

**AMADOR COUNTY PLANNING COMMISSION MINUTES
SUMMARY MINUTES OF TAPE RECORDED MEETING
July 14, 2020 – 7:00 P.M.**

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
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
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. Pledge of Allegiance.

B. Approval of Agenda:

MOTION: It was moved by Commissioner Byrne, seconded by Commissioner Curtis, and unanimously carried to approve the agenda as presented.

C. Minutes: June 9, 2020

MOTION: It was moved by Commissioner Byrne, seconded by Commissioner Wardall, and carried to approve the June 9, 2020 minutes as amended.

AYES: Byrne, Wardall, Curtis, Ryan
NOES: None
ABSTAIN: Gonsalves

D. Correspondence: Item 2 – Letters from Paula Shepard

E. Public Matters not on the Agenda:

David Wardall, Eagles Nest Airport, shared that he received several noise complaints by a resident who lives near the airport regarding noise made from airplanes using or flying by the airport. He voiced that the complaints have been researched with notification given to the appropriate parties. He stressed that the airport strives to be a good neighbor.

F. Recent Board Actions: None

G. Agenda Items:

Public Hearings

- Item 1 - Zoning Ordinance Amendment (ZOA-20;7-1). Discussion and possible recommendation to the Board of Supervisors regarding proposed amendments to the County Code regarding Accessory Dwelling Units. The Ordinance would
- Repeal Chapter 7.16 regarding house courts and camp spaces;
 - Repeal Section 19.48.070 regarding guest houses;
 - Repeal Section 19.48.120 regarding second family dwellings in single family districts;
 - Amend Section 14.06.055 regarding production requirements for water supply wells;
 - Amend Section 19.08.310 regarding the guest house definition;
 - Amend Section 19.24.045 regarding R1-A district;
 - Amend Section 19.48.110 regarding yards and setbacks; and
 - Add Chapter 19.72 regarding Accessory Dwelling Units

Applicant: County of Amador

Supervisorial District: All

Location: The ordinance would be effective in all applicable portions of the unincorporated area of Amador County where dwellings are permitted.

Chair Ryan introduced the item.

Deputy County Counsel Spitzer presented the Staff Report which is hereby incorporated by reference into these minutes as though set forth in full. He shared some background regarding recent State legislation that changed the way the local jurisdictions have to treat accessory dwelling units (ADUs), and added that these amendments are being presented to make the municipal code consistent with state law. He stated that the government code gives cities and counties very little flexibility with the rules they adopt to regulate ADUs with the flexibility to address water, sewer and public safety and some flexibility on design and size and whether to allow short term rentals. He added that the county may ease the minimum regulations, but may not make them more burdensome. He shared the differences between Category 1 and Category 2 ADUs stating that most of the flexibility the County has is with Category 1 ADUs.

Chair Ryan opened the hearing to public comment. No one 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 asked if a guest house can now have a kitchen and if a guest house can be converted to an ADU.

Counsel Spitzer responded that new ADUs are required to have some cooking facilities.

Mr. Beatty shared that in the past a guest house differed from an ADU in that it had to be 799 square feet or less, have no kitchen, and required a use permit. The new state law eliminates the need for a use permit, and a guest house can be converted to a house subject to standard building permits and fees. Guest houses without a kitchen are still temporary quarters and not for full-time occupancy. ADUs are allowed in any zone where housing is a permitted use as long as the requirements for water and septic are met.

Commissioner Byrne asked if a guest house is built, does the applicant have to pay a fee.

Mr. Beatty stated guest houses do not pay impact fees because they are temporary quarters, whereas ADUs pay fees based on size. ADUs under 750 square feet don't pay impact fees, but larger ADUs pay fees proportionate to the square footage of the primary dwelling.

Chair Ryan asked if someone has a guest house and wants to put in a full kitchen if they would be assessed impact fees.

Mr. Beatty stated they would pay impact fees based on the size of the ADU when it is completed.

Commissioner Gonsalves asked if there are school impact fees on ADUs.

Mr. Beatty shared school impact fees are exempt for ADUs less than 750 square feet.

Commissioner Byrne asked if impact fees are regulated by California.

Mr. Beatty replied that all of the fees are local and are based on nexus studies to determine the impact, but the State set the limits that can be applied to ADUs.

Chair Ryan asked when this was effective.

Mr. Beatty shared that it was effective at the time of the state's approval of it and added that some of it was effective January 1, 2018. He continued that there was a series of other housing legislation bills over the next two years. He shared that the State's intent was to create more opportunities for housing and that as a result a variety of parts of the county code get affected.

Chair Ryan asked if there is size limitation for the second units.

Counsel Spitzer stated that currently as drafted there is no limitation to the size. The Board of Supervisors is free to make a limitation on that size.

Chair Ryan stated that unless there is a directive from the Planning Commission or the Board of Supervisors that would not be the case.

Mr. Beatty stated that in the past there was some limitation in size depending on acreage of the parcel.

Chair Ryan stated that he understands that as long as there are enough parking spaces, someone can build a boarding facility. He added if a person is to rent it out the whole purpose here is to create rentable units.

Counsel Spitzer stated that he believes that as drafted now they could do that and would only have the requirement for one parking place.

Commissioner Byrne asked about the size allowed for tiny homes as a second unit.

Counsel Spitzer replied that it is 150 square feet and that it cannot be limited below that.

Commissioner Byrne stated that he has been approached by people wanting tiny homes and they were annoyed that they could not be done in this county.

Commissioner Byrne and Chair Ryan remembered that they had denied tiny homes in the past because the ordinance did not allow for it.

Commissioner Byrne stated that as a second unit it is okay, but we would have to do something different

if it is a primary dwelling unit.

Mr. Beatty shared that the county's ordinance on the primary unit is still a minimum of 800 square feet. He added that he remembers a few variance requests for the tiny houses that were a few hundred square feet but they were denied.

Chair Ryan asked for clarification that a tiny home still would require hook ups.

Mr. Beatty stated that it would and that it would also have to meet building code requirements.

Chair Ryan said that permits would still be required and that it will need to be inspected before occupancy.

Mr. Beatty stated that we often get calls about the use of park model RVs as primary dwellings, but as RVs they are not considered dwellings for the purpose of this ordinance.

Commissioner Byrne shared that a lot of tiny home manufacturers have gone to making them trailers. As it stands now as a second unit you can build a home down to 150 square feet.

Chair Ryan stated that he does not believe the size going down is a big issue but that size going up is. Tiny houses are a big thing with people moving back home.

Commissioner Byrne stated that he agrees and added that people do not need a giant house and that he thinks the county should also address the need for a smaller home for a primary dwelling, but that that is not for tonight.

Chair Ryan agreed that size is the issue and that that is what should be discussed. He commented that size could be limited based on the original size of the dwelling or there that there could be a cap of 4 or 5 bedrooms.

Commissioner Gonsalves asked for confirmation of his understanding that there is not any wiggle room for city and county governments.

Counsel Spitzer responded that there is wiggle room on particular issues such as size.

Chair Ryan added that we have to allow it, but we can control the size and other minor things.

Counsel Spitzer stated that as long as you do not go below the 850 square feet for one bedroom and 1000 square feet for a two bedroom.

Commissioner Byrne asked if there is a lot of multifamily zoning in the county.

Mr. Beatty shared that the county has about 60 acres zoned for multi-family use, with 30 acres of it across from Wicklow Way, 25 acres west of Martell, a few other scattered sites in order to meet the RHNA (Regional Housing Needs Assessment).

Commissioner Byrne commented that we have them because of the Housing Element.

Mr. Beatty added that we have been cautious to discourage rezoning them because of the Housing Needs Assessment and all of them are vacant. In the next Housing Element we are going to have to add some more.

Chair Ryan asked if it is State mandate to not exceed 16 feet height.

Counsel Spitzer responded no and shared that Category 1 can exceed 16 feet. He also added that with Category 2, 800 square feet cannot be adjusted.

Discussion ensued amongst Counsel and the Commission reviewing and clarifying height limits and square footage maximums and minimums of Category 1 and Category 2 contained in the staff report.

Chair Ryan asked for clarification if anyone is going to be able to get a ministerial permit and asked if property owners in the area are going to be noticed.

Mr. Beatty responded that a 1/8 page ad for the notice of hearing was placed due to the large number of parcels affected.

Chair Ryan asked if neighbors would be noticed if someone is going to build an ADU.

Mr. Beatty shared that as ministerial permits, no notice will be required.

Counsel Spitzer wanted to clarify and read in Subsection C that a local agency shall not establish by ordinance a maximum square footage that is less than 850 square feet and commented that you have to go 850 square feet or more.

Commissioner Byrne stated that his first response would be that ADUs cannot be bigger than the house existing there, but that he is not sure if that is a good answer.

Chair Ryan commented that he thought of that, too.

Commissioner Curtis added that it is another way to build a house without having to put sprinklers in because if the existing house does not have them they do not need to be put into the new one.

Chair Ryan responded is that right.

Counsel Spitzer said that it is the main building code requirement that can be escaped.

Chair Ryan stated that this brings up a question for developments that are in unincorporated areas. He commented that the EIR (Environmental Impact Report) is based on projected impacts and that the EIR does not have any value anymore.

Commissioner Byrne asked if Planned Development can override that.

Mr. Beatty stated ADUs instantly became ministerial permits and added that some existing HOA (home owner association) rules against ADUs became unenforceable.

Commissioner Byrne said that in the past the Commission used those kinds of limitations as a tool in an environmental document.

Chair Ryan said that this is opening Pandora's Box.

Commissioner Byrne added that he thinks that was the goal to get more housing because California's housing is so tight.

Commissioner Curtis added that setbacks are unrealistic for our county, too.

Mr. Beatty stated that the legislation was designed primarily for urban areas, even though it applies to rural counties, as well. He added that the law only requires a 4-foot building setback on parcels that are an acre or larger where the fire code already says you need to have 30 feet. He stated that in our

ordinance we are considering this a life and safety issue and are requiring a setback of 30 feet for parcels an acre or larger.

Commissioner Byrne commented that the Commission should come up with some sort of upper limit and otherwise move it forward. He added that he would like to hear some other options.

Chair Ryan stated that he agrees and asked what is reasonable.

Commissioner Curtis added that the ADUs should not be any bigger than existing dwelling and shared that it is supposed to be accessory. He added that otherwise, it makes the new building primary.

Commissioner Byrne stated that we could leave it under the size of the original dwelling.

Chair Ryan added not to exceed the existing dwelling.

Counsel Spitzer commented with a caveat that unless the primary dwelling is less than 850 square feet for one bedrooms or 1000 square feet for 2 or more bedrooms.

Discussion of scenarios with larger and smaller homes than the first dwelling ensued amongst the Commission and Counsel Spitzer. It was discussed that if the original house is under 800 square feet it would be grandfathered in.

Chair Ryan said we just need the language that can go before the Board.

Counsel Spitzer said the exact language is not needed right now and that he can draft it.

Chair Ryan asked if staff understands what the Commission is asking for.

Counsel Spitzer responded exactly and he would amend the draft accordingly.

MOTION: It was moved by Commissioner Byrne, seconded by Commissioner Curtis, and unanimously carried to recommend to the Board of Supervisors to approve the ordinance changes with the recommended changes by the Planning Commission.

Mr. Beatty stated that the Planning Commission has recommended approval to the Board of Supervisors of the proposed Accessory Dwelling Unit ordinance with the changes as discussed. A public hearing will be scheduled at a later date.

Item 2 - Zoning Ordinance Amendment (ZOA-20;7-2). Discussion and possible recommendation to the Board of Supervisors regarding proposed amendments to the County Code that would establish the following livestock density on parcels less than 5 acres in size:

- One acre per animal with an average adult size 500 pounds or more (1 per acre)
- One-quarter acre per animal with an average adult size 50-499 pounds (4 per acre)
- 0.02 acres per animal with an average adult size less than 50 pounds (50 per acre)
- No more than 5 roosters on any parcel less than 5 acres (5 per acre)
- The total acreage required is the sum of the required acreage for each animal. The ordinance would not apply to livestock employed for vegetation management or fire hazard abatement (90 days/year), educational animal husbandry projects such as 4H, FFA, Grange, etc. Existing nonconforming uses would be grandfathered unless declared a public nuisance by the Health Officer, Agricultural Commissioner, or Board of Supervisors.

Applicant: County of Amador
Supervisory District: All
Location: The ordinance would be effective on all parcels of land less than 5 acres in size within in the unincorporated area of Amador County.

Chair Ryan introduced the item.

Mr. Israel, Environmental Health Director, shared the Staff Report which is hereby incorporated by reference into these minutes as though set forth in full. He stressed that when nuisance complaints with regards to animals are received one of the things that seems to be a surprise to those recently moving to the county is that minimum parcel size and density for stocking of livestock is currently not addressed by ordinance in this county.

Commissioner Curtis asked how it will be determined who the existing operations are.

Mr. Israel stated that most of the time you can tell by the appearance of the property and interview neighbors other than the complainant.

Commissioner Curtis commented that sometimes people move into the county and move right next to someone that has 3 horses on their 2 acres.

Mr. Israel stated that that is the majority of the complaints.

Commissioner Curtis stated it is almost like before the ordinance goes into effect need you need to come in and get a permit.

Chair Ryan said with that example, when that person moves in next to someone they are going to consider that a nuisance until it gets taken care of. He commented that you are going to be getting complaints on a regular basis and asked how that is going to be dealt with.

Mr. Israel stated that this is the majority of their complaints and that the ordinance is one tool that we are hoping to be able to use to show somebody that they are within the criteria or that they preexist and unless they are declared a nuisance which is a very high bar to clear we are not going to require that they do anything otherwise. He added that determining if they preexist the implementation of this ordinance should be able to be done by word of mouth. He also shared that it has been considered to have people sign up to get grandfathered, but probably will not have to do that since plenty of people should be around to verify pre-existing land use.

Chair Ryan said we are dealing with small parcels so there are going to be lots of neighbors.

Various scenarios were shared amongst the Commission with discussion focused on details of grandfathering.

Mr. Beatty explained that there is a clause in the ordinance about grandfathering and if a new land owner puts the same amount of livestock on a parcel within two years, it would be considered grandfathering.

Mr. Israel responded that if we adhere to the same interpretation for grandfathering that is applied to other nonconforming uses that he thinks it would be easier to follow that because it is the same pattern applied here.

Mr. Beatty agreed.

Commissioner Curtis stated that he does not see anything here for kennels.

Mr. Israel responded that dogs and cats would not be regulated as livestock under the proposed ordinance.

Commissioner Curtis stated that they can make just as much of a nuisance.

Mr. Beatty stated that we have a use permit process for kennels.

Mr. Beatty shared that another reason for adopting the ordinance is to help the Planning Department alleviate the issues up front by letting prospective buyers know what their limits are. He added that Environmental Health, the Agricultural Commissioner, and Animal Control usually get the complaints that could have been prevented.

Chair Ryan stated that this is opening up the door for the next person to come in knowing that they can have a certain number of animals based on the grandfathering clause. He shared that there is nothing going forward that says you have to reduce that even though you are brand new to the community and that you can just continue this forever in that grandfather clause. He stated that he is a little concerned and that there is no end in sight for those who are considered a nuisance.

Mr. Israel stated that his initial thought was that the grandfathering would apply to the owner of the property and not necessarily run with the land for a two year period. He commented that it is simpler to have the same nonconforming use language and have it run with the land. He added that the people going to buy that property are going to want that.

Chair Ryan said that that is the value of that property.

Commissioner Curtis asked how many chickens would be allowed on 5 acres.

Mr. Israel responded that it is 50 per acre, so 250 with no more than 5 roosters.

Counsel Spitzer commented that if the intent is to limit this when there is a sale then it should be stated expressly because as he reads this it would be based on use and the sale itself would not constitute the period that ends it.

Commissioner Gonsalves stated that it is very interesting and a difficult determination to make. He shared that if someone is going to sell their property, there is some ambiguity in the way it is written as to whether or not they are grandfathered in with the sale of the livestock or not.

Commissioner Byrne agreed.

Commissioner Curtis stated that he understands that it is grandfathered for two years.

Mr. Israel commented that if we want to do something different to terminate upon sale of the property we need to put specific language into the ordinance and maybe create a carve out for it when it changes title but not when it changes hands in the same family.

Chair Ryan stated that if it is passed with the current language and then 2 or 5 years down the road it becomes problematic the Board of Supervisors can take it up and modify that section.

Mr. Israel shared that complaints will still be received, but that this will be a tool to prevent future ones, especially for Planning.

Chair Ryan shared his desire to go ahead with language as it is instead of trying to second guess this.

Commissioner Byrne stated that he agrees.

Commissioner Curtis shared it seems reasonable as long as the new person does not put more livestock on the parcel.

Mr. Israel mentioned that similar ongoing use would be grandfathered.

Mr. Beatty commented that first of all they are going to have to prove how many were there to begin with.

Chair Ryan asked who does all the proving.

Mr. Israel responded that we cannot do a count right now because we have no standard to hold it to, but it currently it is Environmental Health, Animal Control, Planning, and Code Enforcement determining if it is a nuisance. He added that it is a guessing game most of the time.

Commissioner Byrne questioned only one horse being allowed and stated that they are social animals and that it is cruel to the horse to only have one. He asked if there is a way of dealing with this.

Mr. Israel shared that his initial proposal was for two horses, but the Agricultural Advisory Committee wanted one large animal per acre. It can be tailored to have a two acre minimum.

Commissioner Byrne stated that he would like to address it, but he is not sure how the rest of the Commission feels about this.

Commissioner Curtis agreed one horse alone is not good.

Commissioner Byrne stated that he is willing to change to two acres and that he has a neighbor that has one horse and it is not a happy horse.

Commissioner Gonsalves asked what the Agricultural Advisory Committee's rationale was.

Mr. Israel responded that the Ag Committee commented that two large animals per acre is too destructive for the land, but that they did not impose a minimum lot size or mandate that two large animals were needed.

Discussion ensued amongst the Commission that topography varies in the county and that large animals can be impactful, but that the wellbeing of the horse is important.

Commissioner Curtis suggested to word it to allow two horses for companionship, but if over two horses to limit them to one per acre.

Commissioner Gonsalves stated that he believes we are talking about 2 horses on a one acre minimum parcel.

Commissioner Byrne shared that if you have a one acre parcel you get 2, if you have 2 acres you still get 2, if you have 3 acres you get 3.

Chair Ryan commented how difficult would that be to draft that and that he likes easy and asked if everyone is in concurrence with that.

Commissioner Byrne shared that he thinks that is a great compromise.

Commissioner Curtis stated that allows the empathy for the animal.

Chair Ryan asked if anyone desires to speak.

Paula Shepard shared that she gave her opinions in the letters she submitted. She asked if roosters means specifically male chickens or males of other species of poultry.

Mr. Israel replied the intent is male chickens only.

Ms. Shepard asked to let her know if there were any questions for her.

Counsel Spitzer asked to clarify that this rule being put in place is only for the large animals and is for any large animal and not just for horses.

Chair Ryan responded absolutely, llamas and donkeys would be included.

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

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

Chair Ryan asked for a motion.


MOTION: It was moved by Commissioner Byrne, seconded by Commissioner Curtis, and unanimously carried to recommend approval to the Board of Supervisors with the changes discussed by the Planning Commission.

Mr. Beatty stated that the Planning Commission has recommended approval to the Board of Supervisors of the proposed Livestock Density ordinance amendment with the changes that were discussed. A public hearing with the Board will be held 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 will be August 11, 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