

**AMADOR COUNTY PLANNING COMMISSION MINUTES
SUMMARY MINUTES OF TAPE RECORDED MEETING
October 13, 2020 – 7:00 P.M.**

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The Planning Commission of the County of Amador met on Tuesday, July 14, 2020 in the Board of Supervisors Chambers at the County Administration Center, 810 Court Street, Jackson, California. The meeting was called to order at 7:00 p.m. by Chair Ryan.

COMMISSIONERS PRESENT WERE:

Planning Commissioners: John Gonsalves, District 1 (via Zoom)
Dave Wardall, District 2
Earl Curtis, District 3
Andy Byrne, District 4
Ray Ryan, Chair, District 5

COMMISSIONERS ABSENT WERE: None

Staff present: Chuck Beatty, Planning Director
Glenn Spitzer, Deputy County Counsel
Ruslan Bratan, Planner I
Krista Ruesel, Planner I
Mary Ann Manges, Recording Secretary

Absent: None

NOTE: The Staff Report packet prepared for the Planning Commission is hereby incorporated into these minutes by reference as though set forth in full. Any Staff Report, recommended findings, mitigation measures, conditions or recommendations which are referred to by Commissioners in their action motions on project decisions which are contained in the Staff Reports are part of these minutes. Any written material, petitions, packets, or comments received at the hearing also become a part of these minutes. The recording tapes of this meeting are hereby incorporated into these minutes by reference and are stored in the Amador County Planning Department.

A. Call to Order and Pledge of Allegiance.

B. Approval of Agenda:

MOTION: It was moved by Commissioner Byrne, seconded by Commissioner Curtis, and unanimously carried to rearrange and approve the agenda order to Items 3, 4, 5, 1, 2, 6, and 7.

C. Minutes: July 14, 2020

MOTION: It was moved by Commissioner Byrne, seconded by Commissioner Curtis, and unanimously carried to approve the July 14, 2020 minutes.

D. Correspondence: Items 1 and 2 – Letters from Katherine Evatt - Foothill Conservancy, Sherry Pease - Foothill Conservancy, and Erik Christeson - KMPUD; Item 7 – Virginia Silva, Katherine Evatt – Foothill Conservancy, and Mara Feeney – Foothill Conservancy

E. Public Matters not on the Agenda: None

F. Recent Board Actions: On August 11th, the Board of Supervisors rejected the Dark Sky Ordinance recommended by the Planning Commission, on September 22nd they approved the Accessory Dwelling Unit Ordinance and the Livestock Density Ordinance as recommended by the Commission, and on October 13th they scheduled a hearing to discuss rescinding the Livestock Density Ordinance to be held November 10, 2020.

G. Agenda Items:

Public Hearings

Item 3: Request for Variance (V-20;7-1 Benson) from County Code Section 19.24.040, PDR1, District Regulations which requires a 25 foot front yard building setback, to allow construction of an entryway roof. The applicant proposes to construct an entryway roof encroaching approximately 4 feet into the front setback with uncovered stairs encroaching approximately 15 feet into the front setback. (APN: 026-174-003)

Applicant: Edward and Brandi Benson
Supervisory Districts: 3
Location: 33800 Danburg Drive, Kirkwood, CA

Chair Ryan introduced the item.

Mr. Bratan presented the Staff Report which is hereby incorporated by reference into these minutes as though set forth in full.

Chair Ryan asked if the proponent is present.

Brandi Benson, proponent, shared that this is an extension and an additional roof over the front door of the house to protect those entering the front door from snow sliding off the roof. She added that she has written confirmation from the KMA, Kirkwood Meadows HOA, and that she wants to do this as soon as the snow melts in the spring.

Chair Ryan opened the hearing to public comment.

No one desired to comment.

MOTION: It was moved by Commissioner Wardall, seconded by Commissioner Byrne, and unanimously carried to close the public hearing.

Chair Ryan asked for discussion amongst the Commission.

Commissioner Byrne stated that it seems pretty is straightforward.

Chair Ryan said that it sounds good for safety.

MOTION: It was moved by Commissioner Wardall, seconded by Commissioner Byrne, and unanimously carried to recommend approval of the variance with the conditions and findings as stated in the staff report to the Board of Supervisors.

Mr. Bratan stated that the Planning Commission has recommended approval of the variance, V-20;3-1 Benson, with the conditions and findings to the Board of Supervisors. A public hearing will be scheduled at a later date.

Item 4: Request for a Zone Change (ZC-20;3-1) from the A, Agricultural zoning district to the AG, Exclusive Agriculture zoning district for a ±85-acre parcel in conjunction with the establishment of an amended Agricultural Preserve. The request proposes the addition of the ±85-acre parcel to an existing 100-acre preserve enrolled in California Land Conservation Act (Williamson Act) contract No. 446. The resulting Amended Preserve would total ±185 acres. (APNs: 014-150-038, -039, and -040)

Applicant: Michael Collier
Supervisory Districts: 5
Location: 16427 Tyler Rd., Fiddletown, CA

Chair Ryan introduced the item.

Ms. Ruesel presented the Staff Report which is hereby incorporated by reference into these minutes as though set forth in full.

Chair Ryan asked if the applicant is present.

Michael Collier, applicant, shared that he currently has two parcels that are in the Williamson Act and desires to add the other parcel to it without merging them. He shared that the Agricultural Advisory Committee recommended that he merge them. He shared that to have the property merged it will result in about an additional \$11,000 which is a hardship, but that he will do whatever the Commission decides. He commented that it is good grazing land and that he has spoken to the Surveying, Building, Planning, and Assessor's departments and that they have no problem not merging the parcels.

Commissioner Byrne commented that merging has been requested in the past.

Counsel Spitzer asked if there is a legal issue in going one way or the other and that he does not see one.

Commissioner Byrne responded that the property would have more intrinsic rights and that it can be sold to somebody else.

Mr. Collier said he can do that with any of the parcels.

Commissioner Byrne shared that he understands that, but the new one would be getting a broader zoning application.

Mr. Collier responded that this was the original Curran ranch and that he managed to purchase half of it and put it all back together. He shared that there are two more parcels that he is trying to buy so that it can be good agricultural ground again. He added that there is good grazing and good water.

Commissioner Wardall asked for clarification that he wants to put the 2 parcels into the Williamson Act.

Mr. Collier stated that he has two 50-acre parcels already under contract and that he wants to add this 85 acres next door to him that he purchased last year.

Commissioner Wardall asked if he wants to add them in.

Mr. Collier stated that the suggestion was to have the whole thing re-surveyed and then tie them back into one of the parcels which does not make sense financially.

Commissioner Wardall asked staff and Counsel Spitzer if Mr. Collier wants to add the 85 acres into one of the other parcels in the Williamson Act if the Commission can make that recommendation to the Board because he is trying to preserve the ag land and it does not seem very functional for him to have to pay for a survey.

Mr. Collier said he is already \$7,000 in this process.

Chair Ryan commented that this already went to the Agricultural Advisory Committee with the intent that it was going to be an 85± added to the existing Williamson Act parcels and asked if this needs to go back to the Committee again for review and approval.

Mr. Beatty responded that when the Ag Committee reviewed it they understood that this 85 acres would be attached to and become part of the same contract as the 100 acres approved last year. He stated that the Ag Committee almost always recommends that contiguous parcels be merged into a single parcel and that the contracts are not recorded until that takes place. He shared that applicants have appealed that recommendation to the Board of Supervisors in the past and the Board agreed not to require the merger. He commented that the application to go into the Williamson Act also requests rezoning and for the Assessor to combine them as a single parcel. However, the Assessor does not do that the Surveying Department does that so there may be some ambiguity as to whether the intent is for the Assessor to provide a single APN for the parcels. He added that still does not affect the status of the legal parcels and that you can have one APN for multiple legal parcels or multiple APNs for a single legal parcel.

Mr. Collier stated that as far as the tax assessment there is no change, they are still the same, and that he has no intention to sell the property and even wants to buy more of it.

Counsel Spitzer said he sees no reason why this needs to go back to the Ag Committee because there already is a recommendation.

Chair Ryan commented that he is asking because when the packet was formed it was with the understanding that these were going to be joined. He asked for confirmation that the recommendation to the Board of Supervisors is to move the 85-acre parcel into the Williamson Act and exclude anything with the other 50 acre parcels.

Mr. Beatty confirmed that the Ag Committee's recommendation is to place the 85 acres into the same contract as the 50-acre parcels.

Commissioner Byrne asked for the reasoning that the Ag Committee uses to request that as a condition.

Mr. Beatty explained that when smaller parcels are sold individually, later, they often do not qualify on their own to be in the Williamson Act.

Commissioner Byrne asked what the minimum is.

Mr. Beatty responded that the minimum is 100 acres, but can get by with as little as 40 acres as long as there are unique circumstances for the property such as a vineyard.

Commissioner Byrne said so grazing land needs to be 100 acres to get into a contract.

Mr. Beatty confirmed.

Mr. Collier shared that he will stand by whatever the Board decides.

Commissioner Byrne commented so this 85 acres would not make it alone.

Commissioner Curtis said that it would except for the circumstances of producing enough income.

Chair Ryan added or development that has taken on that parcel which would justify it.

Mr. Collier interjected that he is a cattle rancher, he uses it strictly for grazing, that the property has good water on it, and that he is proud to own it.

Commissioner Byrne stated that he appreciates Mr. Collier putting the ranch back together, but the planning goes for the long haul, too.

Mr. Collier said he has no objection except for that it is expensive to put it all back together.

Chair Ryan questioned if the Commission is doing something that would not have passed muster with the Ag Committee and if the 85 acres still qualify. He stated that he is more than happy to recommend this to the Board of Supervisors and let them figure it out.

Mr. Beatty shared that none of the parcels qualify individually.

Commissioner Byrne stated that he thinks the recommendation makes sense because they do not qualify individually.

Commissioner Curtis said in the future, one of the parcels could be sold and stay in the Williamson Act even though it would not meet the requirements.

Mr. Beatty said that is correct and that the Williamson Act runs with the land.

Commissioner Byrne commented that that is the issue we would be preventing.

Mr. Beatty stated that we try to avoid multiple ownership under the same contract.

Mr. Collier shared the map of the parcels with the Commission and said that the Board had no problem with the first parcels.

Counsel Spitzer said he would defer to Mr. Beatty, but he does not see a legal reason why it would need to go back to the Agricultural Advisory Committee because of adding a parcel.

Chair asked if there were any more comments.

There were no other comments by the public.

MOTION: It was moved by Commissioner Byrne, seconded by Commissioner Wardall, and unanimously carried to close the public hearing.

Commissioner Wardall asked for clarification if this would keep the 85 acres as a separate parcel.

Commissioner Byrne responded no, and moving to put it forward as staff put it to the Commission.

Commissioner Curtis said this is to merge the parcels before it is recorded.

Commissioner Byrne replied yes.

Commissioner Curtis shared that he feels that it is place of the Board to make the exemption. We are just recommending that the rezoning go to the Board.

Chair Ryan asked Counsel Spitzer if the applicant can petition the Board for consideration for an exception to bundle all the property together.

Counsel Spitzer responded yes, that is typically what happens.

Commissioner Gonsalves said in that case that he will vote on it.

Commissioner Wardall says the objective is Mr. Collier putting the property into the Williamson Act and preserving the property and agriculture. He added that it is not reasonable to put that much encumbrance of merging parcels onto the property owner.

Chair Ryan said as noted by counsel and staff, the applicant can petition the Board of Supervisors to maintain the parcels as they are and still allow the 85 acre parcel into the Williamson Act.

MOTION: It was moved by Commissioner Byrne, seconded by Commissioner Curtis, and carried to recommend to the Board of Supervisors to merge the 3 parcels into the Williamson Act with the recommended findings in the staff report.

AYES: Byrne, Curtis, Gonsalves, Ryan

NOES: Wardall

Ms. Ruesel stated that the Planning Commission has recommended approval of ZC-20;3-1 to the Board of Supervisors with the findings included in the staff report. A public hearing will be scheduled at a later date.

Item 5: Request for Tentative Parcel Map No. 2893, proposing the division of a ±484 acre legal parcel into three parcels ±219 acres, ±190 acres, and ± 74 acres in size. The property is currently zoned AG, Exclusive Agriculture and has a General Plan land use designation of AG, Agricultural-General. The application includes a request for each proposed parcel to be enrolled in a separate CLCA Contract and simultaneously removed from Contract #412. (APNs: 005-240-007 and 005-250-004)

Applicant: Jess Family Trust, Representative: Connie Jess

Supervisory District: 2

Location: 4459 and 4600 Jackson Valley Rd., Lone, CA

Chair Ryan introduced the item.

Ms. Ruesel presented the Staff Report which is hereby incorporated by reference into these minutes as though set forth in full.

Chair Ryan asked if the applicant is present.

Connie Jess, applicant, stated that Jackson Valley Irrigation District (JVID) has put in their irrigation line turnout to her property. She added that she has not put in the rest of the irrigation system, but that it will probably be done during the next year. She shared that a water meter will be installed when they start using the system.

Chair Ryan asked if anyone else would like to address this item.

Sally Barron asked why Ms. Jess' application that includes a 74-acre parcel qualifies for the Williamson Act and Mr. Collier's application which did not meet the requirements with an 85-acre parcel.

Ms. Jess stated that when they applied for 74-acre parcel, it had to meet extra criteria, which they did by agreeing to irrigate 35 acres of that parcel.

Commissioner Byrne clarified that the Collier parcels did not meet those criteria and shared that there are special circumstances which include how much income it must generate as an agricultural property.

Chair Ryan concurred and expounded that the small parcel needs additional agricultural improvements so that it is revenue producing.

Ms. Barron asked what if she had 10 acres and a feed lot.

Chair Ryan responded that Williamson Act parcels need to be minimum of 40 acres.

Tom Swett, from Rancho Arroyo Seco, said that he knows the Jess family, their commitment to agriculture and to Amador County, and that the Commission should support their application. He added that what they are trying to do is good for Amador County agriculture.

Mr. Collier stated that he has already met the requirements. He stated that he purchased the 85 acres in February of last year and since has put enough improvements on it to where the Assessor has already sent him a notice that they are reassessing his property an additional \$50,000.

Chair Ryan commented that that will help Mr. Collier's case with the Board of Supervisors.

MOTION: It was moved by Commissioner Byrne, seconded by Commissioner Curtis, and unanimously carried to close the public hearing.

Chair Ryan asked for discussion amongst the Commission.

Commissioner Wardall stated that it is straight forward.

MOTION: It was moved by Commissioner Wardall, seconded by Commissioner Curtis, and unanimously carried to accept the Mitigated Negative Declaration and approve the parcel map in accordance with the findings as stated in the staff report.

Ms. Ruesel stated that the Planning Commission has approved Tentative Parcel Map No. 2893 with the Mitigated Negative Declaration and the conditions and findings included in the staff report. Anyone wishing to appeal this decision may do so by filing a written appeal with the clerk of the Board no later than 5:00 p.m. on October 23, 2020.

Item 1: Request for a 6-year extension of time for Tentative Subdivision Map #180 (Timbercreek Townhomes) proposing the division of 1.26 acres into 16 townhome lots approximately 1,200 square feet in size. Phase One of the project, consisting of townhome lots 1 through 5 and a 0.32-acre common area, was recorded in 2015. Current expiration date for the approved Tentative Map is November 14, 2020. (APNs 026-310-007 and 026-310-008)

Applicant: Martin Point LLC (Nate Whaley, representative)

Supervisory Districts: 3

Location: Located at the intersection of Timber Creek Drive and Sentinels Way, west of Kirkwood Meadows Drive, in Kirkwood, CA.

Chair Ryan introduced the item.

Mr. Bratan presented the Staff Report which is hereby incorporated by reference into these minutes as though set forth in full.

Chair Ryan asked if the applicant is present.

Nate Whaley, applicant, shared that JoAnne Michael from Resource Concepts, Inc., who does a lot of their environmental compliance work is also present to answer any questions. He commented that this item, the next item on the agenda, and another item for a future meeting are renewals of existing approvals and that all three are similar. He added that within this map, 5 lots have been recorded and one building has been built. He shared that there is an updated will-serve from Kirkwood Meadows Public Utility District, and that they have been working with them to get updated to their current standards and will do whatever is needed. He added that this falls under the Kirkwood Specific Plan and has been in front of Tri-TAC many times over the years with biannual and 10 year reviews, traffic mitigation studies, and the regular community forum that the Tri-TAC provides. He commented that the Tri-TAC minutes and comments at this meeting show that the community is generally supportive and asked Ms. Michael if she had anything to add.

JoAnne Michael shared that she believes that Mr. Whaley did a good job of explaining the request.

Chair Ryan asked if anyone else had any comments. No one desired to speak.

MOTION: It was moved by Commissioner Byrne, seconded by Commissioner Curtis, and unanimously carried to close the public hearing.

Commissioner Byrne stated that some of the points that the Foothill Conservancy brought up have been interesting in that there are a lot of issues. He shared that the Kirkwood Specific Plan is not in alignment with the updated General Plan and that these have been approved in the past based on their alignment with that and not with our General Plan so there is now an inconsistency.

Commissioner Byrne commented that he would like to open the hearing to the public.

Chair Ryan opened the hearing back to the public.

Susan Bragstad, Foothill Conservancy, stated that the Kirkwood Specific Plan, written in 2003, needs to be updated and conform to the updated 2016 General Plan as explained in the Foothill Conservancy's submitted letter.

Chair Ryan asked if there are any other comments.

Joanne Michael said she read the letters from the Conservancy which claim there is an inconsistency between the General Plan and the Kirkwood Specific Plan, but do not indicate what they consider is inconsistent. She stated that after reviewing the General Plan, it seems that, overall, the mitigation plans of the Specific Plan are more conservative than the mitigation plans in the General Plan and that she does not see inconsistencies.

Ms. Bragstad shared that traffic has drastically changed and needs to be reviewed.

Mr. Whaley asked if he could respond to the traffic comments and continued that one of the mitigation measures that is part of the Specific Plan is to do a traffic study every 3 years and that they remain in compliance.

Commissioner Byrne asked how wide they go with the study because traffic can have effects further down in the county.

Mr. Whaley responded that the traffic study is localized to the intersection of Kirkwood Meadows Dr. and Highway 88, and the traffic patterns within Kirkwood.

Ms. Michael said there are many mitigation measures for it and that the findings made in the 2003 EIR contribute the increase in traffic just as much as to the growth in South Lake Tahoe and the increased use of dispersed recreational areas surrounding Kirkwood. She said that what they are asking for today is the approval of the extension of an existing tentative map of 16 townhomes and added that the effect on Hwy 88 is probably minimal and that she does not see that traffic should be a reason why this item should not move forward.

Chair Ryan asked if there are further comments. No one desired to comment.

MOTION: It was moved by Commissioner Wardall, seconded by Commissioner Curtis, and unanimously carried to close the public hearing.

Chair Ryan opened discussion amongst the Commission.

Commissioner Byrne said that there are fire issues and that it sounds like they are over-extended already. He understands that there are 2 fire trucks and that they can only man one of them in the valley. He added that there was a fire at employee housing this summer and that he is not sure if adding more units at a time when they cannot keep up with what they currently have becomes a safety issue.

Commissioner Curtis said that the new dwellings will have automatic fire sprinklers due to State law.

Chair Ryan asked the applicant to clarify how many townhomes have been completed since the extension in 2017 because from Mr. Whaley's opening statement he understands that only one has been completed.

Mr. Whaley said that one is correct and that the market for ground up development still has not recovered with the advent of shelter in place. He stated that the built market has done pretty well, but that there has not been much patience to go through ground up construction yet. He shared that he is optimistic and it is good for the whole community to reach the critical mass for the types of services that are desired by the residents such as restaurants and grocery store hours. He commented that he hopes that it goes faster and as far as the Specific Plan, the 13 or 14 units in Timbercreek are not quite the 800 units needed to reach build-out.

Chair Ryan asked what he anticipates being built out in the next three years because at some point the Commission will think that enough time has lapsed and it will have to be revisited.

Mr. Whaley responded that they hope to find a builder partner this summer to begin building for Timbercreek and that even when construction is going full tilt on a project of this density they will probably be building a building per summer. In a couple of years, if the market gets really hot, hope to be building 2 buildings per summer.

Chair Ryan asked for discussion amongst the Commission.

Commissioner Wardall stated that this is a tough question, but it was approved by Commissioner Byrne and others a few years ago. He does not believe that the Hwy 88 traffic is that horrific. He shared that there are a lot of hay trucks and a lot of traffic with Hwy 50 closed and that he goes up a couple of times a year to look at the scenery and over the years has not seen a pronounced increase in traffic. Utilities and conditional will-serves have requirements and they will need to make improvements and meet the capacity requirements. He suggested to recommend going another 3 years, but if the applicant does not show some progress in the next 3 years that it will be tough to come back again.

Commissioner Curtis stated that if some townhomes are built that traffic could be reduced because people will be staying instead of going home.

Commissioner Wardall said that it is a resort area, is a pretty small development, and believes that some of the comments submitted are marginal and non-issue.

Commissioner Gonsalves stated that he has been traveling Hwy 88 to Reno almost on a weekly basis for a couple years and that he has not seen as much traffic as he has seen in the last few months. He stated that he believes people are trying to escape COVID, get out of their partially staffed offices, and get out and hike and that it is not hindering his travel whatsoever.

Commissioner Byrne added that traffic in Pine Grove off of Irish Town is bad, but does not know how much of it is from Kirkwood or the corridor.

Chair Ryan shared that he agrees with Commissioner Byrne that traffic is dense in Pine Grove and Pioneer. He commented that he does not know if it can be attributed to development or people going back and forth from the Bay Area to Kirkwood. He think there has been a lot of growth and people just wanting to escape.

Commissioner Byrne commented that the thing we almost never tackle are the cumulative effects.

Chair Ryan said to be honest if we put up 16 more homes we are talking 32 trips a day going back and forth and he does think from a cumulative standpoint that that is going to be the impact. He shared that he thinks there are a lot of other issues such as hay trucks and other traffic and that he is inclined to go along with Commissioner Wardall and look at a 3 year extension instead of a 6 year extension and then reassess when it comes back. He added that we are going through a crisis right now and we will see where things end up.

Commissioner Byrne said that this one was approved more recently, and this one is not the one he would hang his hat on.

Commissioner Gonsalves said he supports a 3 year extension and he tends to agree with Chair Ryan that it has been a difficult year and that hopefully can move forward in a positive way.

MOTION: It was moved by Commissioner Curtis seconded by Commissioner Wardall, and carried to approve a 3 year extension for Tentative Subdivision Map #180 - Timbercreek Townhomes.

AYES: Curtis, Wardall, Gonsalves, Ryan

NOES: Byrne

Mr. Bratan stated that the Planning Commission has granted a three year extension of time to the expiration date of Tentative Subdivision Map #180 – Timbercreek Townhomes. Anyone wishing to appeal the decision may do so by filing a written appeal to the clerk of the Board no later than 5:00 p.m. on October 23, 2020.

Item 2: Request for a 6-year extension of time for Tentative Subdivision Map #143 Palisades Unit 6, submitted by KP-VI, LLC, proposing to subdivide approximately 8.1 acres into 21 single-family lots in the 2003 Kirkwood Specific Plan area. Current expiration date for the approved Tentative Map is November 14, 2020. (APN: 026-020-046).

Applicant: KP-VI, LLC (Nate Whaley, representative)

Supervisory Districts: 3

Location: West of the intersection of Palisades Drive and Olympic Court, approximately 400 feet west of Kirkwood Meadows Drive.

Chair Ryan introduced the item.

Ms. Ruesel presented the Staff Report which is hereby incorporated by reference into these minutes as though set forth in full.

Chair Ryan asked if the applicant is present.

Nate Whaley, applicant, shared that this is the last 21 lots of a 6-phase build out. He commented that everything he shared with the Commission for the last item applies to this item.

JoAnne Michael stated that nothing has been changed since the project was originally approved and that they are just asking for an extension of an existing entitlement.

Chair Ryan asked if anyone wanted to comment.

Susan Bragstad shared that the 2003 Kirkwood Specific Plan needs to be updated and be consistent with the 2016 General Plan.

MOTION: It was moved by Commissioner Wardall, seconded by Commissioner Curtis, and unanimously carried to close the public hearing.

Commissioner Byrne shared that this is the same as the last agenda item, but it is 15 years old. He stated that the Commission gave a 3 year extension last time and asked the applicant what has proceeded on it since then.

Mr. Whaley shared that there are still 3 lots left in inventory in Palisades Unit 5 immediately downhill of Unit 6. He stated that a couple of those units sold in the last couple of months and is optimistic that they are going to finalize selling out of that inventory and move into this next project. He added that these are all components of large multiphase projects, they are working on long term build out of the community, and that it does not happen overnight.

Chair Ryan asked for clarification that this is phase 6 of the overall project and that they still need to sell lots in phase 5, and that when work begins on 6 that it will consist of 21 single family lots.

Mr. Whaley confirmed.

Chair Ryan said and nothing to date has been done, but that lots have been divided as planned.

Mr. Whaley responded no and that these are paper lots until the map is recorded.

Commissioner Wardall stated that he looks at the traffic and he believes it is same project that the Commission gave an extension on and there is a will-serve commitment and it looks like they might need to make some interior improvements. He does not see how this is going to have a significant impact. He stated that when he goes up and down Hwy 88, Pine Grove is slow in traffic, but once you get up to the 5000 to 6000 foot level, traffic really is pretty thin. A lot of it is not going to Kirkwood. It is hay trucks and travel trailers going over the hill to 395 and stated that in the off season it is pretty sparse. He commented that he does not see a lot of commuters living in the townhomes up there unless they are being commercially rented out for weekend snow skiing. He added that vacation homes are not going to have a lot of high occupancy and is not opposed to a 3 year extension. He ended that he does not think there has been a lot of change environmentally since the 2003 approval.

Commissioner Byrne shared that he does not agree that the environment has not changed in 15 years.

Commissioner Wardall asked Commissioner Byrne what has changed.

Commissioner Byrne responded health and safety issues and that there are times in the winter when he cannot get in and out at all. He is concerned about a health emergency, that fire danger issues have changed, and that there have been fires across the way from Kirkwood. He shared that the 15-year-old environmental document is stale and that the Commission gave them 3 years and there has been no movement on this project since they are still on the previous phase. He stated that this needs to be reviewed again to bring it up to date and to also bring the Kirkwood Specific Plan in alignment with the General Plan.

Chair Ryan responded that Commissioner Byrne is suggesting that the applicant go back through an EIR for this one development.

Commissioner Byrne said that it would probably be a mitigated negative declaration, but an environmental document review.

Chair Ryan said he thinks there would be a groups of individuals that are going to push for an EIR because this was originally under an EIR, correct.

Commissioner Byrne shared that he does not think so because the Specific Plan is their baseline for their mitigated negative declaration.

Mr. Beatty stated that the projects in front of the Commission were all envisioned in the Kirkwood EIR in the Specific Plan.

Counsel Spitzer added and they use an exemption relying on that Specific Plan.

Commissioner Byrne commented that is where I see the problem since we modified our General Plan since then and it has been 15 years.

Commissioner Gonsalves asked Counsel if it is a requirement that a Specific Plan has to be updated to meet the General Plan.

Counsel Spitzer said as it stands right now there has been no determination as to whether there is an inconsistency between the Specific Plan and the General Plan. He stated that he reviewed the Foothill Conservancy letter that set forth what they felt were inconsistencies and added that it is for the Planning Commission or the Board to determine whether an inconsistency exists. He stated that it is a very high bar for a court to overturn a consistency determination and typically where a court will overturn it is if there is a very specific mandate in the policy that the project is running afoul. He said he does not see anything like that jumping out at him and too be clear the issue before the Planning Commission is whether to grant an extension or not. He ended that the environmental review was performed in 2017.

Commissioner Byrne stated that this project was from 2005.

Chair Ryan commented that it was resubmitted.

Commissioner Byrne asked if we actually redo the environmental review.

Counsel Spitzer said that it is required.

Mr. Beatty stated that the project was originally approved in 2005 and there were several county and state extensions that extended it out until 2016 or 2017. It then expired and the applicants presented it anew to the Planning Commission in 2017.

Counsel Spitzer stated that discretion of the Planning Commission is very limited here. He shared that

there is no discretion to shape the project which is what kind of discretion you need to perform the environmental review and then compel the mitigation measures or maybe project alternatives. He commented that the discretion you have is very limited and that it is either to grant the extension or not and, if so, how long.

Chair Ryan asked Commissioner Gonsalves if that answered his question.

Commissioner Gonsalves responded that it does.

Chair Ryan said this is one of those projects that has taken forever. He stressed that we went through partial recession and issues of properties not selling and development not happening and it is one of the worse years for everyone. He shared that he was not on the Commission at the time, but looking at the timeline the automatic legislative extensions were provided. He added that it received a local one year extension back in 2016 and resubmitted in 2017. He shared that he missed that meeting in 2017 and so he asked for minutes to review. He said we are not talking about a development that is going to severely impact the environment and that the inconsistencies are not the Planning Commission's judgement call. He reminded that we are here to give them an extension or not and if so what that extension is going to look like. He shared that we have to give a little to allow this to unfold and at the end of three years will have the opportunity to reassess. He stated that it is reasonable to at least provide that considering all we have all had to deal with over the last several years, especially here in Amador County.

Commissioner Curtis said that these lots are not covered with forest and that they look like lots that should have places built on them and he thinks should grant at least a 3 year extension.

Commissioner Wardall said what caught his ear is that they have at least 2 or 3 lots up for sale and obviously they are having problems selling lots and that he would like to go with a 4 year extension.

Commissioner Curtis commented that he thinks Nate is talking about getting a builder to develop the lots and that it would help them sell better. He added that things just have not gone as they planned and that he does not see a problem with a 4 year extension either.

Commissioner Gonsalves said that he does a lot of projects for the Sacramento Catholic Diocese as well as some private projects and has seen an increase in lumber costs of 300% since February. He shared that this reminds him of 2006 and the beginning of the last recession and commented that it is a very difficult time because the prices are so inflated and that this cannot continue.

MOTION: It was moved by Commissioner Wardall, seconded by Commissioner Curtis, and carried to extend Tentative Subdivision Map #143 Palisades Unit 6 for 4 years with the findings and conditions in the staff report.

AYES: Wardall, Curtis, Gonsalves, Ryan

NOES: Byrne

Ms. Ruesel stated that the Planning Commission has granted a four year extension of time to the expiration date of Tentative Subdivision Map #143, Palisades Unit 6. Anyone wishing to appeal the decision may do so by filing a written appeal to the clerk of the Board no later than 5:00 p.m. on October 23, 2020.

Item 6: Request for Use Permit (UP-19;4-4) for a Wine Tasting Room in the R1A, Single-family Residential and Agricultural Zoning District, with AG, Agricultural-General, General Plan designation. The tasting room will be located within a new 3,600± sq. ft. structure. The tasting room will be open daily from 9:00 a.m. to 5:00 p.m. The site will host a maximum of twelve special events per year, including six events with a limit of 125 guests, and six events with a limit of 75 guests. (APN: 007- 070-051)

Applicant: Jim Merryman; Representative: Robin Peters
Supervisorial District: 5
Location: 10690 Shenandoah Rd., Plymouth, CA

Chair Ryan introduced the item.

Ms. Ruesel presented the Staff Report which is hereby incorporated by reference into these minutes as though set forth in full.

Chair Ryan asked if the applicant is present.

Robin Peters, applicant representative, shared that this application has been around for a while and has gone through a variety of revisions and was originally supposed to be on the June Planning Commission agenda. He stated that the current project is much smaller and shared how they met twice with the Foothill Conservancy in an attempt to make the project good for both the valley and the applicant. He commented that this will be another small tasting room and that it will not have the ability to have large events by the way it is conditioned. He shared that there is a concern that tasting rooms with use permits are not being monitored. As a result, condition #29 - which he does not believe has ever been applied to tasting rooms in the Shenandoah Valley before - requires the applicant to monitor activities and self-report them to the Planning Department which will help provide data for what is going on in the valley so that when the county is ready to look at a broad based program to regulate, they are ready. He commented that it meets the goals and policies of the General Plan as far as it relates to economic development, better fits in with the valley, and is more like the other small tasting facilities. Mr. Peters recommended changing the wording in condition #26 where the word "music" should be changed to the word "sound" so that amplified voice is also regulated. He added that other than that change they have no exception to the conditions.

Chair Ryan asked for clarification of the project layout and shared concern about how traffic flow will occur in the area since they will be adding a second driveway onto Shenandoah Road. He explained that the road is in a pretty bad area of Shenandoah Road where it comes off of a blind hill and goes into a turn that reduces the speed quite a bit.

Mr. Peters stated that the encroachment location was a point of great discussion between the design engineers and Public Works and clarified that he is not the design engineer for this project, but that he has a good grasp on it. He added that this is not the original encroachment location and that Public Works required that the location be moved and that they thought this location was safe and met the sight distance criteria.

Chair Ryan asked if public Works required deceleration or acceleration lanes.

Mr. Peters responded that they did require more significant tapers than they typically require for an encroachment like this for that reason.

Chair Ryan said that tapers were added in the past for one down the road and that he has concern about how traffic will move in and out safely without getting into an accident, especially during events, because it is blind there. He added that during normal operations does not think it will be a problem.

Mr. Peters said to clarify there is an existing entrance, the dam entrance, that will be gated off and not used except for maybe emergencies. He added that it was a requirement of Public Works as well.

Chair Ryan said so just one entrance in and out. He expounded that he does not want people waiting on Shenandoah Road to get in there and that a way is needed to slow them down because the speed limit is 30 mph and people go 50 mph and even pass. He asked for clarification that there is no winery production on the site.

Mr. Peters responded that there is a winery and walked through the site plan layout sharing that the tasting room facility is essentially in the center of the site.

Chair Ryan commented that the first entrance goes away.

Mr. Peters said they will use the southerly entrance.

Commissioner Curtis asked if the tasting room was on a hill.

Mr. Peters responded that it is on a little rise and continued that there is a trend in the wine tasting industry toward developing a remote tasting pod which is an open air facility which is a patio, located in the northwesterly corner on the north side of the pond, with a cover that is a private tasting location. He explained that a pod is associated with the tasting room, but is for a private tasting event for 2, 3 or 4 people. He added that people travel to it in a golf cart.

Chair Ryan asked if there was any parking over there.

Mr. Peters responded that there is enough parking for the golf cart along with the required accessible parking and there is not a building there.

Chair Ryan stated that most people are going to go to the tasting room and shared concern about the narrow road that is about one car width wide that crosses over the dam. He added that the pond is on one side and a steep embankment is on the other. He continued that he can see congestion forming with people trying to leave and people trying to come in. He shared that it would take great effort to make that road even compatible for fire.

Mr. Peters stated that one of the conditions requires that the onsite circulation be brought up to fire and life safety standards.

Chair Ryan so that road would be widened to meet county standards then.

Mr. Peters said it has to be by condition.

Chair Ryan commented that it is a major drop off and not a short run. He voiced concern that with 150 or even 50 vehicles trying to come and go that traffic is going to back up onto Shenandoah Road because people are going to be waiting in a cue that is not going to be able to be resolved quickly. He stated that they need to make sure that the flow of traffic as it is coming off the pond is able to go both directions.

Mr. Peters responded that the condition is in the use permit. He shared that there are two options for overflow parking. One is immediately west of the paved parking area and the other is near the southwesterly side of the property in case they need to develop it.

Chair Ryan asked if the cutbacks for the driveway are going to be enough for cars to go off of the roadway and then make their turn versus having to come to a complete stop and then make that turn.

Mr. Peters stated that that is the intent of the required tapers. He added that the pond will remain and that it is their idea to create an environment where people can have a glass of wine and stay a few hours while walking through landscaping and gardens.

Chair Ryan said that it is one of the few year round ponds in the valley and that he does not want to see any fountains or obstructions in the pond since CALFIRE uses for firefighting.

Mr. Peters stated that they commissioned a biological study that specifically stated to stay away from the pond because it is a sensitive area.

Chair Ryan asked for comments from the Commission.

Commissioner Gonsalves shared that he has no comments.

Mr. Peters commented that he appreciates the time that the Foothill Conservancy spent with them helping to craft this so that it could be permitted and could be an asset for the valley and thanked them for their September 6th letter acknowledging the changes to the project.

Julie Lyman, resident on the property to the north - 50 feet from the fence line - agrees with the Chair about the dangerousness of the entrance with the trees right there and the single dam road. She shared that she does not know how they will be able to make it a two lane road with the steepness and the pond on two sides. She said that when the Chair asked Mr. Peters if it is on a hill that she disagrees with Mr. Peters and that it is on a hill with a large oak tree on it. She added that originally she was told it was going to be on the other side of the hill from her house. She shared that she appreciates that the 600 square-foot pavilion has been downsized and is not sure if will be a 4th building on the property. She added that up by the existing house there is some kind of barn or wine facility which will make possibly 4 buildings where 3 of them will be on hills in view of her house. She stated that she disagrees with the environmental check list where it was marked that there will be no change in scenic views or vistas from existing residential areas, public lands, or roads because they will all be in view from her house.

Mara Feeney, Foothill Conservancy, voiced that they were in opposition of the original proposal which seemed like a huge event center trying to disguise itself as a tiny tasting room. She shared that they appreciate the efforts of the property owner and Mr. Peters to reach out to them and to incorporate some of their ideas into the plan. She wishes more developers would do that sooner than later. She added that the Foothill Conservancy still believes that the Shenandoah Valley needs some kind of Specific Plan to guide future development. She stated that they hope that they will be sensitive to the impact of this facility on rural residential neighbors and on the traffic conditions on Shenandoah Road and appreciate them self-monitoring because there is no way to monitor the impact of these conditional use permits unless there is some kind of data to show what is going on annually. She commented that they withdrew their original objections and appreciate the accommodations this facility has made.

Chair Ryan asked if there were any other comments. No one else desired to speak.

MOTION: It was moved by Commissioner Byrne, seconded by Commissioner Wardall, and unanimously carried to close the public hearing.

Chair Ryan asked for discussion amongst the Commission.

Commissioner Byrne stated that there is an amazing change in the project and agrees that the valley needs a Specific Plan of some sort, but the changes this one has made are more than he can hope for.

Chair Ryan shared that as mentioned by Ms. Lyman that there are 2 trees that he imagines will need to come out and that right across the road from that is another road where heavy equipment is moved in and out. He voiced that his biggest concern is on event weekends where traffic will be backing up onto the road and he would like take make sure that as a condition that the cutback is enough so as a vehicle coming into the area from Plymouth and for the cars pulling out that there is a way to get off the road. He elaborated that if they do not move traffic off the road quickly that there could be cars running into each other. He shared that this is a great project that it looks beautiful and added that it will be a challenge though to get that a two lane road over the dam. He stressed that it is absolutely necessary to make this a

safe project for those people driving up and down that road.

Commissioner Curtis asked how to make sure that it gets done when it is already to this stage.

Chair Ryan said by making it a condition.

Commissioner Curtis said going to have to have the condition be specific.

Chair Ryan said it could say acceleration and deceleration lane.

Commissioner Curtis said it would have to go back to Public Works because that is the county road.

Chair Ryan voiced that Public Works will say cut the bank back a few feet, but that the Commission needs to be specific and shared examples from the past where more was requested. He shared that he is especially concerned about this one more because of the turn and the hill.

Commissioner Curtis said the cut needs to be enough for a couple cars.

Chair Ryan said turning in there have to make a hard right and that they have to know to make that right. He added that he does not want to get into details and is sure Robin has a comment to go along with suggestion.

Mr. Peters asked for a moment to come up with language to address the concern.

Commissioner Curtis and Commissioner Byrne commented that the map of the encroachment is not detailed enough.

Commissioner Curtis said he heard some concern about the road across the dam.

Chair Ryan said that it is up to the applicant to do that and added if that is already in there just concerned about the entrance.

Mr. Peters suggested inserting this phrase into condition 11, "which includes acceleration and deceleration provisions sufficient to cue at least two approaching and departing vehicles". He added that details will be sorted out between Public Works and the design engineer and asked if met the intent.

Chair Ryan responded yes and that he thinks it will help mitigate his concern about traffic.

Commissioner Gonsalves shared that he has no additional comments.

MOTION: It was moved by Commissioner Wardall, seconded by Commissioner Byrne, and unanimously carried to find the Mitigated Negative Declaration adequate for this project and to approve the project with the changes as noted to conditions #11 and #26.

Ms. Ruesel stated that the Planning Commission has approved UP-19;4-4 for the Blood Gulch Wine Tasting Room in R1A with the Mitigated Negative Declaration as proposed and findings and conditions as mentioned in the staff report and as amended by the Commission. Anyone wishing to appeal the decision may do so by filing a written appeal to the Clerk of the Board of Supervisors by 5:00 p.m. on October 23.

Item 7: Request for a Zone Change (ZC-20;3-2) from the R1A, Single-family Residential & Agricultural zoning district to the M-X, Manufacturing zoning district with Special Use combining district, for 1,150+/- acres which are congruent with the Industrial General Plan classification. (portions of APNs 005-080-022, 005-020-024, 005-030-005, 005-050-010, and 005-060-015)

Applicant: Edwin Lands, LLC

Supervisory Districts: 2

Location: West of the Lone City Limits, lying east and west of Michigan Bar Road between Highway 104 and the Amador County line

Chair Ryan introduced the item.

Mr. Bratan presented the Staff Report which is hereby incorporated by reference into these minutes as though set forth in full.

Chair Ryan asked if the applicant is present.

Thomas Swett, representative Edwin Lands, clarified that this project is not Newman Ridge which is a quarry project in the vicinity. He shared that in the county's General Plan update process, the Board of Supervisors requested the addition of the acreage that is part of this application to be designated as an industrial area in the updated General Plan. He commented that this is industrial area on reasonably flat ground that is bisected by a Union Pacific mainline rail tract. He said it connects the county's existing manufacturing industrial park on Carbondale Road along with the Indian Hill Industrial Park to the south. He explained that it is on the western edge of Amador County where manufacturing, warehousing, other job creating industries that provide jobs for people in Amador County can be done with products exported to the west with a minimal amount of impact on Amador County. He voiced that the zoning needs to be consistent with the General Plan and that right now it is R1A which is inconsistent with the General Plan and really is just an administrative matter.

Virginia Silva read her comment letter submitted prior to the meeting. She shared that Edwin Lands is one of the group of rotating developers that are continually proposing economical and financially dubious projects in Amador County. She voiced concern that whatever kind of industry that is being envisioned for this area will suffer the same fate as the Newman Ridge Project that was approved by county, but was stopped in its tracks when Caltrans would not approve a new improved truck easement onto Hwy104. She said another project was the multimillion dollar rail car loading weighing facility built by somebody and the rail road is not interested. She added that the same people that are pushing this zoning change want to turn Five Mile Drive into a truck route so they can develop housing on property adjacent to the golf course so the new development will not be impacted by trucks or noises, etc. She explained that the problem with this is that property to be developed abuts Mule Creek where the prison has been dumping raw sewage in since 2006. She shared that the Federal EPA is currently looking into this matter and asked if this could be another Superfund site in the making. She ended that given the parties involved and past experience with them the Planning Commission should reject this proposal.

Robert Scully, resident at Five Mile Drive and W. Marlette in Lone and former neighbor of the proponent, shared a handout with the Commission. He stated that since there is not a project all that can be judged is the proponent's prior behavior. He shared history that Gold Rush Ranch in Sutter Creek brought lots of division in the community and that the promise was going to be a golf course and a tertiary plant for the community, but after 5, 10 years there was nothing. He shared that with Newman Ridge, the man won his law suit, but there is nothing but air opportunity if things in the EIR were accurate, but now it is maybe not so cost effective. He elaborated that in 2016, the proponent gave Amador County the regional wastewater plan and started Woodard Bottom, 100 acres behind Mr. Scully's house, and finished up with 500 acres in the Martin Bottom. He explained that the CDC began Woodard Bottom and after an expenditure of 5.7 million completed a pipeline from the prison to Woodard Bottom that was laser planed. He said it was sold and now cannot be used by the state because in order to be a state project there needs to be a contract with the state and the owner of the property identifying it as a state property and that the \$5 million in improvements cannot be used. He explained that it was designed for wastewater and it will take a lot of work to be able to use it for fresh

water. He shared that in 2017, when Woodard Bottom was being built, a vacancy came up on the City Council with the full knowledge that this individual was an employee of the proponent. He stressed that they put an employee of the proponent to fill the City Council seat so when it came up a few weeks later to vote to give the right of way for the pipeline that goes through the City property they did not recuse themselves and voted to give them the right. The person who works for the company gets the benefit of this and is making the decision. That same person in the few months they were there also voted to fund a study to move the bypass away from land presently owned by the proponent around to several of us adding maybe 2.4 miles to the bypass. He said this is gross and blatant conflict of interest and collusion and maybe corruption and that this is the kind of history that we are dealing with. He stressed that it is going to divide the community and cost more taxpayer money, and there is no hard or tangent result of any of these projects or proposals. He added that the proponent talked the City of Lone into buying his bridge because he has to build a bridge over Mule Creek and that he absolutely has to have this bridge otherwise there is no place for the utilities and no other way to get out of the 147 home development that he wants. He shared that this corruption and collusion is very much in the City of Lone and he would like to see it stopped. He asked to point to something solid that has been accomplished that did not cost money or problems over the last 10 years.

Larry Costick, resident of Jackson Valley, shared that he managed most of this property for 18 years prior to Mr. Swett coming to work. He stated that he has strived to bring more jobs to the county and wants to try to keep our young people here in the county. He added that anything that can be done to increase opportunities to bring in industry with the facilities that we have, especially on the Sacramento County border, is good. He commented that it seems like a simple thing to make the zoning and the General Plan consistent and that the decision is clear.

Patrice Prest, resident of Lone, asked if this can be approved without the company saying what the property is going to be used for such as for houses or mining. She shared concern about the chance of a mine going on the property because lignite coal was mined on it in the 20s. She added that she has a pulmonary background and explained that lignite is a soft coal that is highly toxic and cancerous and emits mercury when it is burned. She stressed that it can cause terrible problems with heart disease.

Counsel Spitzer stated that the project before the Planning Commission right now is simply the zone change. He explained that the X zoning designation would require a further discretionary permit for any specific use so at that time there would be further environmental review. He also said she then could raise that concern, present any information that she has, and that it would be taken into consideration during any future environmental analysis.

Ms. Prest asked if she is correct that changing the zoning opens this up to a myriad of things such as a garbage dump, mining, slaughterhouse, anything that they really want to do with it and that the zoning change opens it up.

Counsel Spitzer stated that he is not sure about the range of uses, but said to be clear, no matter what the use, it would be analyzed prior to any permit being issued.

Ms. Prest said she does know some history of this land mine company and she also had done some things in 2016 on Newman Ridge. She expressed that she does not have a whole lot of trust in things that they have done in the past.

Sally Barron stated that she has been working on Mule Creek State Prison and zoning changes, etc., probably for about the last 10 years. She shared that Ms. Prest is correct and that lignite was mined there for a long time. She added that there are still some big deposits there and that it is a coal product mostly used for chemical uses and not burned. She voiced that the problem is that there is a massive water and sewage situation here in Amador County due to Mule Creek State Prison and their blatant disregard for anything environmental, backed up by the Water Board who will not argue with

them because they are under their thumb. She said the big problem is that you are putting out an X zoning, MX, and there is no transportation in place and it is not going to get in place. She stated we are looking for new jobs and that the prison was supposed to bring new jobs. She explained that 3% of the prison's staff resides in and around Amador County. She added that there is no future in manufacturing at this time in Amador County and there has not been for a long time. She asked if we really want a mine next door to the little bit of manufacturing that we have going on and that she thinks that changing the designation would be very poor planning on the part of the County.

Sam Prest shared that his biggest concern is that we are voting on one thing and not knowing what we are going to get and asked that it be not rezoned. He stated that he finds it extremely concerning, just like at the recent lone Planning Commission meeting, where they there shared how a simple sign for a golf course could bring growth and economics to the golf course. He said the last thing that anyone is going to want to do though when they try to go stay at a hotel/cottages at a golf course is to drive through a bunch of warehouses and more mines. He shared that he understands that this part of Amador County is full of mining and it has been here since before he moved here, but shared that we do not need more dust or another mine in the area when more and more young people and children are moving here, especially moving in the last two years to Castle Oaks. He stated that he does not know what can be blown into the air from that facility.

Mara Feeney, Foothill Conservancy, shared that she has written many of the letters on behalf of the Foothill Conservancy about this project and that it was very heartening to hear local residents express their concerns about this fishy project and this particular owner/developer that they do not trust very much. She said that this project smells foul to the Foothill Conservancy. She explained that first of all, Amador County has an obligation to fix these zoning inconsistencies that happened when the General Plan was adopted in 2016. She shared that the State Office of Planning and Research has expressed the legal opinion that it should be done within 3 years and that this information was shared with staff today. She added that it should have been done by 2019, yet we have this one property owner owning over 1,000 acres which is designated in the General Plan for a future industrial park to be an economic engine for the county. She said they included substantial evidence that the Cosumnes Water Sub-basin is overdrawn and that water supply is going to be a major issue. She shared that they support the idea of the county's vision of an industrial park, but there is no proposal here to create jobs to be an economic engine only a proposal for a zoning change which smells like a paper money grab in order to up-zone the property for a higher intense use so the property owner can sell off this property. She continued that then it gets piecemealed into future projects that will come under county review. She added that they fear that there will never be a cumulative impact analysis properly done with individual projects depending on wells and wastewater projects. She elaborated that this does not make sense and that their only motive is to save the county money to bring the General Plan into compliance with the zoning. She added that the county should just do it for all parcels that have become incompatible with the new General Plan at one time. Ms. Feeney stated that MX was allowed in the old General Plan, but it is explicitly not allowed in the new 2016 General Plan. It will be open to law suits over acceptance of this illegal zoning category under the new General Plan, all for somebody who says that they just want to continue grazing. She stressed that it does not make sense and shared that they are completely with the community on this. She asked to deny this zoning change and wait until settle out the differences between zoning and land use contradictions under the General Plan and asked if there is no project what the hurry is.

Katherine Evatt, Volcano, stated she was a member of the General Plan Advisory Committee that helped develop the General Plan and explained that the landowner was the one to approach the county about changing the General Plan designation on this parcel. She shared that she supports Foothill Conservancy and Mara's statements regarding new substantial evidence that has been placed into the record about the overdraft of an average of 10,000 acre feet per year in the Cosumnes Sub-basin. She stated that the county's environmental document submitted that is part of this application said there was no new information following the 2015 General Plan EIR. She said that the proponent is saying that the project is going to rely on groundwater and she added that future projects

are going to rely on groundwater. She shared that under the CA Environmental Quality Act you cannot ignore this significant new information in the record that was not known in 2015 and say that it does not exist. She stated that at a minimum the county has to do an environmental analysis that includes the groundwater impact. She ended by saying that the entire county zoning code needs to be redone and this change in the zoning should be part of that process.

Ms. Feeney shared that the county's vision of a significant industrial park is good and that the Foothill Conservancy would support it. She said that they are suspicious that the motive is to add paper value since an industrial designation is better than residential. She stated that if that occurs, the county is shooting itself in the foot and that it cannot have a master plan industrial park, but a piecemealed one which is a disservice to the community. She pointed out that it would be abandoning the vision of a well-planned industrial park.

MOTION: It was moved by Commissioner Wardall, seconded by Commissioner Byrne, and unanimously carried to close the public hearing.

Chair Ryan asked for discussion amongst the Commission.

Commissioner Byrne asked how we can do an MX zoning. He stated that he believes it was eliminated and that the whole idea was to get X out of the system.

Counsel Spitzer deferred to staff.

Mr. Beatty shared that X has been used as a CEQA gatekeeper on rezonings in the past and has been done at least 20 times in the county. He stated that in none of those cases was X a compatible zoning district for the General Plan classification that it was used in. He explained that X is not meant as the overriding zone, it keeps the new, proposed zoning as a placeholder until a project is proposed and requires CEQA analysis at that time.

Commissioner Byrne said that is how it was used in the old General Plan and that he is under the impression that it is not being used in the new General Plan.

Mr. Beatty explained that it is being applied the same way that it was under the old General Plan and that it was never compatible with the General Plan classifications that it was used in.

Commissioner Byrne said he thought we were in the process of not using it and were trying to change the parcels that have it and get them off of our books. He continued that it does encourage piecemeal environmental review, especially in a case like this where you have a large piece of property that you can break up instead of big vision for the entire piece. He stated that what you really lose is your cumulative effects on your environmental review for an entire area which is a big thing to miss. He explained that no one is responsible for any one thing and each project cannot be held responsible because they own only a portion of it and the problem is not solved or attempted to be solved with that.

Mr. Beatty said that the General Plan is silent on why X is being phased out, but it is obvious when we look at the number of General Plan designations that it is compatible with because those have been reduced.

Commissioner Byrne asked if reduced or eliminated.

Mr. Beatty said not eliminated.

Chair Ryan asked if those were not changed with the General Plan and said that he thought we had quite an extensive conversation with that.

Commissioner Byrne said we did and it was used for a place holder when someone came out of the Williamson Act.

Chair Ryan said the last one he remembers being used is the one in Dry Town, the very first tentative map ever approved in the county.

Commissioner Byrne said it is something you apply to something when you do not want to do planning.

Mr. Beatty said it was a virtual county-wide holding zone for many years. It was either unclassified or it was X.

Commissioner Byrne stated that he thought we were trying to do some planning with a new General Plan. He elaborated that we are suddenly picking it as a designation that is inherently non-conducive to planning for a 1,000 acre area. He stated that he feels like we are shooting ourselves in the foot with it and said he agrees it should be done on a systematic level. He commented that we need to figure out all the places that changed because of the General Plan along with all the other ordinances, but understands that it a lot of work and that there is not enough staff or funding to do it all right. He said that he does not see the rush to do this and sees this as a way of avoiding planning in the future.

Chair Ryan asked Mr. Beatty if he has any comments for the Planning Commission.

Mr. Beatty responded that he did not.

Commissioner Byrne commented that it lends itself to piecemealing the environmental reviews of future projects.

Commissioner Curtis said that there is no project and that if we had a project it would be different.

Commissioner Byrne shared with changing the uses, water impacts are changed and water in a depleting aquafer is relevant.

Commissioner Curtis asked what the minimum lot size is for R1A there.

Commissioner Byrne said that it is smaller.

Commissioner Curtis asked to imagine 100 residential units being put on that land.

Chair Ryan said it would be a lot more since it is 1,000 acres.

Mr. Beatty said that General Plan designation changed to Industrial so there is no housing development that can take place on it.

Chair Ryan so the R1A will eventually go away.

Mr. Beatty responded that without public water and sewer, the minimum parcel size would be 5 acres.

Chair Ryan said that he tends to agree and we are looking at a very, very large parcel and it feels like it would be writing a blank check. He stated that over the next 5 or 10 years this Commission would have to deal with it and the community would look back on this day where we opened up that barn door. He said he is concerned, especially with the lot size, and shared that without a project it is hard to justify change. He shared that something is needed to look at, no matter what it is, so consider an environmental impact report and at this point he cannot see going forward with the zone change unless it is part of a project.

Commissioner Byrne added or a systematic review.

Mr. Swett responded that the General Plan has a new designation that requires the property be rezoned. He stated it has been 4 years and that Chair Ryan said there is not enough staff and that no one knows when the zoning will be changed. He said that it is very difficult to bring a project to the county and to talk to people who might be interested in bringing the jobs. He added that you cannot tell them to trust us that we have the proper zoning. He shared that in this particular case the MX zoning requires that any future project be brought before the Commission and go through its own independent environmental review and would require a use permit in order to do things that otherwise would have been by right. He stated that once we have the zoning and can convince somebody to come in and build a project, then we can come in with a plan that you want to see. If a project requires significant water use, then we can analyze the aquifer or maybe the project does not have those water impacts. He shared that we will never know unless we designate the property for the type of use that is anticipated and that he does not want to tell someone that sometime in the future someone is going to do a systematic review of the 1,000 acres. He explained that a project that is of value may not take up the whole zone and the county would still be able to review it. He added that the county has had an industrial park out there for a long time that is not the magnitude of this and that this is just a simple administrative act.

Chair Ryan stated that he tends to agree that it sounds great, but that the applicant should come with a project because the General Plan designation will not allow R1A development so the zoning has to and will be changed. He stressed that we are talking about a change of zoning for 1,000 acres and then said or we could look at a project that consists of 10 acres and look at that project and determine through the process what the zoning should be and decide if it can pass the muster of CEQA. He stated that the project has to come first instead of it being whatever happens out there with a cumulative effect over the next 20 or 30 years that negatively affects the community.

Mr. Swett said that if you cannot change the zoning tonight and we come in with a 50-acre project then we are exactly in the same spot. He stated that the designation tells the world this is a manufacturing zone.

Chair Ryan asked if there a reason why a 50-acre project could not be carved out and said that Mr. Swett is asking the Commission to believe and trust that this 1,000 acres parcel should have this designation, but there is nothing to justify it. Chair Ryan asked Mr. Swett to bring a project first so that a determination can be made based on what the acreage needs to be and what the environmental impact might be on a particular project.

Mr. Swett stated that they can do that on every project and that it does not change the process.

Commissioner Byrne asked why he thinks the Commission needs to jump ahead with this.

Mr. Swett responded that he gets to go back and say that it may be rezoned one day.

Commissioner Wardall shared that all around that it is pretty much industrial. If we have a zoning that is industrial then I think that is appropriate. I do not want to see a whole bunch of houses have the impact of schools and children. I would rather see agricultural land, open ranch land, or manufacturing.

Chair Ryan replied that it never can have houses out there under the current General Plan even though it is currently R1A unless the General Plan is changed.

Commissioner Wardall said if it cannot have housing out there what can be done with the land.

Chair Ryan said that is why it is designated industrial.

Commissioner Wardall asked what the difference is between industrial and manufacturing.

Chair Ryan said he is going to defer to staff because as he was under the impression that the designation being asked for was being phased out or eliminated completely.

Commissioner Curtis asked what the X does to the M zone.

Mr. Beatty responded that if X is applied as a combining district to any zone, it then requires every use, even those previously allowed by right, to go through CEQA and a conditional use process.

Commissioner Curtis said so if we change from R1A to M they would have a right to a lot of uses and they would not have to get a permit, but with the X, they do.

Mr. Beatty confirmed.

Commissioner Byrne said that he doesn't think that the environmental document as a negative declaration makes a lot of sense because there is a lot of change in possible use. He added that the water source is new information so believes the environmental document is inappropriate.

Chair Ryan said that the public hearing is closed, but will take a few comments from the public.

Katherine Evatt, Volcano, shared that the environmental document submitted says that there has been no new information acknowledged since the 2015 General Plan EIR. She stated that the Foothill Conservancy and she have submitted substantial evidence regarding the groundwater situation in the Cosumnes Sub-basin which this parcel is in and have also submitted information from the General Plan of the chart of compatible zones for every General Plan designation, where under I, X is not listed, but is listed under other designations. She stated she supports Chair Ryan and Commissioner Byrne that there is no compelling reason to rezone the property if all that is contemplated is to use it as agricultural land and that it ought to be done with the complete overhaul of the county zoning code which is way overdue. She shared that a couple years ago the Planning Commission rejected a rezone to M because of the significant environmental impacts that would need to be analyzed and adding on the X zone overlay is a way to get around that. She asked for good planning and acknowledged that jobs are needed, but need to take into account how things have changed since the 2015 General Plan EIR.

Brad Johnson, land use attorney for the applicant, asked to make three quick points. He shared that the first refers to government code section 65860, which is what this rezone is being applied for under. He explained that the code section says that in the event that a zoning ordinance becomes inconsistent with the general plan, by reason of amendment to the plan or to any element of the plan, the zoning ordinance shall be amended within a reasonable time so it is consistent with the General Plan as amended. He shared that this request is styled as a request because the applicant is bringing this instead of the county. He shared that this is where the industrial General Plan designation has already been made, the county has an obligation to rezone the land to be consistent, and that is what is before the Commission tonight. Second, X overlay is allowed under existing county code 19.16.010 which allows any zoning district to be combined with any other zoning district. X is one of those districts and does not add any uses to the manufacturing district regulations and that it simply requires a use permit for any uses that otherwise would be a by right use. Finally, CEQA section 15183 says that zone changes that are being carried out in order to achieve consistency with an updated General Plan are expressly exempt from environmental review. He said that the county is using a more conservative approach and that this zone change satisfies the requirements to qualify for that exemption. In particular, the zone change is consistent with the underlying General Plan, the General Plan EIR, and where the record contains no evidence of any reasonably foreseeable project, specific changes in the environment that are significant and peculiar to the zoning amendment. He commented that those are terms that have been defined in case law and are not triggered by this rezone. He said in terms of CEQA, we are using terms like piecemealing improperly. He stated that it does not mean that different projects under a rezone, undergoing their own separate environmental review where the projects are themselves separate projects, are being piecemealed.

Chair Ryan said could call on a couple more zoomers.

Sandra West Moore said that X is not consistent with the General Plan and that if they have a plan they need to bring it forward for review.

Ms. Feeney stated that she understands that public comment is over, but wants to say that she believes that Mr. Johnson is commenting on the outdated zoning code, not the new one. She shared that the MX designation would avoid cumulative impact analysis for sure. She stated they would really like a successful industrial park in that area with efficient infrastructure planning. She added that going MX right now would allow breaking up the property and prohibit the county from doing efficient infrastructure planning for a successful industrial park in the future. She shared that if rezone tonight that every project, however tiny, will come before the Commission to be evaluated on the environmental impacts of that project which will be not significant and have no cumulative impact analysis. She said this would set a terrible precedent and the county is required to fix these zoning inconsistencies that are already a year late. She acknowledged that the county is applying for finding money to try to get it done and that without a current proposal why invite all these other problems and the possibility of having an unsuccessful industrial park instead of tiny projects that will never realize the vision expressed in the General Plan.

Brad Johnson stated that the assertion that allowing projects under the MX zone would escape cumulative impacts analysis under CEQA is untrue. Every project would undergo CEQA and that it is important to stick with what the CEQA rules are.

Commissioner Byrne said that he still believes that the water issue is a major environmental impact that has been brought forth since the environmental review of the General Plan and that this is new information which says to him that the environmental is not adequate for making this decision.

Commissioner Wardall stated that he put a 190psi, 6-inch water main in right down the road through that property.

Commissioner Byrne responded, "So?"

Commissioner Wardall said so they have potable water there at 190psi.

Commissioner Byrne commented for 1,000 acres of industrial development?

Commissioner Wardall said it depends upon the type of development.

Commissioner Byrne said that they are going in circles.

Counsel Spitzer asked Chair Ryan if he would like him to address the CEQA issues.

Chair Ryan said please.

Counsel Spitzer asked to clarify on the X zone and share that his understanding is that it adds nothing to the zoning that it is being combined with except that it requires a discretionary permit instead of a by right which would then require a CEQA analysis. He added that the issue about new information that the Foothill Conservancy raises is whether it is qualifying new information. He explained that qualifying new information is something that indicates substantial change and also was not analyzed in the underlying environmental document which is the General Plan EIR. The EIR, on pages 4.9-27 through 4.9-29, calls out this yield issue for the ground water as a significant impact and that there are a number of mitigation measures addressing it. He stated that it is ultimately for the Planning Commission to decide that it is not qualifying information either because it is not a new significant impact or it is not a substantial increase in the severity for a previously identified impact. He explained that it is going to be assessed on a substantial evidence standard and whatever the Commission decides in this regard would likely be

defensible. He shared that Mr. Johnson was 100% correct about the cumulative impact issue. He explained that every time a permit comes before a decision making body it needs to be analyzed for cumulative impacts. He said that the cumulative impacts of that particular impact as well as anything else coming down the pike will have to be analyzed.

Mr. Swett stated that what the Planning Commission is looking for is to maximize control and that MX gives the control sought and everything will require review which takes away any by-right uses.

Chair Ryan said he was going to stop comments at this point and circle back with internal comments and added that he has some questions for Counsel and possibly staff. He asked staff what the minimum lot size would be if 1,150 acres were broken up and that he assumes that if broken up they would have to have a zone change. He asked if those lots were created, sold off individually with the X designation, and each of the investors were to develop and have to come in for a use permit if the cumulative effects would take place, since now they would all be separate individual properties. He voiced that since being on the Commission, he has never seen where take in all the projects around and look at the cumulative effects because once they are separately owned it is a different story.

Counsel Spitzer said as a legal matter and theoretical, the cumulative impact analysis is required to be done and in theory should capture everything and should protect the environment to the full extent. He added as a practical matter it might play out a little differently, consistent with your experience.

Chair Ryan said that is what I thought.

Commissioner Byrne stated that that has been his experience with the cumulative effects. He explained that this person is responsible for this portion and that person is responsible for that and you have to have a countywide program to tie them all together which we do not have. He commented that you see them, but to the actual effect nothing happens.

Chair Ryan said that Shenandoah Valley is a perfect example.

Mr. Beatty responded to the earlier request by Chair Ryan that the minimum square footage for by-right uses in the M zone is 5,000 square feet, with a use permit it is 10,000 square ft., so 4 parcels per acre.

Chair Ryan said he would love to see a master plan that is going to make use of this and really designate a project. He shared that he is a businessman and all for development, businesses, and employment, but in this particular case it is not in the best interest of the local residents or the county to move forward with this at this time. He shared that he thinks they can sell it tomorrow with its current designation with the idea that once a project is developed it is going to be part of a zone change.

Commissioner Byrne added that a zone change on top of a whole project is pretty routine as opposed to trying to change the General Plan or something like that.

Chair Ryan said this goes before the Board, anyway.

Commissioner Byrne said he would like to hear Commissioner Gonsalves.

Commissioner Gonsalves said that he tends to agree with them given the information that there is no project. He said he would consider it spot zoning and stated that he does not think he can support it.

Commissioner Wardall said he has made his comments.

Commissioner Curtis says the X gives more control and that he would be much more in favor of it if there was some kind of plan. He stated that there are no roadways, that there is a waterline going through, but that is about it. He added that 1,000 acres of industrial park could be quite a bit of sewage in the ground.

He shared that he understands that it is easier to sell a 200-acre part of it if it is already zoned.

Commissioner Byrne stated that you have to go to the Planning Commission to get 200 acres anyway.

Commissioner Curtis said but knowing it is already zoned is easier and that he is really conflicted with it.

Commissioner Byrne shared that we do not want every project to come in for a use permit and that we are not capable of handling every project that comes in. He shared that is why we have zoning and why it needs to be done on a systematic level to accommodate a plan for the entire area. He explained that we do not have the staff for that if 20 projects have to come in for a special use permit. He continued that that is part of the idea of doing a General Plan with zoning districts.

Commissioner Wardall said that the proponent and the county are trying to fix a broken zoning system so the proponent is left out to dry until county gets their act together.

Commissioner Byrne said they can bring a project forward and that our county is underfunded. He stated that he would like to see everything up to snuff like the General Plan issue, zoning, ordinances, and the Shenandoah Valley, but only so much can be accomplished at a time.

Chair Ryan asked for a motion.

Commissioner Byrne stated that his motion would be that the environmental document is not adequate because new information is significant and it is specific enough and not covered in the General Plan.

Chair Ryan asked Commissioner Gonsalves if he heard that.

Commissioner Byrne said that someone else is going to have to make a motion.

Commissioner Curtis commented that Counsel Spitzer said that the environmental document is okay.

Commissioner Byrne stated that Counsel Spitzer said it is defensible and we can make a decision on it. He then commented that he believes this new information supercedes it and discussed other motion options.

Commissioner Curtis commented that first thing have to do is to decide whether the environmental document is adequate and then we can do the other part.

Commissioner Byrne added that it can be done separately or together.

Chair Ryan suggested that the Commission might want to combine them.

Commissioner Wardall commented that he thinks it will give the project a big black eye to say the environmental document is not adequate. He said that the worst case scenario with MX is that you can look at a project at that point and time and say whether the environmental document is adequate. If you don't know what the project is, you can't say that the environmental document is not adequate because the environmental cartel brings up something.

Commissioner Byrne explained that the environmental document is not adequate because there is a water issue with a depleting water aquifer underneath which was brought up in the General Plan, but since the General Plan, a water report by the water district that manages that aquifer shows exactly how bad it is right now and that we did not have that information before.

Commissioner Wardall asked so we close the gates to Amador County and not have any development in that area.

Commissioner Curtis stated that we do not have a project so he does not know how we are going to evaluate the environmental document.

Commissioner Byrne said we need to think about what the possibilities are for this property if we zone it this way and what those possibilities would do. He added that they do environmental reviews over water issues all the time.

Commissioner Curtis said if we know what will be put there we will see how much water they will use.

Commissioner Byrne said we did it at the General Plan review but we did not have this new information when we did the General Plan.

Chair Ryan asked to point out that it is not 50 or 100 acres, it is 1,150 acres which is huge and there are all sorts of possibilities. He shared that we have no idea if the environmental document is or is not adequate because we are talking about such a huge parcel where we are opening up to almost anything that gets approved. He added that this body will change in the next year or two and as we all know elections have consequences. He stated that this ultimately will change zoning, but he does not see the rush to do that and thinks further study will show there is a depletion out there. He added that it may affect future development out there and that we need to look at this so that it meets the needs of the county. He stressed that it needs to be set up with the infrastructure in place, with the water supplies, the sewage as a combined project, or at least on a good portion of this land.

Chair Ryan asked for a motion and if no one is willing to do so that he will have to step out of the box and do so.

The gavel was passed to Commissioner Gonsalves who called for the vote.

MOTION: It was moved by Chair Ryan, seconded by Commissioner Byrne, and carried that due to recent information the environmental document is found inadequate and recommended that the Board of Supervisors deny the zone change.

AYES: Ryan, Byrne, Gonsalves

NOES: Curtis, Wardall

Mr. Bratan stated that the Planning Commission has found the environmental document to be inadequate and recommended denial of the requested zone change to the Board of Supervisors. A public hearing will be scheduled at a later date.

MOTION: It was moved by Commissioner Byrne, seconded by Commissioner Curtis, and unanimously carried to adjourn the meeting. The next meeting is scheduled for November 10, 2020.

Ray Ryan, Chair
Amador County Planning Commission

Mary Ann Manges, Recording Secretary
Amador County Planning Department

Chuck Beatty, Planning Director
Amador County Planning Department