

**STAFF REPORT TO AMADOR COUNTY PLANNING COMMISSION
FOR MEETING OF TUESDAY, AUGUST 14, 2018**

ITEM 1 Public Hearing - Review and recommendation to the Board of Supervisors relative to an ordinance amending County Code Title 19, Zoning, by establishing Chapter 50, Design Standards and Findings.

Applicant: County of Amador

Supervisorial Districts: 1, 2, 3, 4, & 5

Location: All applicable portions of the unincorporated area of Amador County as described herein.

On March 23, 2018, the Board of Supervisors approved a Settlement Agreement (attached) to resolve litigation regarding the County's 2016 adoption of the Amador County General Plan and its Environmental Impact Report. The Agreement requires the County to consider seven Code amendments relative to new discretionary development projects, develop and disseminate information for new development related to wildland fire issues, and to establish a performance monitoring program for select goals and policies of the General Plan. Required County actions have either a 6-month or 2-year deadline, as follows:

Code amendments to be considered by the Board of Supervisors by September 27, 2018:

- #1. Standards and findings related to wildland fire issues for new developments of 5 or more units or lots in the high- and very-high fire hazard severity areas (Settlement Agreement Term A-i).
- #2. Findings for development in the Agricultural-General (40 acre density) and Agricultural-Transition (5 acre density) General Plan land use classifications for any discretionary action that divides a parcel, increases allowable density or intensity, or requires approval of a discretionary use permit (Settlement Agreement Term A-ii).
- #3. Standards and findings to protect biological resources for discretionary use permits and new subdivisions of 10 or more lots (Settlement Agreement Term A-iii).
- #4. Economic impact analyses for new discretionary commercial developments of 5,000 square feet or more (Settlement Agreement Term A-iv).

Policies to be considered for implementation or adoption by the Board of Supervisors by September 27, 2018:

- #5. Distribute information to project applicants and realtors regarding the risks of wildland fire, available levels of fire and emergency response, and wildland fire prevention methods (Settlement Agreement Term E).
- #6. Implement a performance monitoring system for select General Plan goals and policies (as defined in the Settlement Agreement) including recommendations for correcting trends which are inconsistent with the General Plan (Settlement Agreement Term F).

Items to be considered by the Board of Supervisors by March 27, 2020:

- #7. Draft a proposed ordinance requiring new commercial, institutional, and industrial projects to meet design standards to reduce their effect on scenic viewsheds and visual character (Settlement Agreement Term B).
- #8. Draft a proposed ordinance requiring design standards for community and town centers (Settlement Agreement Term C).
- #9. Draft a proposed Dark Skies Protection Ordinance (Settlement Agreement Term D).

The proposed Code amendments to satisfy items #1 through #4, above (Settlement Agreement Terms Ai-iv) are attached in the form of a new Chapter to the Zoning Ordinance. Upon approval, the text amendments will be codified as Chapter 50, Design Standards. While recommendations from the Planning Commission are not required for the implementation of items #5 and #6, above, the proposed Resolutions for the Board of Supervisors are included in the staff report as information to explain how those items fit in the overall execution of the Settlement Agreement.

PROPOSED PLANNING COMMISSION ACTION: Recommend adoption of proposed Title 19, Zoning, Chapter 50, Design Standards, to the Board of Supervisors as presented. If the Planning Commission recommends approval of the proposed Code amendments, the findings below are recommended.

FINDINGS:

The adoption of Title 19, Zoning, Chapter 50, Design Standards, is Categorically Exempt from the California Environmental Quality Act according to Sections 15306 (Class 6), 15307 (Class 7), and 15308 (Class 8) of the State CEQA Guidelines. Class 6 consists of basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. Class 7 consists of actions taken by regulatory agencies as authorized by state law or local ordinance to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves

procedures for protection of the environment. Class 8 exemptions consist of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. A Notice of Exemption will be filed with the County Recorder-Clerk.

ORDINANCE NO. 18-XXXX

AN ORDINANCE AMENDING TITLE 19 OF THE AMADOR COUNTY CODE BY CREATING CHAPTER 19.50, DESIGN STANDARDS AND FINDINGS

The Board of Supervisors of the County of Amador, State of California, ordains as follows:

SECTION 1. Recitals of Fact.

WHEREAS, the Amador County Board of Supervisors adopted the 2016 General Plan Update on October 4, 2016; and

WHEREAS, the Board of Supervisors desires to implement certain goals and policies of the 2016 General Plan Update through the adoption of design standards and required findings for specific discretionary projects described herein; and

WHEREAS, all notices and public hearings mandated by the State Planning Law and Title 19 (Zoning) of the Amador County Code have been adhered to by the Amador County Planning Commission and Board of Supervisors; and

WHEREAS, the Board of Supervisors adopts this ordinance because the public necessity, convenience, and general welfare require such an amendment.

SECTION 2. Title 19, Zoning, of the Amador County Code is hereby amended by adding the following new Chapter 19.50, Design Standards and Findings:

Chapter 50, Design Standards

Section 19.50.010 - Standards and findings for discretionary projects of 5 or more units or 5 or more lots in the high- and very-high fire hazard severity zones.

Approval of residential discretionary projects of 5 or more units or 5 or more lots proposed in zones of high and very-high fire hazard severity, as defined and mapped by CalFire, is subject to the County making all of the following findings concurrent with project approval:

1. On balance, the economic, legal, social, technological, and other benefits, including regional or statewide benefits, outweigh any increased risk of wildland fire to public health and safety.
2. Fire-related impacts will be mitigated to the extent feasible.
3. Fuel breaks and funding for their maintenance will be included to protect homes and wildlands if requested by local fire authorities, including CalFire.
4. Water or other fire suppression resources will be provided onsite for structure fire suppression if requested by local fire authorities.

5. The development meets the following minimum quality of life standards related to wildland fire response and evacuation:
 - a. The project is served by an existing fire station capable of providing an average fire response time of no more than 15 minutes or will be served by a new fire station equipped and staffed for comparable response, as defined by local fire officials.
 - b. Roads serving the project meet applicable County and State standards to handle evacuation needs and emergency response in case of wildland fire.
 - c. Building design, location, materials, and landscaping meet or exceed the following standards, subject to approval by local fire authorities:
 - i. Structures will be located to allow fire engine access
 - ii. Landscaping conforms to state defensible space standards
 - iii. Buildings will be isolated from unmanaged, flammable natural vegetation by hardscapes or regularly maintained, modified fuel zones
 - iv. Buildings are designed to minimize the risk of structure fire from wind-blown, wildland-fire embers
 - v. Building materials will meet or exceed state standards for fire resistance.
 - vi. Homes and community buildings will be equipped with automatic fire sprinklers or other equally protective fire suppression measures as allowed by state law.

Section 19.50.020 – Required findings for discretionary approvals in the Agricultural-General General Plan land use classification.

Approval of any discretionary action that divides a parcel, increases the legal parcel density or intensity, or requires approving a discretionary use permit in the Agricultural-General (AG) land use classification is subject to the County making all of the following findings concurrent with project approval:

1. Feasible measures will be implemented to mitigate the project's significant adverse impacts, if any, on adjoining or nearby agricultural lands and operations.
2. The County action does not induce conversion of adjoining and/or nearby agricultural lands to other uses by extending public water supply, public wastewater treatment, or public roads to the project, or alternatively, the County action has specific measureable public benefits that outweigh the conversion of agricultural lands to other uses by the extension of the public water supply, public wastewater treatment, or public roads to the project.

Section 19.50.030 – Required findings for discretionary approvals in the Agricultural-Transition General Plan land use classification.

Approval of any discretionary action that divides a parcel or increases the legal parcel density or intensity, or requires approving a discretionary use permit in the Agricultural-Transition (AT) land use classification is subject to the County making all of the following findings concurrent with project approval:

1. Feasible measures will be implemented to mitigate the project's significant adverse impacts, if any, on adjoining or nearby agricultural or timberlands and operations and to minimize the likelihood of those lands converting to nonagricultural or non-timberland uses.
2. Any parcels subject to the County action remain suitable for rural ranchettes, limited animal husbandry, and family garden, orchard, or supplementary agricultural income.

Section 19.50.040 - Standards and findings to protect biological resources for discretionary use permits and new subdivisions of 10 or more lots.

Approval of discretionary use permits and subdivisions of 10 lots or more is subject to the County making all of the following findings concurrent with project approval:

1. The project has specific, measurable public benefits that outweigh its harm to the County's sensitive biological resources identified as special status, sensitive natural communities, jurisdictional wetlands and state-identified wildlife corridors.
2. Where avoidance of adverse impacts to these biological resources is infeasible, such impacts will be mitigated to the extent feasible.
3. Native trees and tree canopies will be maintained to the extent feasible unless removal or modification is required to comply with fire-safe building standards or to otherwise protect lives and property.
4. New residential, commercial, industrial, or agricultural structures, excluding bridges and appurtenant roads constructed in compliance with state standards, shall meet the following standards:
 - a. The structure is set back 100 feet on either side of year-round and perennial streams or 50 feet from intermittent streams, where an intermittent stream is defined as a stream that may receive appreciable quantities of water from numerous sources including snowmelt and groundwater, and that ceases to flow during dry periods.
 - b. In the event that a structure cannot meet the above standard, the applicant may apply for a variance for the structure subject to a finding that the structure cannot feasibly be relocated on the parcel to avoid adverse impacts to aquatic resources, in which case any adverse impacts shall be mitigated to ensure no net loss of riparian habitat consistent with adopted General Plan EIR Mitigation Measure 4.4-2 (Riparian Habitat Protection) reproduced below in full.

"Mitigation Measure 4.4-2: Riparian Habitat Protection

If projects require encroachment into the riparian habitat, project applicants will be required to develop a riparian habitat mitigation plan. The mitigation plan will include the following:

- implementation of Best Management Practices (BMPs) while working near riparian habitats to avoid inadvertent damage to riparian vegetation to be retained. BMPs will include establishment of no-disturbance buffers around the outer edge of the riparian vegetation to prevent root and crown damage, soil compaction, and implementation of standard BMPs to reduce erosion and water quality impacts, and introduction and spread of invasive species. Exceptions to riparian buffers will be granted to permit necessary road and bridge repair and construction, trails construction, and other recreational access structures that are water dependent, such as docks and piers;
- methods to be implemented to avoid and/or compensate for impacts on riparian habitat at a ratio adequate to offset the loss of riparian habitat functions and values. At a minimum, riparian habitat losses will be compensated at a 1:1 ratio;
- identification of mitigation sites and criteria for selecting these sites;
- site-specific management procedures to benefit establishment and maintenance of native riparian plant species;
- monitoring protocol, including schedule and annual report requirements (compensatory riparian habitats shall be monitored for a minimum period of five years);
- ecological performance standards and corrective measures if performance standards are not met;
- responsible parties for monitoring and preparing reports; and
- responsible parties for receiving and reviewing reports and for verifying success or prescribing implementation or corrective actions.

Mitigation may be accomplished through preservation, replacement, restoration or enhancement of degraded habitat, reestablishing riparian vegetation in areas that historically supported it, or purchase of credits at an established mitigation bank, such as the Cosumnes Floodplain Mitigation Bank. Compensatory mitigation will be provided within Amador County to the extent feasible and available; however, certain impacts may be compensated at an agency-approved mitigation bank in an adjacent county if required by CDFW and an agency-approved mitigation bank is not available in Amador County. If a proposed project requires work on the bed or bank of a stream, or other water body, the project applicant will also obtain a streambed alteration agreement under Section 1602 of the Fish and Game Code from CDFW prior to project implementation, and will implement all requirements of the agreement in the timeframes required therein.”

Section 19.50.050 - Economic impact analysis for new commercial development of 5,000 square feet or more.

Before approving any new commercial development of 5,000 square feet or more that is a discretionary decision, the County shall require and review an applicant-funded analysis of the development's economic impact on the viability of existing businesses, conducted by a qualified, County-selected consultant. Such an analysis shall be part of the public record for the project.

SECTION 3. This ordinance or a summary thereof shall be published in the manner prescribed in Government Code Section 25124 and shall become effective thirty days after the date hereof.

The foregoing ordinance was duly passed and adopted at a regular session of the Board of Supervisors of the County of Amador, held on the ____ day of _____, 2018, by the following vote:

AYES:

NOES:

ABSENT:

Chair, Board of Supervisors

ATTEST:

JENNIFER BURNS, Clerk of the
Board of Supervisors, Amador County,
California

By _____

(ORDINANCE NO. 18- XXXX)

(XX/XX/18)

**BEFORE THE BOARD OF SUPERVISORS OF THE
COUNTY OF AMADOR, STATE OF CALIFORNIA**

IN THE MATTER OF:

RESOLUTION PROVIDING FOR THE
DISTRIBUTION OF INFORMATION FOR
NEW DEVELOPMENT RELATED TO
WILDLAND FIRE ISSUES

RESOLUTION NO. 18-xxx

WHEREAS, a Stipulated Settlement resolved Case No. 16-CV-09876 which challenged the 2016 approval of the County of Amador General Plan Update and certification by the County of Amador of the Environmental Impact Report for the General Plan Update; and

WHEREAS, the Stipulated Settlement contains Section IV, Terms, requiring Amador County to consider the implementation of certain policies and code amendments; and

WHEREAS, the Terms set forth in Section IV (E), among other terms, were to be considered by the County of Amador within six months of the execution of the Stipulated Settlement, which occurred on March 19, 2018; and

WHEREAS, Term "E," Information for New Development Related to Wildland Fire Issues, states,

"The County will develop or adopt informational materials for distribution to project applicants and realtors regarding the risks of wildland fire, available levels of fire and emergency response, and wildland fire prevention methods. As part of the reassessment process when ownership changes on an improved or unimproved parcel in a CalFire-defined high- and very-high wildland fire hazard zone, the County will provide the new property owners with that same information or refer them to an appropriate source."

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Board of Supervisors of the County of Amador, State of California, that said Board does hereby direct the Amador County Planning Department, within 10 days of the adoption of this Resolution, to provide such informational materials described in Term E to discretionary project applicants at the time of project submittal and to distribute the same information to the Amador County Association of Realtors.

BE IT FURTHER RESOLVED by the Board of Supervisors of the County of Amador, State of California, that said Board does hereby direct the Amador County Assessor's Office, within 10 days of the adoption of this Resolution, to begin including include the following information on all reassessment notices for parcels described in Term E:

“NOTICE: This parcel is located in a high- and/or very-high fire severity zone as defined and mapped by the California Department of Forestry & Fire Protection (CAL FIRE). For information regarding the risks of wildland fire, available levels of fire and emergency response, and wildland fire prevention methods, please contact your respective Fire Protection District office and/or the Amador Fire Safe Council:

Amador Fire Protection District (209-223-6391; www.amadorfire.org)
Jackson Valley Fire Protection District (209-763-5848; www.jacksonvalleyfire.org)
Kirkwood Meadows Volunteer Fire Department (209-258-4444, x104;
www.kmpud.com/departments/fire-department)
Lockwood Fire Protection District (209-296-5122; www.lockwoodfire.org)
Amador Fire Safe Council (209-304-2187; www.amadorfiresafe.org)”

The foregoing resolution was duly passed and adopted by the Board of Supervisors of the County of Amador at a regular meeting thereof, held on the 11th day of September 2018, by the following vote:

AYES:

NOES:

ABSENT:

Lynn A. Morgan, Chair, Board of Supervisors

ATTEST:

JENNIFER BURNS, Clerk of the
Board of Supervisors, Amador County,
California

Deputy

**BEFORE THE BOARD OF SUPERVISORS OF THE
COUNTY OF AMADOR, STATE OF CALIFORNIA**

IN THE MATTER OF:

RESOLUTION ESTABLISHING A SYSTEM
TO ENSURE ACCOUNTABILITY AND
RESPOND TO CHANGE

RESOLUTION NO. 18-xxx

WHEREAS, a Stipulated Settlement resolved Case No. 16-CV-09876 which challenged the 2016 approval of the County of Amador General Plan Update and certification by the County of Amador of the Environmental Impact Report for the General Plan Update; and

WHEREAS, the Stipulated Settlement contains Section IV, Terms, requiring Amador County to consider the implementation of certain policies and code amendments; and

WHEREAS, the Terms set forth in Sections IV (F), among other terms, were to be considered by the County of Amador within six months of the execution of the Stipulated Settlement, which occurred on March 19, 2018; and

WHEREAS, Term “F,” Establishing a System to Ensure Accountability and Respond to Change, states,

“As part of the County’s obligation to monitor implementation of the General Plan under Government Code Section 65400:

1. The County will develop and implement a comprehensive General Plan performance monitoring system using the performance measures listed in [Exhibit “A” attached hereto] or comparable and appropriate performance measures.
2. The County will compile the information set forth in the comprehensive performance monitoring system described in subsection (1) above every three to five years (precise time to be determined by the County), and include the information in the next legally required General Plan annual report.

This report will also include a discussion of any notable trends and recommendations for Board of Supervisor’s consideration. Where data or trends are found not to be consistent with the General Plan’s goals and policies as set forth in Exhibit “A,” County staff shall provide an analysis and recommend to the Board of Supervisors actions necessary to remedy the negative trends. The Board shall discuss the analysis and vote upon the recommendations in a public hearing.

3. The above provisions in this section will automatically expire upon the County’s

adoption of new Land Use, Conservation, and Open Space elements or at the end of 2030, whichever occurs first.”

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Board of Supervisors of the County of Amador, State of California, that said Board does hereby direct the Amador County Planning Department to implement Term F beginning with the 2021 General Plan Annual Progress Report.

The foregoing resolution was duly passed and adopted by the Board of Supervisors of the County of Amador at a regular meeting thereof, held on the 11th day of September 2018, by the following vote:

AYES:

NOES:

ABSENT:

Lynn A. Morgan, Chair, Board of Supervisors

ATTEST:

JENNIFER BURNS, Clerk of the
Board of Supervisors, Amador County,
California

Deputy