



Notice of the Regular Meeting of the Ophir Planning and Zoning Commission
Ophir Town Hall, 36 Porphyry Street, Colorado, 81426
6:00PM, Wednesday, February 12th, 2025

Zoom Link: <https://us02web.zoom.us/j/6189461254?omn=82125746558>

Agenda:

1. Approve the Agenda
2. Adoption and Approval of January 8th, 2025 P&Z Regular meeting minutes
3. Staff Report
4. Executive Session for a conference with the Town Attorney for the purpose of receiving legal advice on specific legal questions under CRS 24-6-402(4)(b), specifically regarding Town avalanche zoning and related threat of litigation (**P&Z Members and Town Staff Only, 45 minutes**)
5. Business Items:
 - a. Town of Ophir Avalanche Hazard Zoning
 - i. Discussion of draft ordinance proposing to allow improvements in Moderate Avalanche Hazard Areas

NOTE: This is not a public hearing on the proposed ordinance and NO recommendations will be made by P&Z to the GA at this meeting.
 - b. Town of Ophir Land Use Code Revisions
 - i. Discussion on priority items from P&Z Members
6. New Business
7. Adjourn

**Regular Meeting of the Ophir Planning and Zoning Commission
January 8th, 2025**

1. CALL TO ORDER

- a. The meeting was called to order at 6:10pm by Gunnar Doyle
P&Z Members: Gunnar Doyle, Daniel Forgrave, Mark Rosenthal
Non-P&Z Members: Andy Ward, John Wontrobski

2. APPROVAL OF THE AGENDA

- a. Agenda was approved unanimously.

3. BUSINESS ITEMS

- a. Dan Forgrave confirms intent to continue service on P&Z and be up for election at January GA. Gunnar mentions he will follow up with Phil to confirm his intention to run at January GA to keep seat.
- b. Members discuss ideas and thoughts on updating the land use code. The discussion revolves around what parts of the land use code (LUC) to focus on, how the commission should solicit feedback from the GA, whether or not the notes and surveys conducted in the past are still valid or should be reconducted, how long should the GA be able to provide feedback on potential LUC changes, and other thoughts on timeline and process of revising the LUC. It is decided that P&Z members will bring a list of 10 land use code items they think would be good to gather GA feedback on prior to drafting any proposed revision language.

4. NEW BUSINESS

- a. Andy Ward proposes that P&Z and OEC work together to identify potential developable lots the Town of Ophir could sell or develop in the event the GA choose to build housing for town employee(s) or sell to raise funds.

5. ADJOURN

- a. On or about 7:45pm, the meeting was adjourned.

TOWN OF OPHIR, COLORADO

ORDINANCE NO. [NUMBER]

AN ORDINANCE AUTHORIZING RESIDENTIAL CONSTRUCTION AND IMPROVEMENT IN MODERATE AVALANCHE HAZARD AREAS WHEN HAZARD MITIGATION PROCEDURES ARE FOLLOWED.

WHEREAS, the Town of Ophir, Colorado (“Town”), is a home-rule town and political subdivision of the State of Colorado, duly organized and operating under the Constitution and laws of the state and the Ophir Town Charter; and

WHEREAS, many tracts of land within Town boundaries are exposed to moderate to high avalanche risk; and

WHEREAS, the Town desires to permit residential construction and modification in Moderate Avalanche Hazard areas, as defined by the Hazards Overlap Map, when engineering reports indicate that it is safe to do so given the proposed building design; and

WHEREAS, the Town desires to adopt the following ordinance to permit construction in Moderate Avalanche Hazard Areas under appropriate circumstances and subject to the requirements set forth below.

NOW, THEREFORE, BE IT ORDAINED BY THE GENERAL ASSEMBLY OF THE TOWN OF OPHIR, COLORADO:

Section 1. Recitals. The Recitals set forth above are incorporated herein as findings and declarations of the General Assembly.

Section 2. Code Section §803.5. The addition of Article VIII, §803.5 to the Town’s land use code shall read as follows:

§803.5 Notwithstanding any other provisions of this code, residential construction and improvement shall be allowed in Moderate Avalanche Hazard Zones, as depicted by the Hazards Overlay Map, subject to hazard mitigation procedures. Prior to the issuance of a building permit, the applicant must provide to the Town:

- A. A written report analyzing the potential avalanche hazards and the potential physical forces created thereby upon the proposed improvement or structure. Said report shall be prepared and signed by a qualified avalanche expert, based on such expert’s education and experience in avalanche hazard mitigation. Said report shall also be recorded in the real estate records of San Miguel County with a reference to the subject property.
- B. A structural analysis of the proposed building prepared and signed by a state licensed structural engineer reflecting an engineering analysis and design that takes into account the

potential force from an avalanche as set forth in the avalanche report referred to in subsection A of this section.

C. A complete release and indemnification agreement releasing the Town from any liability relating to avalanche hazards, in a form approved by the Town Attorney, properly executed by the owner of the subject real property.

D. No building permit shall be issued to any applicant unless the state licensed structural engineer submitting the written report analyzing the potential avalanche dangers required in this section certifies, in writing, that the proposed building design and construction or proposed structural modification of an existing structure, will protect human life throughout the dwelling unit, building or structure from the anticipated one hundred (100) year avalanche forces for the location of the proposed dwelling unit, building or structure or proposed addition or modification thereto.

E. The Town may require, at its discretion, a bond, letter of credit or other guarantee to ensure that the requirements of this section are complied with and the construction of any approved buildings or structures will be completed in strict accordance with approved plans and specifications.

Section 3. Article VIII, §803.2 shall be modified to reflect the following:

§803.2 No structures or accessory buildings, other than replacement, relocation, renovation or expansion of a grandfathered single-family dwelling or accessory building, or the old jail building located on Lots 9 and 10, Block T, as may be approved pursuant to a Variance or the Special Use Permit process in accordance with the standards and requirements of §803, shall be permitted in ~~the areas~~ designated on the Hazards Overlay Map as High ~~or Moderate~~ Avalanche Hazard;

Section 4. The addition of Article VIII, §803.6 to the Town's land use code shall read as follows:

§803.6 The purchase, sale and renting of property is subject to the following:

A. Each and every real estate agent, salesperson and broker, and each and every private party owning property within the Avalanche Hazard Zone shall provide prospective purchasers, lessees, or tenants with written notice that said real property is located within the Avalanche Hazard Zone prior to or in conjunction with viewing said property. The written notice must state that Section 803.5 avalanche studies are available for public inspection at the office of the Town Clerk and that the studies should be reviewed prior to any party entering into any agreement, contract, or lease concerning said property.

B. Any party who rents, leases, or subleases any premises within the Avalanche Hazard Zone during the months of November, December, January, February, March, or April must provide to the Town a written and notarized form, signed by the tenant, stating that the tenant has been informed that the property lies in the Avalanche Hazard Zone. The tenant shall then

execute and file with the Town a release and indemnification agreement. The requirements of this section must be completed prior to any occupancy thereof. Compliance with this subsection shall be handled administratively by the Town.

Section 4. _____ The addition of Article VIII, §806 to the Town’s land use code shall read as follows:

§806 When the Avalanche Danger Zone covers only part of a parcel, only the portion within the Avalanche Danger Zone is subject to Article VIII development restrictions.

Section 5. Publication. After final adoption, a public notice shall be published which notice shall contain the number and title of this ordinance, a brief description of the ordinance, its effective date and notice that all copies are available for inspection at the Town Hall office.

Section 6. Severability, Conflicting Ordinances Repealed. If any section, subsection or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. All other ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Introduced, Read, and Referred to Public Hearing on First Reading by the General Assembly of the Town of Ophir on the [date] day of [month], [year].

Approved and Adopted on Second and Final Reading as Amended by the General Assembly of the Town of Ophir on the [date] day of [month], [year].

By: _____

Andy Ward, Mayor

Attest: _____

Ben Foster, Town Clerk

Approved as to Form: Town Attorney



APPENDIX C ZONING, HAZARD AND SOURCE WATER PROTECTION MAPS TOWN OF OPHIR LAND USE CODE

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