

**AMADOR COUNTY PLANNING COMMISSION MINUTES
SUMMARY MINUTES OF TAPE RECORDED MEETING
November 15, 2022 – 7:00 P.M.**

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The Planning Commission of the County of Amador met on November 15, 2022 in the Board Chambers at the County Administration Center, 810 Court Street, Jackson, California. The meeting was called to order at 7:00 p.m. by Chair Gonsalves.

COMMISSIONERS PRESENT WERE: John Gonsalves, Chair, District 1
Dave Wardall, District 2
Earl Curtis, District 3
Stacey Munnerlyn, District 4
Mark Bennett, District 5

COMMISSIONERS ABSENT WERE: None

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

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.** The meeting was called to order by Chair John Gonsalves at 7:00 p.m.
- B. Pledge of Allegiance**
- C. Approval of Agenda:**

MOTION: It was moved by Commissioner Munnerlyn, seconded by Commissioner Bennett, and unanimously carried to approve the agenda.

- D. Minutes:** October 11, 2022

Commissioner Wardall shared that he would like to thank Commissioner Munnerlyn for her comprehensive analysis, data collection, and study of the battery storage project heard at the last meeting.

Commissioner Munnerlyn asked if the names of those participating by Zoom are included in the minutes.

Mary Ann Manges, Recording Secretary, responded that those that speak are named in the minutes, with Mr. Beatty confirming this.

Commissioner Bennett commented that the minutes cannot be changed and shared that at the last meeting that he misspoke when he stated that he was surprised that our zoning does not account for an alcohol establishment close to a school. He continued that the Goal Post Bar has been across from the school for decades and that perhaps he was referring to a more urban setting.

MOTION: It was moved by Commissioner Munnerlyn, seconded by Commissioner Wardall, and carried to approve the October 11, 2022 minutes.

AYES: Bennett, Curtis, Munnerlyn, Wardall

ABSTAIN: Gonsalves

- D. **Correspondence:** Letters received from Caltrans and Brian Jobson after the agenda was published were added to the project record for Item 2.
- E. **Public Matters not on the Agenda:** Mr. Beatty stated that the public draft of the Housing Element Update is available for a 30 day public review. He shared that there will be two workshops for the public with one November 16th at 2:00 p.m. and one November 29th at 6:00 p.m. and there will also be an opportunity for public comment during the December 13th Planning Commission meeting.
- F. **Recent Board Actions:** Mr. Beatty shared that the Board of Supervisors will hear an appeal on November 22nd at 10:30 a.m. for the Apex Battery Storage heard by the Planning Commission last month.
- G. **Agenda Items:**

Public Hearings

- Item 1 - **Request for Tentative Parcel Map PM 2912 Gish, proposing the division of a single ±103 acre parcel into two parcels, ±43 and ±60 acres in size. The parcel is zoned A, Agriculture Zoning District and has a General Plan Designation of AG, Agricultural General (40-acre minimum). APN: 014-180-001**

Applicant: Gish Credit Shelter Trust, Representative: Karen Gish

Supervisory District: 5

Location: 15615 Tyler Rd., Fiddletown, CA 95629

Ms. Ruesel introduced the item and shared the Staff Report which is hereby incorporated by reference into these minutes as though set forth in full. She noted that there was a Tribal consultation request by the Lone Tribe with mitigations included in the draft conditions of approval. She added that there also is a comment by the Buena Vista Tribe requesting notification if any resources are encountered in the future.

Chair Gonsalves opened the public hearing.

Matt Toma, representative for Gish Trust, stated that the conditions are fairly standard. He stated that they have no issues or questions with the conditions and that they will work with the local Tribes to get some of the areas mapped and/or noted.

Chair Gonsalves asked if there is any public comment. There was none.

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

Chair Gonsalves asked for discussion amongst the Commissioners.

Commissioner Wardall said that this is a pretty simple land split within the code and does not see any problems.

Commissioner Munnerlyn voiced that she agrees and that they have suitable access taken care of for both parcels.

Commissioner Bennett agreed.

MOTION: It was moved by Commissioner Wardall, seconded by Commissioner Bennett, and unanimously carried to approve the Mitigated Negative Declaration as the adequate environmental document.

MOTION: It was moved by Commissioner Wardall, seconded by Commissioner Munnerlyn, and carried to approve PM 2912 Gish with the conditions proposed by staff.

Ms. Ruesel stated that the Planning Commission has moved to approve PM 2912 Gish. 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 November 25, 2022.

Item 2 - Request for a Use Permit (UP-22;6-4) to install a 150-foot-tall monopine design wireless communication tower with associated tower and ground equipment, along with a General Plan Amendment (GPA-22;6-1) from OR, Open Recreation to C, Commercial for ±3.6 acres of APN 033-010-089.

Applicant: Mace Meadows CC LLC/Everest Infrastructure Partners by Jim Jagers, Black Rock Consulting and Development
Supervisorial District: 3
Location: 26570 Fairway Drive Pioneer, CA 95666

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

Chair Gonsalves opened the public hearing and asked if the proponent desired to speak.

Jim Jagers, participating by Zoom, shared that he is with colleague Sophia Mekkers and that in general they are in support of the staff recommendation with the exception of condition #14.

Sophia Mekkers asked if this is the time talk about the conditions.

Mr. Bratan responded yes.

Ms. Mekkers asked for clarification about condition #14 where it suggests that the top portion of the monopine be painted white.

Mr. Bratan said that this condition was carried over from another cell tower during a TAC (Technical Advisory Committee) meeting.

Commissioner Wardall shared that he is a retired air tanker pilot with CalFire and also Chair of the Associated Aerial Air Fighters. He stated that the average drop height above ground is 150 feet for an air tanker. He added that to have something 20 feet above the canopy is not good and that he supports painting it white and that with the new CalFire night flight helicopters and the C130's with night vision that a warning light at night is needed for safety. He said he has been to too many funerals and that the Association pays out \$5-\$10,000 to families who have had an accident with over \$350,000 paid out over the past 15 years.

Chair Gonsalves asked for public comment.

Ken Regnier, resident of Fairway Pines, shared that the tower is proposed to go near the golf course driving range where helicopters frequently land for medical emergencies and agreed there should be a warning light. He asked whether the General Plan or the Zoning District takes precedent and asked what the golf course is actually zoned.

Mr. Beatty responded that most of the golf course is zoned R1A with some Commercial and Highway Commercial zoning near Fairway Dr. and Hwy 88. He continued that the zoning dictates what can go on those parcels and the General Plan designation is the County's intention for future land use. He added that he believes that the commercial zoning with open space general plan designation was an error when the General Plan was updated, but does not know this for sure.

Mr. Regnier said he has concerns that the golf course might want more land to lease if they will sell more lots on the golf course to do that.

Mr. Beatty replied that there is a conservation easement that would prevent development of the golf course itself.

Chair Gonsalves asked if there is more public comment.

Kirk Wallace, one of the three entities that owns the Mace Meadows Golf Course and the Mountain Grill, shared that there seems to be concern amongst many of the neighbors of the golf course about their intent to do something else with the property. He shared that Mr. Beatty stated that nothing else can be done with it and that he thinks it is important to understand that they purchased the golf course to be a golf course and that there is no intention by him or the other owners of doing anything other than maintaining it. He shared there is a resolution that it is Open Space and that he would like to squelch any rumors.

Jim Summers, Golf Links Dr., shared that they have no objections to the tower, but has serious objections to the proposed chain link and barb wire fencing around the compound. He stated that he echoes Caltrans' concerns about the view shed and asked if there is some way to enhance the aesthetics of the fence.

Chair Gonsalves asked for public comment. There was none.

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

Chair Gonsalves asked for discussion amongst the Commission.

Commissioner Curtis asked if the project site is adjacent to the golf cart building with the fencing shielded from view from the driveway.

Mr. Summers responded that the south side of the project would be shielded completely as well as the east side and added that he has not seen Everest's drawings of the fence. He understands the security issue with copper theft so prevalent and understands concern about the barbed wire. He shared that he is not opposed to doing something differently to provide the same amount of security. He said that he does not know how much of the fence will be exposed and needs to see the drawings, but believes that it will be seen from Fairway Dr.

Commissioner Curtis said he believes that you will need to look over the golf cart building to see it from Fairway Dr.

Mr. Wallace said it will actually be on the north side, the parking lot side.

Commissioner Curtis commented that there must be some of those pieces of fabric in the chain link fence and that some of the pictures show it amongst a bunch of trees.

Mr. Wallace said there are not many trees there and that it will be in the northwest corner between the cart barn building and the parking lot.

Commissioner Curtis shared that it is hard to tell from the one dimensional drawing and that some of the

pictures show it in between thick growing trees.

Mr. Regnier said that from the 2 D drawing, page C-1.1, it appears it would be seen from the highway on at least 2 sides.

Commissioner Curtis said that the drawings are different than what the photographs depict and the drawing makes it look like the tower is a long way away.

Mr. Jagers stated that the photographs are intended to show the tower view from a prescribed distance and not intended to show the compound. He shared that the drawings show that the site is on the north side of that building and that there is fairly substantial tree coverage along the highway and to refer to page 76, photo C1. He added that there is thick tree coverage along the highway that is not going to be disturbed, and a number of trees along Fairway Drive to help screen.

Commissioner Curtis said that it is about 200 feet from the highway.

Chair Gonsalves asked if there are any more questions or concerns.

Commissioner Curtis asked for clarification about the zone change.

Mr. Bratan responded that the zoning is Highway Commercial and the General Plan is Open Recreation, which aren't compatible, so the Open Recreation for that area is being changed to Commercial.

Commissioner Curtis said that it only makes sense. He shared that people love their cell phones, but hate cell towers. He asked if a red light could be put on top of the tower.

Commissioner Wardall responded that it could work as long as it meets the FAA specs for brightness.

Mr. Bratan asked if Commissioner Curtis is proposing to have condition #14 reworded.

Commissioner Curtis said instead of painting it white to have a red light for navigation all the time.

Commissioner Munnerlyn asked if other cell towers have navigation lights on top.

Commissioner Wardall asked if Commissioner Curtis is proposing to omit the white covering of the top 20 feet if it is exposed due to a forest fire.

Commissioner Curtis responded it will not be missed if there are no trees around it and if there is red light on it.

Commissioner Wardall said typically red lights are not on during the day.

Commissioner Curtis stated that if the trees burn down, we are not going to have to worry about that.

Commissioner Wardall suggested that if the forest burns down that the white covering can be removed for 5 years and then repainted.

Commissioner Curtis proposed that the condition be reworded so that a red light at the top is required now, and that if the forest burns down, the top 20 feet be painted white. He added that he thinks the red light at night will protect flyers all the time, especially the helicopters at night.

MOTION: It was moved by Commissioner Wardall, seconded by Commissioner Munnerlyn, and unanimously carried to approve the Mitigated Negative Declaration as the appropriate environmental document.

MOTION: It was moved by Commissioner Wardall, seconded by Commissioner Bennet, and carried to approve UP-22;6-4 with all conditions as written except for condition #14 where the white light will be replaced with an aviation FAA approved red light and that the light will operate during the hours of darkness. He added that if the tower is the same level as the tree canopy that it does not need to be painted white, but, if there is a fire where the canopy is diminished below the monopole, within 5 years of that fire that the top 20 feet be painted white.

Mr. Bratan asked for clarification with this condition and asked if the tower remains a monopine with the top painted white or if the tower needs to be converted to a monopole.

Commissioner Wardall said either way.

Commissioner Curtis stated that he still wants a monopine with a red light on top at night.

Commissioner Munnerlyn agreed it that it be a monopine.

AYES: Curtis, Gonsalves, Wardall, Bennett

NOES: Munnerlyn

Commissioner Munnerlyn stated that her concern is the red light and not having a prior rendering of what kind of impact the red light will have on neighboring residences. She asked for clarification that other monopines do not have red lights on top all the time.

Mr. Beatty said that the FAA spec is that a tower needs to be 200 feet before it is required to have lights. He added that we don't required them if they are under 200 feet.

Commissioner Munnerlyn said that this one is 150 feet.

Commissioner Curtis said we are talking about a place where helicopters land.

Commissioner Munnerlyn commented that she understands and shared that public safety is the primary goal. She stated that it is dangerous to be on Hwy 88 and not have cell coverage to contact emergency providers and she sees the red light as necessary and asked if we are prepared to add it as a condition now.

Commissioner Wardall said that with other projects that the tree canopy and pole have been within the tree canopy and did not have all the residences that this project does. He shared that a pilot is going to try to protect the houses going at 170 or 180 mph and in a flash you can miss something that small and said that an alternative is to reduce the tower down to the level of the burned trees.

Commissioner Munnerlyn voiced that maybe she misunderstood and said the red light is going to be added now and not after a fire and then amended her vote from nay to aye.

Mr. Regnier asked if he can speak.

Chair Gonsalves asked him to approach the podium.

Mr. Regnier said that page C-5 of the project plans says no lighting on wireless facilities is allowed and asked if that means the pole.

Mr. Beatty said the Planning Commission's decision overrode the drawing.

Commissioner Munnerlyn shared when she was reading the proposal that her main concern was with the lights around the compound. She stated that with this new condition, the light is used for helicopter rescue which is necessary and close to the highway.

Mr. Summers stated that they are a life flight facility on the driving range and that air traffic comes in from the south and departs from that landing spot to the west taking the 18th fairway out. He said that he does not see it as an issue when it comes to life flight and helicopters but does not know about airplanes. He voiced that the choppers do not get near the cell tower area.

Commissioner Munnerlyn asked if the lights are steady or flashing.

Commissioner Wardall said he would have to look at the regulations, but something at that altitude could be a steady light.

Robert Mena asked if he can comment.

Chair Gonsalves said he can.

Mr. Mena voiced that the Commission needs to represent the community and that a light is going to be in someone's view whether it is steady or a beacon light and that property owners have bought there for a reason. He reminded that the owner has said that helicopters land there now without it.

Chair Gonsalves said the issue has already been voted on and asked if there are any other comments from the Commissioners.

Commissioner Bennett said that helicopter landings are critical in an emergency and that this information was not in any of the documents and believes is an error of sorts. He shared that the tower will last longer than the trees and that the tree skyline is subject to change. He stated that he is surprised that no one protested with homes within 400 feet and shared that he spoke with residents who were in favor with the needed improvement with Wi-Fi. He commented that Caltrans said that any shed or equipment should be an earth tone color scheme and blend in and believes though that something should look like what it is.

Commissioner Wardall said that when it is windy there is a need to approach like an airplane, that it can be dangerous, and reminded that landing on the golf course is a public service.

Commissioner Munnerlyn stated that she assumes that the red light also needs to be within the 150-foot height.

Commissioner Wardall relayed that the light itself is maybe a foot tall.

Commissioner Curtis stated that the light sounds great for aviation, but is concerned for neighbors at an elevation around the golf course since they are going to be looking right at it. He said he wishes it could come on with a radio signal like runway lights do.

Commissioner Munnerlyn added that it is an upslope on the other side of the highway.

Commissioner Wardall shared that it could be incorporated with a dedicated frequency from the FCC, but it will have to be announced. He asked how a firefighter is going to know that frequency.

Chair Gonsalves voiced that for residents near Mace Meadows that mediflight could be very important if it is needed. He asked to look at the big picture and understand that it may be nuisance, but also may be the thing that saves a person's life.

Deputy County Counsel Spitzer said if the Commission finds that this new condition being proposed has

not been analyzed, and is a potentially significant aesthetic issue, that it is appropriate to continue the item and ask for further analysis in the environmental document.

Commissioner Munnerlyn voiced that she thinks that is something that should be explored further and that delaying it would also give residents the chance to consider the impact on their lives.

MOTION: It was moved by Commissioner Wardall to go back to the Mitigated Negative Declaration (MND) and hold it in suspense and take a vote to retract the original vote, and ask for further evaluation by the Planning Department and the project proponent, and to address the problem and concerns of medivac helicopters landing and appropriate lighting on the pole that will meet the local residents requirements for aircraft safety as well as the new night flying capabilities of both helicopters and air tankers. He added to the motion to reject the initial approval of the MND with areas just discussed to be re-evaluated by the proponent and the community, and the Planning Department and go back to TAC for review and approval. The motion was seconded by Commissioner Munnerlyn and unanimously carried.

Commissioner Wardall stated that since MND is not approved, then we cannot approve the project and need to withdraw our approval.

Commissioner Munnerlyn asked if we have not approved the MND do we need to make another motion.

Deputy County Counsel Spitzer stated that he believes the Commission needs to make a motion to withdraw former approval.

Commissioner Munnerlyn said that she believes that we made a motion to approve the MND and now we have made a motion to retract that approval and send the project back for further evaluation including a red emergency light within the top 150 feet of the pole. She added that it is important to know that it is a life flight facility adjacent to the project.

Deputy County Counsel Spitzer stated I think implicit in that motion is the withdrawal of any former approval.

Commissioner Curtis asked if this holds up the zone change, too.

Chair Gonsalves voiced that he wants to change his aye to a nay for the previous motion.

Ms. Manges, Recording Secretary, asked which motion Chair Gonsalves is amending.

Chair Gonsalves responded the previous motion.

Deputy County Counsel Spitzer said so it would be a 4 to 1 vote.

Chair Gonsalves responded correct.

Commissioner Curtis shared that the proponent brought up that they were concerned about condition #14 and then it got bigger. He asked if it would be appropriate if it stood the way it was.

Commissioner Munnerlyn shared that she believes that condition #14 was explicitly about when a fire denudes the surrounding canopy and that she thinks what they are talking about now is not because of the fire.

Commissioner Curtis said that, due to the helicopter, there is a good reason for not approving it.

Commissioner Munnerlyn shared that she will definitely be looking at how many monopine towers in the State have lights on the top.

Mr. Jagers stated that he knows that public comment has been closed, that there has been substantial comment, and asked if he can speak.

Chair Gonsalves responded that he can speak.

Mr. Jagers shared that he has heard everything raised tonight and understands the concern. He stated that one thing he did not hear anyone talk about this evening, but the need to require to light and/or mark a pole falls with the FAA. He explained that the wireless company that is building a tower is required to file with the FAA what they have assessed is occurring in the surrounding area and then the FAA issues a requirement. He added that it then is the responsibility of the tower owner to comply with those requirements.

Commissioner Wardall said that he gets heavily involved with FAA regulations and reminded that the people at the FAA are in Washington, D.C. and do not have the wildland fires like out here. He added that Mr. Jagers brings up a very good point and that he is going to petition the FAA regarding aerial fighting safety especially in the inter-urban interface with a Notice of Proposed Rule Making to be in the Federal Register in about 6 months.

Mr. Jagers said that is good for safety concerns as it relates to towers throughout the Western United States and stated that he is unclear though about the direction they are supposed to take specifically with this tower to be considered for approval again and asked for direction from the Commission and staff.

Deputy County Counsel Spitzer said that staff will analyze the potential condition in the environmental document and coordinate with Mr. Jagers on potential mitigation measures, if necessary.

Mr. Bratan asked Counsel if the item has been denied or continued.

Deputy County Counsel Spitzer asked the Commission if they would like to clarify in a motion that the matter is being continued and that there has been no action on the Mitigated Negative Declaration.

Commissioner Wardall asked if this is okay with staff.

Mr. Beatty responded that it is preferable to staff.

MOTION: It was moved by Commissioner Munnerlyn, seconded by Commissioner Curtis and carried to that there is no action on the Mitigated Negative Declaration and that further study is sought on the proposed condition on use.

Deputy County Counsel Spitzer stressed that this motion supercedes all motions.

AYES: Bennett, Curtis, Wardall, Munnerlyn

NOES: Gonsalves

MOTION: It was moved by Commissioner Curtis, seconded by Commissioner Wardall, and unanimously carried to adjourn the meeting.



Mary Ann Manges, Recording Secretary
Amador County Planning Department



John Gonsalves, Chair
Amador County Planning Commission



Chuck Beatty, Planning Director
Amador County Planning Department