

22.22.040 - Agriculture Category

This Section contains three methods for determining minimum parcel size in the Agriculture land use category. Each proposed parcel must be able to qualify for the requested minimum parcel size using all tests within Subsections A. or B. The applicant will disclose as part of the application which Subsection is being used to determine the minimum parcel size for each of the proposed parcels. If the parcel is under agriculture preserve contract, Subsection C. applies.

A. Size based upon existing use. Where a legal lot of record is developed with agricultural uses at the time of application for land division, the minimum size for a new parcel shall be the largest area determined by the following tests:

1. Use test. The minimum size for new parcels with existing agricultural uses shall be based on the type of existing agricultural use, as follows. Where a site contains more than one agricultural use, each new parcel shall satisfy the minimum size for its respective use.

a. Crop production.

Agricultural Land Use	Minimum Parcel Size
<u>Irrigated</u> row crops, specialty crops, nurseries, orchards and vineyards (examples: vegetables, strawberries, cut flowers and flower seed, avocados, kiwi, other fruits and nuts, wine grapes).	20 acres
<u>Irrigated</u> pasture, field crops, grain and hay (examples: sugar beets, alfalfa, irrigated grain and hay.)	30 acres
<u>Dry Farm</u> orchards, vineyards.	40 acres
<u>Dry Farm</u> field crops (examples: beans, specialty field crops.)	80 acres
<u>Dry Farm</u> grain and hay (examples: barley, wheat, oats, hay.	160 acres
<u>Grazing</u>	320 acres

b. Specialized animal facilities. The minimum size for a new parcel occupied by a dairy, feedlot, hog ranch, horse ranch or poultry ranch with related permanent structures consistent with applicable requirements of Section 22.30.100, is 20 acres. In order to qualify for a 20-acre minimum parcel size, at least 18 acres of the proposed parcel must be occupied by a legally established specialized animal facility as identified by this Subsection.

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- c. Agricultural processing.** The minimum size for a new parcel with established agricultural processing facilities and structures shall be 20 acres on sites with soils having a Soil Conservation Service (SCS) classification of I, II or III, and 5 acres on soils with an SCS classification of IV through VII, provided that any parcel approved with less than 20 acres shall be subject to the requirements of this Subsection. The creation of parcels smaller than 20 acres shall not be allowed on properties subject to agricultural preserve contract.
- (1) Application content.** The land division application shall be accompanied by a statement from the applicant explaining why it is necessary to segregate the existing agricultural processing facility from the surrounding ownership, and how such segregation will support the intensification of agricultural use on the remainder of the property.
 - (2) Residential use prohibited.** No residential use shall be established on a parcel approved for an agricultural processing facility with less than 20 acres.
 - (3) Declaration of restrictions required.** Prior to or concurrent with recordation of a final or parcel map, the applicant shall execute and record a declaration of restrictions in a form approved by County Counsel, wherein an agreement is made on behalf of the current owner(s) and all successors in interest to the parcel that, unless a Land Use Element amendment is first approved to change the classification of the site to a land use category other than Agriculture, no request for approval of a residential use on the parcel will be filed, and no residential use will be established on the parcel. The declaration of restrictions shall not be amended or terminated without the prior approval of the Board.
 - (4) Required findings.** No parcel smaller than 20 acres shall be approved in compliance with this Section unless the Board first finds that the proposed parcel being smaller than surrounding agricultural holdings will have no adverse effect on the continuing agricultural use of parcels adjacent to and in the vicinity of the site, and that the applicant has demonstrated the long-term viability of the agricultural processing use.
 - (5) Change of use.** After approval of a parcel smaller than 20 acres in compliance with this Section, Conditional Use Permit approval shall be required to authorize any change of the use that justified the small parcel to another use.
- 2. Averaging test.** Where the average size of parcels in the agriculture category with equivalent uses immediately adjacent to the proposed division is higher than the sizes given in this Subsection, the minimum parcel size shall be the average of abutting parcels (including those that are separated only by a right-of-way).

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B. Size based upon land capability. Where a legal lot of record in the agriculture category is not developed with an agricultural use at the time of application for land division, or where an applicant chooses this Subsection as the basis for determining allowable minimum parcel size, the minimum area for each new parcel is the largest determined by the following tests:

1. Land capability test. The minimum parcel size for new parcels shall be based on the Soil Conservation Service classification, as set forth in the following table. Where a site contains more than one soil type, each new parcel shall be designed so as to contain sufficient area of one soil type to satisfy the minimum parcel size requirement for each respective soil type.

Land Capability Classification (1)	Minimum Parcel Size
Class I	20 acres
Class II	40
Class III	80
Class IV - VI	160
Class VII - VIII	320
Notes:	
(1) Soil Conservation Service Classification	

2. Averaging test. Where the average size of parcels in the Agriculture category with equivalent soils immediately adjacent to the proposed division is higher than the sizes in Subsection B.1), the minimum parcel size shall be the average of abutting parcels (including those which are separated only by a right-of-way).

C. Agricultural preserves. Where a legal lot of record in the Agriculture category is under Williamson Act agricultural preserve contract, the minimum parcel size is based on the terms of the preserve contract. However, approval of a land division under agricultural preserve contract is discretionary and a parcel size larger than the minimum designated in the contract may be required to ensure agricultural sustainability in accordance with the provisions of the adopted agricultural preserve rules of procedure.

1. Existing preserves. The minimum parcel size for lands under agricultural preserve contract before the effective date of this Title shall be no smaller than that defined by the terms of the executed preserve contract, as long as the contract remains in effect. The minimum parcel size shall be no smaller than that applicable to the preserve at the time of contract execution.

2. New preserves. The minimum parcel size for lands under agricultural preserve contract executed after the effective date of this Title shall be no smaller than that determined through the process of contract negotiation, approval and execution, based upon the adopted agricultural preserve rules of procedure.

[Amended 1986, Ord. 2250, 2290; 1992, Ord. 2553] [22.04.024]

22.22.050 - Rural Lands Category

The minimum parcel size for new lots in the Rural Lands category is based upon site features including: remoteness, fire hazard and response time, access and slope. Minimum parcel size is determined by applying the following tests to the site features as described in Subsections A. through D. The allowable minimum size is the *largest area* obtained from any of the tests, except as provided for cluster divisions by Section 22.22.140.

A. Remoteness test. The minimum parcel size shall be based upon the distance of the parcel proposed for division from the nearest urban or village reserve line. Such distance shall be measured on the shortest public road route between the reserve line and the site. Private roads shall be included in such measurements only when they provide the only access to the site from a public road. When a lot proposed for division is within the distances given from more than one reserve line, the smallest parcel size shall be used as the result of this test.

Distance (Road Miles)		Minimum Parcel Size
From Urban Reserve Line	From Village Reserve Line	
26+	16+	320 Acres
21-25	11-15	160 Acres
16-20	6-10	80 Acres
11-15	0-5	40 Acres
0-10	N.A.	20 Acres

B. Fire hazard/response time test. The minimum parcel size shall be based on the degree of fire hazard in the site vicinity, and the response time. Response time is the time necessary for a fire protection agency to receive the call, prepare personnel and fire equipment for response, dispatch appropriate equipment, and deliver the equipment and personnel to each proposed parcel from the nearest non-seasonal fire station. Fire hazard is defined by the Safety Element of the General Plan; response time is determined by the fire protection agency having jurisdiction.

Response Time (1)	Minimum Parcel Size	
	Moderate Hazard (2)	High Hazard (3)
15 Minutes or Less	20 Acres	20 Acres
More than 15 Minutes	20 Acres	160 Acres

Notes:

- (1) Determined by applicable fire protection agency.
- (2) As defined by the Safety Element.
- (3) Includes the high and very high fire hazard areas of the Safety Element.

C. Access test.

1. **General access test rules.** The minimum parcel size is based upon the type of road access to the parcel proposed for division, provided that the proposed parcels will use the road considered in this test for access, either by way of individual or common driveways. Where access to a parcel is over roadways with differing quality of improvement, the minimum size is as required for the road with the least improvement.
2. **Timing of improvements and right-of-way availability.** If the improvements do not exist at the time of the subdivision application, the conditions of approval for the tentative map shall require the construction of access improvements which meet the minimum requirements specified by this Section. Additional right-of-way width may be required to allow for the construction of required improvements. The right-of-way required by the table in Subsection C.4 shall exist as either: (1) an offer to dedicate to the public or (2) as a private easement prior to acceptance of the tentative map application for processing. If the access is a private easement, it may be required to be offered for dedication to the public as a condition of approval of the tentative map.
3. **Conditions of approval for improvements and maintenance.** In the event that a land division application is approved, the extent of on-site and off-site road improvements required as a condition of approval, and acceptance of the new road for maintenance by the county may vary. This will depend on the parcel size proposed and the requirements of county standards and specifications in effect at the time the tentative map is approved. Paved roads will be required when:
 - a. The access road is identified as a collector or arterial by the Circulation or Land Use Element; or
 - b. The road will have the potential to serve 20 or more lots or the road will have the potential to experience a traffic volume of 100 or more average daily trips (ADT), based on the capability for future land divisions and development in the site vicinity as determined by the Land Use Element. In the event it is determined by staff that a road will serve 20 or more lots, or will experience 100 ADT or more, the basis for such a determination shall be explained in the staff report on the subdivision.

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4. **Parcel size criteria.** Minimum parcel size based on the access test shall be determined as shown in the following table (an existing road which is improved to higher standards than those specified in the table will also satisfy the following criteria).

Minimum Parcel Size	Access Standards		
	Right-of-Way	Surfacing	Maintenance
320 Acres	Private easement (3)	Improved access (3)	Private maintenance
160 Acres	Private easement (3)	All weather road (2)	Private maintenance
80 Acres	Minimum 40 foot ROW to county road	All weather road (2)	Private maintenance
40 Acres	Minimum 40 foot ROW to county road	County standard gravel road (1)	Organized maintenance (2)
20 Acres	Minimum 40 foot ROW to county road	County standard gravel road (1)	Organized maintenance (2)

Notes:

- (1) A County Standard Gravel Road is a road that satisfies or has been constructed to meet the specifications for a gravel road set forth in the county's "Standard Specifications and Drawings."
- (2) An All-Weather Road is a road which can provide year-round access without interruption along a public road that has been established for or is utilized by the public. Organized maintenance is by an organized group of property owners through an association which collects fees and contracts for repairs.
- (3) An improved access road is a road which is passable but may be subject to closure during certain times of the year. A private easement is a road that is not open to the public.

- D. **Slope test.** Site slope shall be measured as defined in Article 8 (Definitions - Slope).

Average Slope	Minimum Parcel Size	
	Outside GSA	Inside GSA (1)
over 30%	80 acres	160 acres
0 - 30%	20 acres	80 acres

Notes:

- (1) Geologic Study Area combining designation.

[Amended 1982, Ord. 2091; 1984, Ord. 2198; 1988, Ord. 2367; 1992, Ord. 2553; 1994, Ord. 2696]
[22.04.025]

22.22.140 - Cluster Division

At the option of the land division applicant, the minimum parcel sizes established by this Chapter for the Rural Lands, Recreation, Residential Rural, Residential Suburban and Residential Single-Family categories may be decreased as provided by this Section.

- A. Permit requirement.** Conditional Use Permit approval in compliance with Section 22.62.060 through a public hearing held as set forth in Section 22.70.060, to occur at the same time as approval of a tentative map. Conditional Use Permit approval shall include conditions specifying a phasing schedule for the recordation of a final tract or parcel map, where applicable, the installation of required improvements and a date for termination of the entitlement in the event the use is not established within the specified schedule.
- B. Determining the number of parcels that can be clustered.** The number of buildable lots allowed in a cluster division shall be determined through the use of the parcel size tests in Sections 22.22.050 et seq. applicable to the land use categories in which the site is located; provided that where a minimum parcel size for new land divisions is set by planning area standard, the number of lots to be clustered shall be determined by dividing the total site area by the minimum parcel size specified in the planning area standard. The actual size of the clustered lots shall then be determined by Subsection D.
- C. Density increase bonus.** The number of residential lots created by cluster division in the Residential Single-Family and Suburban categories within urban and village reserve lines may be increased from that resulting from application of the minimum parcel size standards of this Chapter by determining the allowed number of lots on the basis of gross density rather than net density, as follows:
- 1. Residential single-family.** One unit per 6,000 square feet of gross site area.
 - 2. Residential suburban.** One unit per acre of gross site area.

The density bonus provided by this Section may be decreased by the Review Authority on the basis of specific site characteristics through the Conditional Use Permit approval, where it is determined that the site or vicinity cannot support the number of units resulting from the bonus without significant adverse effects.

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D. Lot size and open area requirements. The minimum size of lots created through cluster division shall be as specified in the following table:

Land Use Category	Area of Buildable Lots (1)		
	Minimum (2)	Maximum (4)	Open Space Parcel Minimum Area (3)
Rural Lands	1 Acre	10 Acres	90%
Recreation	6,000 Sq. Ft.	None	90%
Residential Rural	20,000 Sq. Ft.	4 Acres	60%
Residential Suburban	10,000 Sq. Ft.	2.5 Acres	50%
Residential Single-Family	2,000 Sq. Ft.	6,000 Sq. Ft.	40%

Notes:

- (1) Net area.
- (2) A minimum lot size less than 2-1/2 acres may be granted only when community water is provided. A minimum lot size less than one acre may be granted only when the leaching capacity of site soils for septic tank use is from 0 to 5 minutes per inch, or where community sewer is provided.
- (3) The minimum area is expressed as a percentage of the gross site area.
- (4) Larger parcel sizes may be approved by the Review Authority where requested by the applicant and justified based on specific site characteristics, provided that the minimum open space area requirement is met.

E. Design standards.

1. **Open space parcel required.** A cluster division shall include at least one open space parcel. Such parcel may be used for one of the allowable residential units, provided that the building site does not exceed 6,000 square feet and is defined on the recorded map. Otherwise, the open space parcel shall not be developed with structural uses other than agriculture accessory buildings. The open space parcel may be used for any of the following: Crop production or range land; historic, archaeological, or wildlife preserves, water storage or recharge; leach field or spray disposal area; scenic areas; protection from hazardous areas; public outdoor recreation; or other similar open space use.
2. **Guarantee of open space.** The required open space parcel shall be maintained as open space as long as the clustered lots exist, or such other period designated through Conditional Use Permit approval. Such period shall be guaranteed by open space easement, or dedication of fee or partial fee title to a public or quasi-public agency.
3. **Site design.**
 - a. Site disturbance shall be minimized by clustering, road location along contours, and building site selection.

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- b. Access to off-site roads shall be controlled, with parcels having access from interior roads wherever feasible.
 - c. Development shall be designed to be consistent with the character of the immediate surrounding areas as designated in the Land Use Element.
4. **Attached dwelling units.** A cluster division in the Residential Single-Family category may incorporate attached dwelling units with not more than two units per structure where approved by the Review Authority.

[Amended 1984, Ord. 2163; 1992, Ord. 2583] [22.04.036]

22.22.150 - Agricultural Lands Clustering

It is the policy of the Board to encourage the preservation of agricultural lands in the county for the continuing and enhanced production of food and fiber through the use of a variety of policy and regulatory techniques. One technique, provided by this Section, is the clustering of allowable dwelling units on relatively small parcels in agricultural areas instead of the dispersal of the units on larger parcels. It is also the policy of the Board to encourage the use of clustering by allowing the number of clustered parcels to equal the number of dwelling units normally permitted on a standard agricultural land division.

- A. **Affected areas of the county.** Use of the provisions of this Section may occur only within the distances set forth in Subsection B. from the Arroyo Grande, Atascadero, San Luis Obispo, San Miguel, Nipomo, and Paso Robles Urban Reserve Lines and the Creston Village Reserve Line, except that properties located in the Arroyo Grande, Cienega and Oso Flaco valleys as identified by the San Luis Bay and South County area plans of the Land Use Element are excluded from such use.
- B. **Lands eligible for clustering.** The use of clustering in the Agriculture or Rural Lands categories may be considered only for ownerships that are in agricultural use at the time of application, have a minimum area and location as follows, and also satisfy the provisions of Subsection C.:

- | 1. | <u>Minimum Site Area</u> | <u>Maximum Distance from Urban Reserve Line</u> |
|----|--------------------------|---|
| | 160 acres | 1 mile |
| | 320 | 2 miles |
| | 640 | 3 |
| | 1280 | 4 |
| | 2560 | 5 |
2. For sites that overlay the distances set forth above, the larger parcel size requirement shall apply.

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3. For sites that overlay a line five miles from an Urban Reserve Line, the entire ownership will be eligible to use the provisions of this Section, provided that the cluster development occurs on that portion of the site that is within five miles of the urban reserve line.
 4. Sites entirely located beyond five miles from an urban reserve line are not eligible for clustering in compliance with this Section.
- C. Eligibility of lands under Agricultural Preserve contract.** Lands in the Agriculture land use category under Williamson Act contract shall not be used as the location for clustered parcels; provided that where an ownership includes contiguous contracted and non-contracted lands, the number of parcels and dwelling units normally allowable under the terms of the Agricultural Preserve contract and the provisions of this Title may be clustered on the non-contracted lands within the same ownership in the Agriculture or Rural Lands land use categories in compliance with this Section.
- D. Permit requirement.** Conditional Use Permit approval in compliance with Section 22.62.060, shall occur at the same time as approval of a tentative map. Conditional Use Permit approval shall include conditions specifying a phasing schedule for the recordation of a final tract or parcel map, where applicable, the installation of required improvements and a date for termination of the entitlement in the event the use is not established within the specified schedule.
- E. Application content.** In addition to the information required by Section 22.62.060, the Conditional Use Permit application for a cluster project shall also include written explanation by the applicant of how the proposed project will satisfy all the required findings specified in Subsection G.
- F. Environmental review.** After acceptance of an application for cluster development in compliance with Section 22.60.050, an Environmental Impact Report on the project shall be prepared in compliance with the California Environmental Quality Act (CEQA) and the Environmental Review Process Guidelines. No cluster division proposal shall qualify for a negative declaration in compliance with the CEQA guidelines.
- G. Required findings.** Approval of a clustered residential development in the Agriculture land use category shall not occur unless the Review Authority makes all findings required by Section 22.62.060.C.4 and also finds that:
1. The proposed project will result in the continuation, enhancement and long-term preservation of agricultural operations consisting of the production of food and fiber on the subject site and in the surrounding area.
 2. The proposed project has been designed to:
 - a. Locate proposed development to avoid and buffer all prime agricultural soils on the site, other agricultural production areas on the site, as well as agricultural operations on adjoining properties;

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- b. Minimize to the maximum extent feasible the need for construction of new roads by clustering new development close to existing roads;
 - c. Avoid placement of roads or structures on any environmentally sensitive habitat areas;
 - d. Minimize impacts of non-agricultural structures and roads on public views from public roads and public recreation areas;
 - e. Cluster proposed residential structures to the maximum extent feasible so as to not interfere with agricultural production and to also be consistent with the goal of maintaining the rural character of the area;
 - f. Minimize risks to life and property due to geologic, flood and fire hazard and soil erosion.
3. The proposed project will not result in any significant adverse social impacts affecting on-site or off-site agricultural operations, including but not limited to trespass, vandalism, and complaints about agricultural practices.
 4. The water resources and all necessary services are adequate to serve the proposed development, including residential uses as well as existing and proposed agricultural operations on the subject site and in the site vicinity.
 5. The proposed clustered development and the conditions, covenants and restrictions governing the Homeowners Association and/or individual lots are adequate to ensure permanent maintenance of the lands to remain in agricultural production and/or open space.
- H. Access.** Clustered developments in compliance with this Section shall be allowed only on ownerships with access to an existing paved, county or state maintained road.
- I. Allowed number of parcels and residential density:**
1. **Number of parcels.** The number of parcels allowed in an agricultural cluster division shall be equivalent to the number of dwellings normally allowed in the Agriculture land use category in compliance with Sections 22.22.040 (Parcel Size -Agriculture Category) and 22.30.420.A (Residential Uses in the Agriculture Category); except that where Section 22.22.040 would allow 20 acre parcels on the basis of a SCS Class I soils, the number of parcels shall be based on a ratio of one per 40 acres.
 2. **Number of dwellings.** Residential density within a cluster project shall be limited to a ratio of one dwelling unit per clustered parcel, except that farm support housing may be authorized through the approval of the overall project Conditional Use Permit, or subsequent Minor Use Permit approval, in compliance with the standards of Section 22.30.480.B.2 through B.8, in addition to the units allowed by this Subsection.

J. Agricultural land/open space preservation.

1. **Requirements for preservation.** Clustered developments in compliance with this Section shall provide for the long-term preservation of portions of the site proposed to meet the open space requirements of Subsection J.5.
2. **Areas included in open space.** The open space area provided may include all areas in agricultural production, but shall not include any portion of the proposed clustered residential parcels.
3. **Structural uses allowed in defined open space areas.** The area proposed for agricultural land and/or open space preservation shall not be developed with structural uses other than:
 - a. A ranch/farm headquarters including two of the residential units allowed in compliance with Subsection F., residential accessory structures and farm support housing, which may be approved or modified after the initial Conditional Use Permit approval through Minor Use Permit, provided that the building site does not exceed 2.5 acres.
 - b. Areas set aside for the preservation of historic buildings identified by the Land Use Element, to be delineated on the recorded map.
 - c. Agricultural accessory structures or agricultural processing uses essential to the continuing agricultural production of food and fiber in the immediately surrounding area, which may be approved or modified after the initial Conditional Use Permit approval through Minor Use Permit, which shall not occupy an aggregate area of the site larger than five acres.
4. **Nonstructural uses allowed in defined open space areas.** The following nonstructural uses may be allowed in the open space areas: crop production and grazing; animal raising and keeping; specialized animal facilities; nursery specialties (nonstructural); range land or wildlife preserves; water storage or recharge; leachfield or spray disposal area; scenic area protection or buffers from hazardous areas; public outdoor recreation uses on non-prime lands; or other similar open space uses.
5. **Guarantee of open space.** The required open-space areas shall be maintained as open space as long as the clustered lots exist. This shall be guaranteed by either of the following methods:
 - a. A recorded, permanent open-space easement granted to the county and inclusion in the Williamson Act Agricultural Preserve Program.
 - b. Dedication of fee or partial fee title, free and clear of any liens, to the county and a third party such as the Trust for Public Lands.

K. Site design and development standards. The design and development of clustered dwelling units in the Agriculture land use category shall be consistent with the following standards:

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1. **Lot size and open area requirements.** The minimum size of clustered residential building sites created as separate parcels in compliance with this Section, and the area of the site required for open space preservation shall be as follows:

Area of Buildable Lots (1)		Open Space Parcel Minimum Area (3)
Minimum (2)	Maximum (4)	
10,000 Sq. Ft.	2.5 Acres	95%

Notes:

- (1) Net area.
- (2) A minimum lot size less than 2-1/2 acres may be granted only when community water is provided. A minimum lot size less than one acre may be granted only where the leaching capacity of site soils for septic tank use is from 0 to 5 minutes per inch, or where community sewer is provided.
- (3) The minimum area is expressed as a percentage of the gross site area.
- (4) Larger parcel sizes may be approved by the Review Authority where requested by the applicant and justified based on specific site characteristics, provided that the minimum open space area requirement is met. [Amended 1993, Ord. 2648]

2. **Ownership and maintenance of roads.** Unless otherwise required by the Review Authority, all interior roads and utilities shall be privately-owned and maintained and the applicant shall demonstrate through conditions, covenants and restrictions or other means that the project residents shall maintain all private roads and utilities for the life of the project. [Amended 1993, Ord. 2648]

3. **Homeowners association.** A homeowners association shall be formed and membership shall be mandatory for each home buyer and successive buyer. The homeowners association shall be responsible for the permanent maintenance of the open space areas held in common by the homeowners. An assessment system, or other form of subsidy shall be required to ensure compliance with this provision.

4. **Site layout criteria.**
 - a. No structural development shall occur on soils with a U.S. Soil Conservation Service classification of I or II, except that agricultural accessory structures and agricultural processing uses may be allowed on sites up to 2.5 acres in size subject to Minor Use Permit approval where the applicant can demonstrate that no other suitable area is available for such uses and that the proposed uses are directly related to maintaining and enhancing on-site agricultural operations.

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- b. Residential building sites and access drives shall be located within the boundaries of the overall ownership with sufficient separation from exterior property lines that the Review Authority can find that the clustered development will not result in adverse impacts on off-site agricultural operations in the site vicinity. [Amended 1993, Ord. 2648]
- c. Roads and building sites shall be located to minimize site disturbance and visibility from public roads.
- d. Driveway access intersections with off-site roads shall be minimized.

[Added 1984, Ord. 2195; amended 1986, Ord. 2277; 1987, Ord. 2332; 1988, Ord. 2380; 1993, Ord. 2648] [22.04.037]