

**AMADOR COUNTY PLANNING COMMISSION MINUTES  
SUMMARY MINUTES OF TAPE RECORDED MEETING  
April 11, 2023 – 7:00 P.M.**

**PAGE 1 OF 14**

The Planning Commission of the County of Amador met on April 11, 2023 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 Wardall.

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: Glenn Spitzer, Deputy County Counsel  
Chuck Beatty, Planning Director  
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 Wardall at 7:00 p.m.

**B. Pledge of Allegiance:**

**C. Approval of Agenda:**

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

**D. Minutes:** March 14, 2023

Commissioner Bennett clarified that he meant to say Highway 16 instead of highway at the March 14th Planning Commission meeting when he said “the 3 mile zone squiggles back and forth and prohibits right for commercial along the highway”. He also shared that a sentence on page 9 of the minutes ended in “He added that...” without an end to that sentence.

**MOTION:** It was moved by Commissioner Bennett, seconded by Commissioner Munnerlyn, and unanimously carried to delay the approval of the March 14, 2023 minutes and bring them back with corrections to the next Planning Commission meeting.

**D. Correspondence:** Letter for Item 1 from Caltrans; letters for Item 2 from AWA, Caltrans, and Concerned Residents Upper Ridge Road; and letters for Item 3 from Caltrans, Wittmayer, Grimshaw, Bertelson, Wardall, Murray, Stiward, Kohler-Anderson, Kohler, Vaira. Moreno, Kohler-Lopez, Holmes, Anderson, Preskar, Rhoades, Cleveland and Foyil with one letter received at the meeting by Martin

**E. Public Matters not on the Agenda:** None.

**F. Recent Board Actions:** Mr. Beatty reported that the Board of Supervisors approved Zoning Ordinance Amendment (ZOA-22;12-3) for detached room units for wineries and Variance (V-23;2-1) Gonzales in Mace Meadows which were both on the Commission's March agenda.

**G. Agenda Items:**

**Item 1 - 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

Chair Wardall introduced the item.

Mr. Bratan shared the staff report which is hereby incorporated by reference into these minutes as though set forth in full.

Chair Wardall asked if the applicant is present and if they have a presentation.

Jim Jagers (on behalf of Everest Infrastructure Partners) and Chris Evans (representing the client and also one of the members of the executive leadership team) were present. Mr. Jagers shared that they support the staff report as written and are willing to accept the conditions.

Chair Wardall 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 Wardall asked for discussion amongst the Commission.

Commissioner Curtis asked if this is still a zone change and a use permit for a cell tower.

Mr. Bratan replied that it is a use permit for a cell tower and a general plan amendment.

Commissioner Curtis asked for clarification that they are not changing the zone of the buildings that are there.

Mr. Bratan confirmed that they are not changing the zoning, only the General Plan so that the current zoning will be compatible.

Commissioner Munnerlyn asked for confirmation that the golf course is used periodically for a helipad.

Chair Wardall replied that they do use the golf course for medivac and, in his opinion, at night the cell tower should have a red obstruction light on it.

Commissioner Munnerlyn stated that the airport and heliport information in the FAA site specific evaluation provided by the applicant is not considering the use of the immediate vicinity in the golf course.

Chair Wardall said he remembers that at the last meeting that it was said that there is medivac at the golf course.

Commissioner Munnerlyn said that she does not see that it was addressed in the new FAA onsite evaluation.

Chair Wardall asked the applicant if there is a problem putting an obstruction light on the cell tower

Mr. Jagers referred to Amador County code section 19.48.150.G.4 in Development Standards stating that it says that no lighting on a wireless service facility shall be allowed, that security lighting may be allowed on ancillary equipment buildings with a conditional use permit, and that all security lighting shall be shielded from roadway traffic and other properties. He added that the ASAC study, a review of whether the FAA requires lighting, has been completed and indicates that a light is not required.

Chair Wardall asked what the height of the tower is above the trees.

Mr. Jagers responded that he does not recall, but is in the package.

Chair Wardall voiced that if the tower is above the trees there is a problem and asked if there are any photos.

Mr. Jagers responded that there are photos in the staff report.

Mr. Bratan said that photos begin on page 109.

Mr. Beatty clarified that the code requires that the tower be not higher than 15 feet above the ridge line.

Chair Wardall said on page 112 that the pole is below the tree line and asked if that is a correct depiction.

Mr. Jagers responded yes.

Chair Wardall stated that he has no objection.

Commissioner Munnerlyn said she still would like clarification if the use of the golf course as a heliport facility was considered in the site specific evaluation in the ASAC.

Mr. Jagers understands from the testimony in the previous hearing that life flight lands at times on the driving range.

Mr. Evans added that he does not believe that was identified in the ASAC study which uses the same databases that the FAA goes through. He explained there could be an additional condition for the filing of an FAA report which they have already filed. He informed that the FAA, when considering lighting and marking of towers, generally does not have you light towers unless they want them to be lit. He added that filing also takes longer.

Commissioner Gonsalves stated that regardless of whether the trees are higher or lower that he believes that it is a good idea to light the tower because it is not known whether trees are going to be cut down or not.

Chair Wardall said he agrees and that if the tower is 20 feet above the tree line that he is going to ask to have the use permit revoked and shared that when flying an air tanker fighting fires the last thing needed is a camouflaged obstruction higher than the tree line.

Mr. Evans stated that they do not have the ability to light towers and that the lighting of towers is dictated by the FAA.

Chair Wardall asked to look at Rancho Mureta as an example of 3 towers lit.

Mr. Evans stated that the lighting on the Rancho Murieta towers was dictated by the FAA. He said the code about not lighting structures was looked at as well as the FAA. He suggested that there can be conditions in there that if the trees are burned or come down that they can do marking of the tower site. He shared that the same issue is going to exist at any location across the country where a tower site may protrude above the trees if there is a forest fire. He added that the FAA cannot be forced to mark that as a lit location.

Chair Wardall stated that they do not have to force the FAA to note that as a forest location and that it will go on a hazard flying map for the Amador/El Dorado ranger unit and marked as a hazard. He shared that the FAA is not considering aerial firefighting, that this is a high fire area, and that the technology is there to put a light on the pole.

Mr. Evans said the technology is there and stressed that it is whether the FAA will accept the lighting of it.

Chair Wardall responded that this is the Amador County Planning Commission and in this area with wild land fire it is a safety/flight issue and it can be added as an additional condition of the use permit, if the Commission agrees.

Commissioner Bennett asked the applicant if the Commission requests additional lighting if they would agree with it.

Mr. Evans responded as long as does not run afoul with the FAA that they would consider it.

Commissioner Munnerlyn shared that her concern about the additional lighting is how it impacts the surrounding residential properties and their view and voiced that it would really prolong the study if they look at a light. She said that the ASAC study says that a light is not required but feels that this does not take into account what was requested in the previous discussion about the medivac landing at the airport property.

Mr. Jagers pointed out that there are several tall trees there already and does not see that as an issue.

Chair Wardall stated that he has no problem as long as the tower is not above the trees and asked if the applicant is willing to reduce the height of the tower to the height of the trees.

Mr. Jagers responded that he is unable to do that and provide the service required.

Commissioner Bennett stated that he agrees that a light is a disruption to people living in the area and trying to look at the pros and the cons, but that it is impossible to anticipate the future. He shared that he spoke to Supervisor Jeff Brown who spent his career in aviation and who said that the FAA standards are fine. Commissioner Bennett said it should pretty much be approved as is, but will not oppose it if the Commission wants a light.

Commissioner Gonsalves stated that there are no residences near that.

Mr. Evans said there are residences on the other side of the highway.

Commissioner Gonsalves responded that when they are sleeping they will not see it.

Commissioner Curtis said he has not been told that it is a primary medivac landing spot and that there is a primary landing spot a few miles east.

Deputy County Counsel Spitzer shared some comments for consideration:

- the municipal code on page 1 of the Staff Report says these facilities shall not exceed 15 ft. beyond the existing tree line
- there is already a condition in the event of a fire and that an option is to tighten it up the language
- the applicant pointed out that the municipal code says that no lighting on wireless facilities shall be allowed, but it is debatable whether the code is referring to security lighting so the Commission would have to make a determination about the code's intent.
- staff did not evaluate lighting under CEQA and if the Commission wants a light that it needs to be brought back to be evaluated

Chair Wardall stated that if the code has it all then 15 feet is acceptable.

Commissioner Bennett shared that to paint it white is the simplest, but the problem is that there is a tree there and if it looks like a tower it will be far more visible. He referred to his knowledge of integrity of design where things should look like what they are.

Commissioner Munnerlyn said she is okay without the addition of lighting.

Commissioner Bennett added that he is too.

Chair Wardall stated that it has to comply with current county codes.

Commissioner Bennett said that many people in the area have said that they want this and that it is valuable as a community resource.

**MOTION:** It was moved by Commissioner Curtis, seconded by Commissioner Munnerlyn, and unanimously carried to approve the Mitigated Negative Declaration as prepared by staff as the correct environmental document.

**MOTION:** It was moved by Commissioner Munnerlyn, seconded by Commissioner Curtis, and unanimously carried to recommend approval of GPA-22;6-1 to the Board of Supervisors.

Commissioner Gonsalves made a motion to approve the use permit provided that the tower has a beacon that can be turned on in the event it needs to be. There was no second.

**MOTION:** It was moved by Commissioner Curtis, seconded by Commissioner Bennett, and carried to approve UP-22;6-4 as submitted subject to the findings and conditions in the staff report.

**AYES:** Curtis, Bennett, Munnerlyn

**NOES:** Gonsalves

**ABSTAIN:** Wardall

*Mr. Bratan stated that the Planning Commission has approved UP-22;6-4 and recommended approval of GPA-22;6-1 to the Board of Supervisors anyone wishing to appeal the use permit may do so by filing a written appeal with the Clerk of the Board no later than 5:00 p.m. on April 21, 2023. GPA-22;6-1 will be heard with the Board of Supervisors at a later date.*

**Item 2 - Del Rapini, Resubmitted Request for Parcel Map PM 2903, Zone Change ZC-21;10-2, and General Plan Amendment GPA-21;10-2, proposing division of a 6.39-acre parcel into three parcels and Boundary Line Adjustment resulting in parcels 2.57 ac, 1.71 ac, 1.59 ac, and 2.52 ac in size, alongside a General Plan Amendment of ±3-ac from RL, Residential Low Density to TC, Town Center and Zone Change from R1, Single-family Residential to C2, Heavy Commercial Zoning. APN 030-740-022**

**Applicant:** Delbert E. Rapini/Del Rapini Construction  
**Supervisory District:** 4  
**Location:** ±300 ft. southwest of the intersection of Ridge Rd. and Hwy 88

Chair Wardall introduced the item.

Ms. Ruesel shared the staff report which is hereby incorporated by reference into these minutes as though set forth in full.

Commissioner Bennett asked staff if an enterprise in a C2 zone can give off any obnoxious fumes to nearby residences.

Ms. Ruesel responded that not with by-right uses and that conditional uses would need to be separately addressed.

Commissioner Bennett added that a plus is that development of business in that area could reduce vehicle miles.

Chair Wardall asked if the applicant is present and if they want to make a presentation.

Matt Toma, representing Del Rapini, stated that they agree with all 37 conditions as proposed. He shared background on the property stating that the site was graded a number of years ago and that it was supposed to be a shopping center, but developers were not interested in that at that time. He shared that they are adding 2 new parcels under this application and that the property was split-zoned and they are trying to make the entire property C2 to give businesses more opportunities rather than having one large commercial parcel.

Del Rapini said that the problem goes back 35 years and that he does not know how the back portion got left out. He shared that the major portion is on a hillside which will never be used and that he imagines that it is not going to be an industrial site, but a site for a small business. He stated that Pine Grove does not have many utilities and that there is not that much sewer capacity. He added that there should be low traffic and that there is a big area between it and the residential development behind it.

Mr. Toma discussed the topography of the site. He stated that a good half of those lots are taken up by cut banks and fill banks along the highway so the usable lots for these lots is probably going to be ½ to ¾ of an acre for buildable area for a commercial business.

Commissioner Curtis asked if it is true that there are not enough sewer permits for multifamily on that site.

Mr. Toma responded correct.

Mr. Rapini added some of these are not even in Pine Grove and that he has sewer permits for his subdivision down there. He added that he has maybe 5 permits for whole corner and does not see any of them coming up in the future.

Commissioner Bennett said that he understands that apartments would not be permitted there.

Mr. Beatty responded that current zoning and the General Plan would not allow multifamily.

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

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

Chair Wardall asked if there is any discussion.

Commissioner Bennett said that a commercial development there would be a nice addition to the Pine Grove community.

Commissioner Munnerlyn shared that looking at the General Plan if there is limited industrial opportunities it is in line with Town Center. She stated that her biggest concern is additional traffic into that congested area at the light at Ridge Rd. She mentioned that in the Town Center designation it has been noted that business should be facing Hwy 88.

Commissioner Bennett said that is a point well taken but that it could be solved with signage.

Chair Wardall stated that the cut fill banks are substantial there so there would be no way to access it off of Hwy 88 because the lay of the land is not conducive to it.

Commissioner Munnerlyn commented that she understands that.

**MOTION:** It was moved by Commissioner Gonsalves, seconded by Commissioner Bennett, and unanimously carried to accept the Mitigated Negative Declaration as being adequate.

**MOTION:** It was moved by Commissioner Gonsalves, seconded by Commissioner Curtis, and unanimously carried to approve PM 2903 Del Rapini with conditions as stated by staff.

**MOTION:** It was moved by Commissioner Gonsalves, seconded by Commissioner Bennett, and unanimously carried to recommend approval of ZC-21;10-2 and GPA-21;10-2 to the Board of Supervisors.

*Ms. Ruesel stated that the Planning Commission has approved PM 2903 and the Mitigated Negative Declaration. Anyone wishing to appeal may do so by filing a written appeal with the Clerk of the Board no later than 5:00 p.m. on April 21, 2023. The Planning Commission has recommended approval of ZC-21;10-2 and GPA-21;10-2 to the Board of Supervisors and a public hearing will be scheduled with the Board at a later date.*

**Item 3 - Request for Zoning Ordinance Amendment (ZOA-22;12-1) to amend County Code Chapter 19.77 to establish an overlay zone to limit development densities, building heights, and prevent incompatible land uses within three miles of Eagle's Next Airport.**

**Applicant: County of Amador**

**Supervisory Districts: 2 & 5**

**Location: 3 mile radius surrounding the Eagle's Nest Airport Runway**

Chair Wardall recused himself and shared that when the public hearing is closed that he will exit the room.

Vice Chair Munnerlyn introduced the item.

Mr. Beatty stated that this item was on the January 2023 and March 2023 agendas, and last month the Planning Commission tabled the proposal to give an opportunity for proponents of the ordinance to have more discussions with the community at large. He shared that there have been several iterations of the ordinance circulated since then and the most recent version was received by staff on April 10th. This version eliminates the 3-mile perimeter, eliminates the prohibition of places of assembly in the 2-mile perimeter, and also changes the avigation easement required for land divisions and accessory dwellings to a recorded overflight notification within the 1-mile and 2-mile perimeters.

Jim Wirfel said they were able to contact their neighbors and address most issues due to the Commission extending this item from last month. He stated that this ordinance does not change the current zoning in the area and want neighbors to know they are trying to notify new owners that there is an airport if there is a title change. He shared that the ordinance previously used the word easement but the word easement got everybody inflamed so they are simply asking for a notification. He read a letter written by Stacey Rhoades who said he supports the ordinance. Mr. Wirfel summarized that within a 2-mile perimeter there is notification and within a 1-mile perimeter there is a restriction on assemblies.

Tom McCleary stated that they are proud of their 36-year history of a spotless safety record and that the ordinance is for safety and awareness. He explained that inside the 1-mile circumference from the runway, where pilots are running close, for neighbor and pilot safety there are restrictions on large gatherings of people for things such as commercial operations, schools, hospitals, and churches. He added by alerting neighbors when they subdivide with an airport notification that awareness will be achieved.

David Livingstone, Lone, stated he just became aware of this airport proposal and after hearing Stacey Rhoades' letter he has a question about the use permit application received by the Planning Department for the 20,000 square foot mosque and 50,000 burial plots at the corner of Carbondale and Lambert Roads. He asked if this is proposing a religious facility and cemetery and what this means for the small community of Lone.

Vice Chair Munnerylyn asked Mr. Beatty if he can address this question.

Mr. Beatty said we are talking about two different items. He said that the Planning Department received a request similar to the one described by Mr. Livingstone, but it has been modified to remove the religious building. The application has not been found complete and is not being looked at this evening.

Vice Chair Munnerylyn added that it has been over a year.

Mr. Beatty responded that it has been close to two.

Mr. Livingstone asked for clarification that the religious facility is not part of this.

Mr. Beatty confirmed that it is not part of the Eagle's Nest request.

Mr. Livingstone asked if it is part of another request.

Mr. Beatty said it was part of a separate project application that now just includes the cemetery, but that it is not a complete application.

Mr. Livingstone commented so it is part of the cemetery and Stacey's letter said it would be 50,000 burial plots.

Mr. Beatty responded that we do not have a complete application and that any discussion is speculative.

Mr. Livingstone said that is a lot of plots and asked if it is before the Commission.

Vice Chair Munnerylyn replied that she understands that the Mayor of Lone has brought it up in his letter, but that the project has not moved forward through the Planning Department and is not part of the Eagle's Nest proposal.

Mr. Livingstone asked what the next step is for the 50,000 burial plots.



Vice Chair Munnerlyn said that she does not know and she does not know if the applicant intends to go on with the project.

Deputy County Counsel Spitzer elaborated that the application started moving through the process but there were issues raised so they withdrew it. He shared that no one knows what is going to be in it if it is resubmitted. He added that if an application is received that there will be notification and opportunity to address it.

Mr. Livingstone asked if the City of Lone will be notified.

Deputy County Counsel Spitzer said that he believes so.

Mr. Beatty responded that the notification area for public hearings is 300 feet per state law. He shared that the City of Lone receives the Technical Advisor Committee (TAC) and Planning Commission meeting agendas and that anyone can request to be on that notification list.

Vice Chair Munnerlyn asked if there is any further public comment.

Mark Carey shared that safety is a concern and that airports in general are continually under threats. He stated that the airport is an integral part of his business and appreciates making people aware that the airport is there to preserve the airport, his investment, and the investment into the community into the future.

Nick Beck, Eagle's Ranch Rd., said that this is not a collection of people playing with expensive toys and that a majority of those at Eagle's Nest earn their living through the various operations of an airport and with airplanes. He stated that the airport enhances the value of property around it and that he believes that the other proposal will destroy property values in the whole area if there are 50,000 Islamics buried and decaying next door.

Commissioner Curtis stated that the other proposal has nothing to do with what is being discussed.

Mr. Beck responded that it does not and that he just wants to educate people that the airport is there, to be aware that this has been going on a long time, and to be respected. He shared that they are not causing any infringement on their property that the County, State, or Federal government does not do. He explained that the avigation easement was not going to go through property, but simply over it.

Susan Kohler, Irish Hill Rd., stated that most of her family lives on their 2,000 acre property in the 2- and 3- mile range and that their land is their investment and future and has been their heritage for 7 generations. She shared that she was concerned about the strong wording in the original proposal about maintaining population density with no building of future homes and nothing to prevent the rights of the airport. She stated that she is not sure when it became an airport, but remembers when it became the Wardall airstrip to repair or restore vintage aircraft and test flight it. She shared that every few years they have a take of other's property rights by expanding their use permit. She voiced that there are plenty of regulations already if her grandchildren want to build a house on the ranch. She asked why the airport is telling them what to do and asked if this is this in the best interest of the landowners in the area. She stressed that everyone knows the airstrip is there. Ms. Kohler stated that the 2-mile needs to be eliminated and that everyone knows why the 1-mile is there. She explained that it is because of the proposed mosque and that she received anonymous phone calls about it. She said that schools, hotels, and houses are backed up to the runway at Rancho Murieta and asked why this little airport is commanding this ordinance. She added that neighbors on thousands of acres pay taxes and have been gracious about the noise of airplanes and suggested that maybe restrictions should be put on airstrips.

Cam Marker has lived on one property boundary for 20 plus years and supports the ordinance because she says it is a matter of safety. She voiced that she does not believe that the airport has ever told her

what to do and that she loves living there because people are not crawling around trying to build a house. She shared concern about someone building a school and then an airplane falling on it.

Cathy Gianandrea Jauch said her family has owned a ranch on Carbondale Rd. since 1957 and has seen many changes and proposals. She shared that she worked on the General Plan Update with the Advisory Committee in 2007 where Mr. Wardall requested recognition of the airport within the update. The consensus was that there already was a primary airport in the County and that they did not need another airport with restrictions. She added that Mr. Wardall also went to the Sacramento County Planning Commission and Supervisors where he asked for the very same recognition and was denied. She said that the Hope Foundation has been there for 60 years, believes they are in the 1 mile zone, and asked if they are going to be told to shut down. She said that she highly objects to her ranch and her neighbors' ranches being imposed upon by this airport that came in in 1987 and appreciates a no vote on this.

Dianne Kindermann, Abbott & Kindermann, on behalf of the Dufrene Family Trust, stated that the Dufrene family provided a letter this evening which she believes is now mute and was based on last week's version of the ordinance. She relayed that the Dufrene's have owned property since about 1918 and does not oppose the airport or the aviation easement or notification, but objects to an additional overlay. She said language of concern to maintain current densities was removed from the body of the ordinance, but not from the title. She said that if the language is not removed from the title she suggests that their two parcels be exempt. She noted that there are 11 developed parcels north of the airport that are each 10 acres and were deemed compatible based on findings. She added that the other side of the property is in Sacramento County. She suggested that they could make a finding that they would be compatible if they want to change their densities in the future. Ms. Kindermann stated that the Dufrene's understand it would require a rezone and a general plan amendment, but do want an additional overlay zone. She requested in the revision to remove the language "maintain current development densities" and otherwise the rest of the ordinance is acceptable.

Dave Wardall said that he would like to get the facts straight and stated that Eagle's Nest has had a use permit since 1987 or 1988. He shared that the airport is closed to the public and will always be because of liability. He said they are asking for notification so that when a property is sold people will know about it. He provided an example where someone who moved on Long Gate Rd. had not been notified that an airport was there and made a noise complaint. He said that he receives occasional noise complaints usually about military aircraft and that this is the reason for the notification. He shared that the new subdivision in Rancho Murieta is a really good example of how not to do land use planning. He stated that the area has a 40 acre minimum parcel size and that the Amador County General Plan says that there is limited agricultural and mineral resource land which are to be preserved. He explained that in regards to the General Plan Advisory Committee, state law said the Airport Land Use Compatibility Plan is only applicable to public airports. Mr. Wardall clarified that the HOPE Foundation is outside the 2 mile limit and grandfathered. He continued to share benefits of the airport such as occasional landing for medivac and that it is a staging area for Calfire, and that their fire hydrants have been used for off-area fires. He stated that the 10-acre parcels that Ms. Kindermann is talking about are another example of poor land use that occurred about 50 or 60 years or so ago and that it would never happen today because there is no water out there. He stressed that they are very careful and keep the airport closed to the public and that they respect the ranchers' land in the area and that they are open to calls about low flying aircraft. He suggested to approve as the ordinance as amended and agreed to change the title, as requested by Ms. Kindermann. He elaborated that the body is correct, but that the title did not get changed. He said he is open to anyone who wants to build something within the 1 mile limit will look at the traffic pattern and if not in an area that is going to cause a conflict will consider an ordinance waiver.

Jenna Rodriguez shared that Benny Brown, Sr., is her great grandfather and that Bonnie Dufrene is her grandmother. She said she is speaking on behalf of the younger generations and shared that she works in aviation and agriculture and has no objections to aviation safety regulations. She voiced that she wants to support Ms. Kindermann and the Dufrene Family Trust on exempting the referenced parcels from the ordinance as well as in the striking of the development densities section of the ordinance. She shared that

she grew up going out to the ranch with her grandma and her son recently caught his first fish there and does not want to see further regulations that prevent them from enjoying their own property.

Mr. Wardall stated that they concur with making the changes in the title that Ms. Kindermann requested. He shared that he believed that the ordinance was implemented in Sacramento County, but was not able to find any records that it was adopted. New residential subdivisions in Sacramento County between Mather Field and the Amador County line required an avigation easement from the developer.

Vice Chair Munnerlyn asked for further public comment. There was no additional public comment.

It was moved by Commissioner Gonsalves, seconded by Commissioner Curtis, to close the public hearing.

Chair Wardall exited the Board Chambers.

Vice Chair Munnerlyn asked for discussion and asked to go through what the wording should be.

Commissioner Bennett asked what an avigation easement is.

Mr. Beatty responded that it depends how it is written but the general intent is to give notice for those who purchase property under flight pattern that the property could be subject to noise and exhaust particulates, and gives aircraft the right to fly over the property.

Commissioner Bennett shared how in Los Angeles County planes make a u-turn over the ocean instead of over the dwellings.

Commissioner Munnerlyn said she would like to clarify the exact wording in the ordinance. She stated that she believes it now should say “objects affecting navigable airspace” still to establish an overlay zone. She added that being struck out is “maintain current development densities” as well as the building heights and then changing the places of assembly to the 1-mile instead of 2-mile zone.

Mr. Beatty responded that it is correct.

Commissioner Munnerlyn asked that with those excluded is the wording to establish an overlay zone necessary.

Mr. Beatty replied yes because that is specifically what it is and that is what the restrictions in the 1- and 2-mile perimeters create.

Commissioner Munnerlyn said for confirmation that the overlay will be within the 1- and 2-mile, that there now is an airport notification within the 2-miles, and that there is an exclusion of places of assembly for 50 or more persons within the 1-mile.

Commissioner Curtis asked for clarification for where the assembly exclusion is located in the proposed ordinance.

Mr. Beatty confirmed only the 1-mile perimeter.

Commissioner Munnerlyn said she believes that this has come a long way from the original proposal.

Commissioner Gonsalves asked if we are ready to close the public hearing.

Commissioner Munnerlyn stated that there has just been a 1st and a 2nd and asked for a final vote from the Commission.

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

**AYES:** Gonsalves, Curtis, Bennett, Munnerlyn

**RECUSED:** Wardall

Vice Chair Munnerlyn asked if there is further discussion.

Commissioner Curtis said that he is bothered that they have an ordinance with strike outs in it.

Vice Chair Munnerlyn said she agreed that there have been a lot of strike outs.

Commissioner Curtis said some things in red are underlined, some things are in red and crossed out, and some things that probably should not be there that are underlined instead of crossed out.

Commissioner Gonsalves commented that it is not a perfect world.

Commissioner Curtis said that we need to have a perfect wording to amend an ordinance.

Commissioner Gonsalves responded that if we have that then we will never get this accomplished.

Vice Chair Munnerlyn reminded that they are making a recommendation to the Board.

Commissioner Curtis commented that it does not look like it is ready for that yet.

Vice Chair Munnerlyn asked if this should be continued further.

Commissioner Curtis said that he would have liked to see a proposed ordinance that did not have underlines and strike outs.

Commissioner Gonsalves said that he would like to recommend approval to the Board of Supervisors with the recommended findings and the changes that were made this evening.

Deputy County Counsel Spitzer asked for which specific changes and if just for changes to the title or to the ordinance that the Commission just made.

Commissioner Munnerlyn said that she believes that the changes to the title correctly identify what is in the body.

Deputy County Counsel Spitzer responded as long as it is what the Commission understands.

Mary Ann Manges, Recording Secretary, asked for clarification of the title for the minutes.

Commissioner Curtis stated that the title does not contain the part about notification which is the whole point, correct.

Vice Chair Munnerlyn said that it is in the body and not in the title.

Mr. Beatty responded that it should probably be in the title and in the legislative findings.

Deputy County Counsel Spitzer clarified that the title and the legislative findings are not going to be the actual law so it is not critical that the title is perfect.

Vice Chair Munnerlyn said it is most important that all of the things that we want to include be included in the legislative findings.

Deputy County Counsel Spitzer said that the legislative findings are not going to be in the body of the law and that they may become relevant at some point in the future if there is any dispute about an issue that may make its way to a judicial proceeding. He added that the important part is the law in section 2.

Commissioner Curtis stated that section 1 shows intent.

Deputy County Counsel Spitzer said section 1 is relevant, but section 2 is the heart.

Mary Ann Manges, Recording Secretary, asked for clarification if the title read is accurate.

Vice Chair Munnerlyn responded that it is.

Commissioner Bennett said that notification may seem like a nuisance to people but that he cannot really object to it. He said that his concern is within the 1- mile perimeter. He explained that many land owners have testified and that his number one concern is with possible inverse condemnation and people being deprived of rights to develop their property.

Commissioner Curtis stated that they do not automatically have a right the way it is zoned right now.

Vice Chair Munnerlyn said they removed the language addressing development densities.

Deputy County Counsel Spitzer added there is a section in the code about nonconforming uses and to the extent there is a nonconforming use right now, that use is not going to be impacted and is not going to be a violation so there would be no taking.

Commissioner Bennett responded so that is a prior use.

Deputy County Counsel Spitzer responded yes. He said we know that there is not a school within the 1-mile perimeter, but hypothetically speaking if there is a school within the 1-mile it would be a nonconforming use and be allowed to remain.

Commissioner Bennett said if some structure of assembly is built they would be denied because of the risk.

Deputy County Counsel Spitzer added and also because of the law.

Commissioner Curtis shared that they already are either in a mining or agricultural zone which does not give them the right to build a school unless they approach to change everything and that they are protected by the zone they are already in.

Commissioner Bennett said that in summary that this notifies people and limits height throughout the area which is already in the county codes and prohibits permanent assemblies.

Vice Chair Munnerlyn said commercial assemblies, but private assemblies are still allowed.

Commissioner Bennett added commercial and religious within 1-mile. He stated that the land uses discussed by property owners have been subdivisions for children and grandchildren which would be permitted.

Mr. Beatty responded correct.

Commissioner Bennett said that he has no objection and this seems to be a reasonable compromise.

Vice Chair Munnerlyn asked if Commissioner Bennett is prepared to second the motion that has been put forward by Commissioner Gonsalves.

**MOTION:** It was moved by Commissioner Gonsalves, seconded by Commissioner Bennett and carried to recommend approval of Zoning Ordinance Amendment ZOA-22;12-1 with the recommended findings and changes made at the meeting to the Board of Supervisors.

**AYES:** Gonsalves, Bennett, Munnerlyn

**NOES:** Curtis

**RECUSED:** Wardall

Mr. Beatty stated that the Planning Commission has recommended approval of ZOA-22;12-1 to the Board of Supervisors and a public hearing will be scheduled with the Board at a later date.

**MOTION:** It was moved by Commissioner Gonsalves, seconded by Commissioner Curtis and unanimously carried to adjourn the meeting until the next regularly scheduled meeting on May 9, 2023.

---

Dave Wardall, Chair  
Amador County Planning Commission

---

Mary Ann Manges, Recording Secretary  
Amador County Planning Department

---

Chuck Beatty, Planning Director  
Amador County Planning Department