facilities directly related to an agricultural use (such as barns for the storage of hay or equipment and water detention facilities) may be located as needed for the agricultural operation. See Section I.C. and Section II.B. for location restrictions related to preparation and processing facilities and related marketing activities, and retail sales for items produced or raised on the premises.
- c. Compatible non-agricultural uses that qualify as buildings (for example, stables for horses not related to the agricultural operation or a packing house for fruit or vegetables not produced on the contracted land) shall be located within the 2-acre building envelope.

Compatible non-agricultural uses that do not qualify as buildings (for example, solar panels and uncovered horse training arenas) may be located outside the 2-acre building envelope but shall be cumulatively restricted to no more than 10% of the

- contracted property, or 10 acres, whichever is less. These uses shall be clustered in an area set aside for this purpose so that the remaining land may be devoted to agriculture, to uses accessory to agriculture, and to open space. Where clustering is not feasible due to land features, siting of non-agricultural compatible uses shall avoid locations where they can potentially interfere with agricultural operations.
- d. Passive recreation uses on non-prime land may occur anywhere on the contracted property except where and when that activity would interfere with the primary agricultural use.
  - e. For contracted land smaller than 20 acres, all compatible uses other than those accessory to the primary agricultural use shall be located in the 2-acre building envelope.

### **C. Siting Requirements**

All compatible use development located outside of the 2-acre building envelope, including accessory facilities, shall be sited to: 1) allow for the maintenance of commercial agriculture in large, contiguous areas, 2) minimize the use of land potentially suitable for agriculture, especially prime soils, 3) avoid conflicts with agricultural production to the maximum extent feasible, and 4) provide for the clustering of all parking and storage areas, landscaping, loading areas, all attached and detached supportive structures and any other related improvements to the maximum extent feasible.

### **D. Compliance with Existing Regulations**

All proposed use or development must comply with all federal, state and local laws, regulations, ordinances and guidelines, including the County general plan, the Zoning Ordinance for the A-District or the CA-District, as applicable, and these Uniform Rules and Regulations, which may be more restrictive.

### **E. Contracts Existing Prior to the Adoption of the New Rules in Revised Uniform Rule 2, effective October 11, 2011**

1. Uses allowed by contract prior to the adoption of these New Rules may be considered consistent with the Williamson Act if the use is listed in Exhibit B of the contract (or, if before June 7, 1997, in referenced documents) and if the use was deemed consistent at the time the contract was initially signed. *See Government Code Section 51238.3.* Uses listed in Exhibit B that shall be deemed inconsistent with the Williamson Act are: sanitary landfills, cemeteries, and outdoor recreation facilities that are oriented to active recreation such as golf courses, irrigated playing fields, and motorized activities.
2. For compatible uses, legally existing uses and buildings made non-conforming by these New Rules may continue in their present form provided that no such use or building shall be structurally altered nor be extended to occupy a greater area than occupied by such use on the effective date of the New Rules. Ordinary maintenance and minor repair are

allowed. If a non-conforming use ceases for a period of 6 months, the use shall be deemed abandoned and the subsequent uses of the land shall be in conformance with the New Rules. The provisions of this section do not apply to residential dwelling units, agricultural uses, or agricultural buildings such as barns and sheds.

A non-conforming structure on contracted land may be maintained and repaired as needed to keep it in sound condition and may be restored or reconstructed if damaged or partially destroyed by fire, flood, explosion, wind, earthquake, or other calamity not created or caused by the landowner to the extent of 75% or less (*Section 17.52.680 of the Zoning Ordinance*).

Nothing contained in the New Rules shall require any change in overall layout, plans, construction, size, or designated use of any development, structure or part thereof, for which official approvals or required construction permits have been granted before enactment of the new Rules.

*An example of an existing non-conforming use/structure would be the location of a non-agricultural building (e.g. a boarding stable) located outside the 2-acre building envelope. As an existing non-conforming use, it would not be required to change location but the stable or boarding operation could not be enlarged beyond that already permitted.*

3. Owners of existing contracts seeking permits for a new use allowed under the contract shall be subject to the Compatible Use Determination process described under Section III of this Rule. However, unless there is an existing agricultural use that meets one of the commercial agricultural thresholds established in Rule 1 of this document, the County shall not approve applications for non-agricultural uses on the contracted land.
4. Owners of existing contracts seeking renewal of a conditional use permit granted prior to the adoption of the New Rules shall be subject to the Compatible Use Determination process described under Section III of this Rule.

## **II. COMPATIBLE USE STANDARDS FOR AGRICULTURAL CONTRACTS**

The purpose of this section is to establish specific standards for compatible uses within contracted lands, which are in addition to any conditions that may be imposed through other requirements of these Uniform Rules and Regulations. Table 1 identifies uses in the A-District and Table 2 identifies uses in the CA-District determined by the Alameda County Board of Supervisors to be compatible with primary agricultural uses on contracted lands. Standards that are specific to the Cultivated Agriculture Combining District (CA) and the applicable Planned Development Districts (PD) in the Vineyard Area of the South Livermore Valley Area Plan are explicitly noted. For purposes of this Rule, the same restrictions that apply to the CA District shall apply to the PD Districts.

## A. Residential Uses Incidental to Agricultural Use

Providing housing opportunities on contracted lands in order to accommodate land owners and their agricultural employees is consistent with the primary purpose of the Williamson Act to maintain agricultural land in commercial agricultural use. These rules allow for limited residential opportunities on contracted land, provided that the use does not conflict with the agricultural operations. The residential uses permitted on contracted land are more restrictive than those authorized by the underlying zoning districts.

### 1. General Requirements for all Residential Uses

- a. Residential dwelling units are considered an allowable compatible use only when occupied by the owner, the owner's immediate family, agricultural employee(s), seasonal farm laborers, or caretakers.
- b. Residential dwelling units may be rented only to those involved in the primary agricultural use on the property. Vacation rentals are not permitted, excepting limited Bed and Breakfast (B&B) operations in the South Livermore Valley Plan Area, subject to the requirements in Section II.B.5 of this Rule. If the zoning ordinance is amended to allow B&B operations in the A-District, such commercial activity would be conditionally allowed on lands designated as Large Parcel Agriculture provided that the B&B is located in an existing residence occupied by the owner or the owner's family. The number of permitted guest bedrooms, up to the maximum established by the zoning ordinance, shall be determined as part of the conditional use process and shall take into account the need for the B&B operation to be in an appropriate scale with the primary agricultural use of the land.
- c. Any new agricultural employee housing, including the owner occupied dwelling, shall meet the siting requirements of Section I. C. of this Rule.

### 2. Residential Uses - A-District

- a. Primary Single Family Dwelling Unit. One single-family dwelling unit (*as defined in Section 17.06.030 A. of the Zoning Ordinance*) is allowed on the whole of the contracted land. At least one occupant of the dwelling unit must be the owner, the owner's immediate family, agricultural employee(s), or caretaker(s).
- b. Additional Single Family Dwelling Unit. One additional single-family dwelling unit is allowed for each additional legal/buildable parcel of the contracted land. At least one occupant of the dwelling unit must be the owner of the contracted land, a member of the owner's immediate family, agricultural employee(s), or caretaker(s).

Each additional single family dwelling unit is to be located on its own legal/buildable parcel with the exception that one of the allowed additional units may instead be located within the building envelope of the primary single-family dwelling unit. In this case, the parcel on which the primary single-family dwelling unit is located shall

be 25 acres in size or larger; and the dwelling unit shall comply with the provisions of *Section 17.06.030 H. of the Zoning Ordinance* relating to secondary dwelling units.

- c. Agricultural Employee Housing. Additional dwellings for persons employed in the agricultural use of the property and their families, for caretakers necessary to the farming operation, and/or living quarters for seasonal farm laborers are allowed subject to the conditions described under *17.04.010, and 17.06.090 of the Zoning Ordinance*.

### **3. Residential Uses – CA District (South Livermore Valley Area Plan)**

In addition to the requirements in Section II.A.1. & 2. above, residential uses in the CA District shall comply with residential regulations as defined in *Section 17.30.170 of the Zoning Ordinance*.

## **B. Supportive Agricultural Uses**

Supportive agricultural uses include the preparation for shipment and sale of agricultural commodities, the limited processing of agricultural commodities, the limited retail sale of unprocessed or processed agricultural commodities, and agricultural tourism facilities where allowed.

All such uses are subject to zoning requirements, including a conditional use permit, when applicable, and the conditions and standards that are found necessary to maintain compatible agricultural land uses. All supportive agricultural uses must meet the Principles of Compatibility listed under I.A. of this Rule.

### **1. Preparation Facilities**

The preparation for market of agricultural commodities in their raw state includes but is not limited to: sorting, grading, cleaning, packing, cooling and shipping. It does not include a cannery, or a plant for food processing or freezing.

A preparation facility that is accessory to the primary agricultural use shall be required to meet the following provisions:

- a. The preparation facility shall be located on a development envelope that does not exceed 10% of the contracted land or 10 acres, whichever is less. The development envelope shall be confined to a single legal/buildable parcel (excepting the access road) within the contracted land and shall meet the siting requirements of Section I. C. of this Rule. Wastewater, stormwater, and septic facilities may be remotely sited from the development envelope if the siting requirements listed under Section I.C. of this Rule can be met.
- b. The acreage allowances identified above are maximums and will only be permitted upon a demonstrated need. The Planning Director may allow a preparation facility to

exceed the acreage allowances if it finds that a substantial benefit to the agricultural community and the public can be demonstrated.

A preparation facility that is not accessory to the primary use shall be considered a non-agricultural use and shall be located on the designated 2-acre building envelope.

## **2. Processing of Wine Grapes, Olives, and Similar High Value Commodities**

- a. A processing facility for wine grapes, olives, and similar high value commodities that is accessory to the primary agricultural use shall be required to meet the following provisions:
  - (1) The processing facility and the needed support facilities, including the accessory uses related to a winery or olive oil mill as defined in *Zoning ordinance 17.04.010* (e.g. administrative offices, maintenance facilities, tasting room and retail sales), shall be located together on a processing development envelope not to exceed 10% of the contracted land or 10 acres, whichever is less. This development envelope shall be confined to a single legal/buildable parcel (excepting the access road) within the contracted land and shall meet the siting requirements of Section I.C. of this Rule. Wastewater, stormwater, and septic facilities may be remotely sited from the development envelope if the siting requirements listed under Section I.C. of this Rule can be met.
  - (2) The acreage allowances identified above are maximums and will only be permitted upon a demonstrated need. The Board of Supervisors may allow this development envelope to exceed the acreage allowance defined above if it finds that a substantial benefit to the agricultural community and the public can be demonstrated.
- b. A processing facility for wine grapes, olives, and similar high value commodities that is not accessory to the primary agricultural use shall be considered a non-agricultural use. A non-accessory processing facility shall require a conditional use permit, and, if approved, shall be located on the designated 2-acre building envelope.

## **3. Uses Related to a Winery or Olive Oil Mill or Similar Processing Facilities**

All uses related to a winery or olive oil mill or similar processing facilities, including parking, must be located within the development envelope described in Section II.B.2.a., above. If the processing facility is not an accessory to the primary use of the contracted land, the related uses shall be located in the 2-acre building envelope along with the processing facility. Winery (or olive oil mill) related uses are defined in *Section 17.04.010 of the Zoning Ordinance*.

#### **4. Retail Sales**

The sale at retail of items produced or raised on the premises shall be located as follows:

- a. The retail sale of items related to a processing facility shall be located within the facility's development envelope.
- b. A stand for the retail sale of items produced or raised on the premises, but not processed by a facility such as described in Section II.B.2., above, shall be located within the 2-acre building envelope and have a ground coverage not in excess of 400 square feet. The stand may be located adjacent to a county road if the stand is not a permanent structure and if sufficient off-road parking is available.

#### **5. Agricultural Tourism Facilities in the South Livermore Valley Plan Area**

- a. Bed and Breakfast establishments may be considered as a compatible use if located within an existing structure that is occupied by the owner of the contracted land. The number of bedrooms is restricted to a maximum of 14. The actual permitted number of bedrooms shall be appropriately scaled to the size of the agricultural operation and other compatibility considerations.

Converting an existing structure to a guest house is usually compatible; developing a new structure for this purpose is not compatible; building a new home and converting the old structure to a guest house could trigger material breach provisions.

- b. A restaurant may be considered as a compatible use if associated with an accessory processing facility as described in Section II.B.2 above and located within the facility's development envelope. The restaurant shall have seated service only and is restricted to a maximum of 49 indoor seats. The actual permitted number of seats shall be appropriately scaled to the size of the agricultural operation and other compatibility considerations.
- c. Bicycle rental and other small scale recreational uses may be considered as compatible uses provided they are consistent with the intent of the SLVAP and provided they meet the Principles of Compatibility listed under Section I.A. of this Rule.

#### **6. Flight Strip and Helipad**

- a. A private airstrip for a small plane or helipad for a small helicopter shall be allowed in the A-District as an accessory compatible use providing that:
  - (1) The use of the small plane or helicopter is directly supportive of the primary agricultural use on the contracted land (e.g. crop seeding, dusting and fertilizing, or of significant value in the management of the agricultural operation).

- (2) The private airstrip or helipad and ancillary structures (e.g. a hanger) avoid soils classified by the Natural Resource Conservation Service (NRCS) as Class I or Class II.
  - (3) The private airstrip or helipad and any ancillary structures are calculated as part of the non-agricultural use area restricted under Section I.B.3.c. of this Rule.
- b. A private airstrip for a small plane or helipad for a small helicopter devoted to uses unrelated to the agricultural operation shall be allowed in the A-District as a compatible use providing that:
- (1) The private airstrip or helipad and all ancillary structures are located within the 2-acre building envelope.
  - (2) If unpaved, the private airstrip or helipad (but not ancillary structures) may be located outside of the 2-acre building envelope. In this case, the requirements (2) and (3) under Section II.B.6.a., above apply.

## **C. Recreation**

### **1. Recreational Use of Horses**

Uses and facilities associated with horse boarding and training, riding academies, public and private riding stables, and the non-commercial breeding and training of horses that are not part of a ranch or farm operation but are owned by the landowner or immediate family of the contracted land, shall be allowed on contracted land as non-agricultural compatible uses providing the following provisions are met:

- a. The contracted land must be 40 acres in size or larger for horse operations that are commercial in nature and cater to the public (e.g. boarding and training facilities, riding academies, and public riding stables).
- b. The operation does not generate traffic volumes that interfere with agricultural activity on the contracted property or on adjacent agricultural operations.
- c. Client parking is limited to the 2-acre building envelope.
- d. The use is incidental to the primary use of the land for commercial agriculture and meets the Principles of Compatibility listed in Section I. A. of this Rule. To this end, the grazing of horses for recreational use shall not interfere with the primary agricultural operation.
- e. A Site Development Review approval has been granted by the County for boarding stables and riding academies pursuant to the zoning ordinance.
- f. Facilities are located as follows:

- (1) All buildings, including stables, are to be located inside the 2-acre building envelope.
  - (2) Uncovered horse training arenas, corrals, soft landscaping and other such similar facilities that do not meet the definition of a building may be located outside the 2-acre building envelope but the total area of such facilities shall be included in the calculation to restrict such non-agricultural uses to 10% of the contracted property, or 10 acres, whichever is less. Refer to Section I.B. 3.c. of this Rule.
- g. Equestrian events are to be considered as Special Events and limited as outlined in Section II. G. of this Rule. County review of the special event application shall take into account the Principles of Compatibility listed in Section I. A. of this Rule.

## **2. Passive Recreation**

Passive recreational uses, such as walking, hiking, picnicking, amateur astronomy, wilderness camping, scenic viewing, swimming, boating, fishing, hunting, and horseback riding, are deemed compatible uses on contracted land. Examples of non-compatible outdoor recreation facilities and uses are: motorized activities, golf courses and irrigated playing fields. Uses that are compatible shall meet all of the following requirements:

- a. The use is limited to land in its agricultural or natural state.
- b. All permanent structures necessary to support such uses, such as hunting clubs, must be located within the 2-acre building envelope. Other facilities that require no buildings or paved surfaces, such as picnic tables and unpaved campgrounds and telescope pads, shall be sited in a manner that minimize impacts to agriculture and shall be calculated as part of the cumulative total acreage allowed for compatible non-agricultural uses (see Section I.B.3.c. of this Rule).
- c. Any facilities or structures necessary to support such uses must meet all zoning requirements, including a conditional use permit, when applicable, and its conditions and standards that are found necessary to maintain compatible agricultural land uses.

## **D. Composting Facilities and Land Reclamation Fill**

### **1. Commercial Composting Facilities**

A commercial composting facility shall be deemed a compatible use in the A-District providing that:

- a. The facility is consistent with the compatibility criteria set forth in Section I of this Rule. Specifically, non-building types of uses sited outside the building envelope may not significantly compromise the long-term productive agricultural capability of

- the contracted property or other contracted lands in agricultural preserves (see Section I.B.3.c. of this Rule).
- b. The facility is not sited on soils that qualify as Class I or Class II under the Natural Resource Conservation Service (NRCS) classification system.
  - c. Construction of use areas outside the building envelope does not require grading or other ground disturbance that results in a significant loss of top soil;
  - d. The use areas are appropriately scaled and sited in manner that does not interfere with agricultural operations on the contracted land or with adjacent agricultural operations; and,
  - e. All ancillary structures that qualify as buildings are located in the 2-acre building envelope and the remaining use area is calculated as part of the cumulative total of acreage allowed for compatible non-agricultural uses (see Section I.B.3.c. of this Rule).

## **2. Land Reclamation Fill**

Land reclamation fill activities used as fill to contour existing uneven terrain for the purpose of reclaiming land for agricultural use may be deemed an accessory compatible use providing that:

- a. The land reclamation fill consists of clean fill and/or soil.
- b. The fill activity is consistent with the compatibility criteria set forth in Section I.A. of this Rule;
- c. The fill activity provides a long-term benefit to the agricultural operation on the contracted land; and,
- d. A grading permit pursuant to the County's grading ordinance has been acquired if necessary.

## **E. Gas, Electric, Water, and Communication Facilities**

### **1. Gas, Electric, Water, and Communication Utility Facilities**

The erection, construction, alteration or maintenance of gas, electric, water or communication utility facilities are compatible uses unless the Board of Supervisors, after notice and hearing, makes a finding to the contrary (see Government Code Section 51238). Communication facilities shall include, among others, radio, television, telecommunications, Cable TV and facilities necessary for the aid of navigation by land, air or sea.

## **2. Agricultural Accessory Structures**

Agricultural accessory structures, including but not limited to windmills or solar panels for pumping water, wind turbines used for frost protection, and water generation for on-site agricultural uses, are deemed compatible uses.

## **3. Energy Production Structures – Commercial or Private Solar Panels**

Commercial or private solar panels are deemed compatible uses providing:

- a. They are installed on roofs of permitted structures, or, they are installed on the ground by means of removable mountings such that there is no permanent alteration to the ground, e.g. by significant grading, paving, or removal of top soil.
- b. If installed on the ground, the area covered by the solar panels is calculated as part of the cumulative total of acreage allowed for compatible non-agricultural uses (see Section I.B.3.c. of this Rule).

## **4. Energy Production Structures – Commercial Wind Turbines**

Commercial wind turbines are deemed a compatible use on non-prime land in the Altamont Wind Resource Area. The area covered by the wind turbines shall not be calculated as part of the compatible non-agricultural use area restricted under Section I.B.3.c. of this Rule.

## **F. Oil and Gas Drilling and Production Facilities**

Pipelines and incidental oil and gas drilling and production facilities, as defined below, are deemed compatible uses on non-prime land. For purposes of this section, oil and gas drilling and production facilities are defined as all facilities necessary to: a) drill for and produce oil, gas and other hydrocarbons from a well bore; b) separate oil, water and gas from each other; c) prepare such products for shipping and storage; d) recycle, re-pressurize or inject such products or other substances for underground disposal or underground storage, and e) provide temporary storage facilities for such products.

## **G. Special Events**

Temporary uses (special events), as may be permitted by the County under *Section 17.52.490 of the Zoning Ordinance*, shall be considered compatible on contracted land provided that:

1. The event is consistent with the Principles of Compatibility set forth in Section I.A. of this Rule.
2. The event is directly related to the promotion or sale of commodities produced on the contracted land, or to an existing compatible use.

3. There is no stand-alone permanent structure dedicated to such events.
4. The event lasts no more than 2 consecutive days and does not provide overnight accommodations.

### **III. COMPATIBLE USE DETERMINATION**

See Appendix 3 for the application form used in the Compatible Use Determination process and a checklist of required materials

#### **A. Application for Compatible Use**

1. Concurrent with an application for a development permit, use permit, Site Development Review, or renewal of a conditional use permit, the owner of contracted land must apply for and obtain a Compatible Use Determination from the County.

“Development” includes erecting or placing buildings or other impervious structures or objects on the land, or grading or otherwise altering the land for non-agricultural purposes. Development does not include use of the land in its natural state for activities such as hunting, fishing, hiking, or outdoor games or sports, or landscaping (softscape) that is in keeping with the natural setting and that is composed of natural features and vegetation generally found in the area of land in question, provided that these activities meet the compatibility criteria set forth in this Uniform Rule.

2. The Compatible Use Determination involves a two part determination: 1) whether there is an existing commercial agricultural use that meets the thresholds established in Uniform Rule 1; and, 2) whether the proposed use or development meets other required findings as described under Sections III.B.3, B.4, or B.5 below.

#### **B. Compatible Use Determination Process**

1. The landowner shall file concurrently with the Planning Department: 1) a preliminary development or use permit application, 2) the Compatible Use Determination application form and required application materials, and 3) an application fee in an amount established by resolution of the Board of Supervisors.

The landowner should confer with the Planning Department for a preliminary assessment of his/her application before filing the permit application and other required material.

2. As part of the Compatible Use Determination process, the Planning Department shall determine whether there is an existing commercial agricultural use. In addition to reviewing a Commercial Agriculture Determination form to be completed by the applicant, the Planning Department may also conduct a site visit of the contracted land to ensure that the commercial agriculture requirement is being met.

3. The Planning Director, in consultation with the Agriculture Commissioner's Office as necessary, shall determine whether the proposed use or development is compatible with the contract for the property, the Williamson Act, these New Rules, and any adopted guidelines by making all of the following findings:
  - a. There is an existing commercial agricultural use on the parcel that meets one of the thresholds established in Uniform Rule 1.
  - b. The proposed use is included on Table 1: Compatible Uses –A-District or on Table 2: Compatible Uses – CA-District depending on which zoning district the contracted parcel(s) is located.
  - c. The proposed use is consistent with the Principles of Compatibility listed under Section I.A. of this Rule. If the compatible use was allowed by contract before June 7, 1994, the Principles of Compatibility do not apply; although the use must be compatible within the limits of the definition of the Williamson Act at that time (*see Government Code Section 51238.3*).
  - d. The proposed use is in an appropriate scale with the primary agricultural use so as to be considered incidental to the primary use.
  - e. The planned use is conditioned on any applicable standards found under Section II. of this Rule or as found necessary by planning staff.
4. An exception to the findings required under Section III.B.3 above shall be made for uses on non-prime land that cannot meet the first two principles of compatibility listed under Section I. A. Such uses may be approved on the basis of a conditional use permit provided that all of the following findings are made (*see Government Code Section 51238.1 (c)*):
  - a. There is an existing commercial agricultural use on the parcel that meets one of the thresholds established in Uniform Rule 1;
  - b. Conditions imposed on the permit will avoid or mitigate impacts to agriculture that could occur on contracted land or on adjacent lands (these conditions shall include any standards in the New Rules if applicable and if feasible);
  - c. The effects on agricultural productivity and the loss or displacement of agriculture has been considered;
  - d. The use is consistent with the purposes of the Act to preserve agricultural land and open-space land (as defined); and,
  - e. The use is not a residential subdivision. (The division of land into legal parcels that is consistent with the minimum parcel size for the underlying zoning district is not considered to be a residential subdivision.)

5. An exception to the findings required under Section III.B.3 above shall be made for the renewal of conditional use permits granted on land subject to contracts existing prior to the adoption of these New Rules. Such uses may be approved provided that all of the following findings are made:
  - a. There is an existing commercial agricultural use on the parcel that meets one of the thresholds established in Uniform Rule 1;
  - b. Conditions imposed on the renewed permit will avoid or mitigate impacts to agriculture that could occur on contracted land or on adjacent lands. These conditions shall include any standards in the New Rules if applicable and if feasible.
  - c. The effects on agricultural productivity and the loss or displacement of agriculture has been considered.
6. The Compatible Use Determination may be appealed to a review committee comprised of the Planning Director, the Chair of the Planning Commission, and the Agriculture Commissioner, under possible consultation with the Department of Conservation. Any such appeal must be filed with the Planning Department within 10 days of the decision and be accompanied by payment of a fee in an amount established by resolution of the Board of Supervisors.
7. The review committee determination may be appealed to the Board of Supervisors as outlined in *Section 17.54.670 of the Zoning Ordinance*.