



## **NOTICE OF THE REGULAR MEETING OF THE GENERAL ASSEMBLY**

**TOWN OF OPHIR, CO 81426**

**TUESDAY 7:00 pm      July 22, 2025**

OPHIR TOWN HALL 36 PORPHYRY ST.

[Join Zoom Meeting](#)

Meeting ID: 867 0143 8435 Passcode: 373146

+16699006833,,86701438435#,,,,\*373146# US (San Jose)

### **AGENDA**

1. CALL TO ORDER
2. ADOPTION & SIGNATURE OF June 17, 2025 MEETING MINUTES
3. APPROVAL OF AGENDA
4. BUSINESS ITEMS
  - a. 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) Regarding Threatened Waller Litigation (Carmer)
  - b. Consider Ordinance No. 2025-2, An Ordinance Amending the Town of Ophir Hazard Overlay Map Regarding Avalanche Zones on First Reading and Scheduling a Public Hearing Regarding the same (Carmer)
    - i. Note: The Planning and Zoning Commission recommended passing this Ordinance at their July 9, 2025 meeting
5. STAFF REPORTS
  - a. Town Manager
    - i. Introduction: Initial Ophir Scholar Sonja Ridders (Wontrobski)
    - ii. Expiring Tax Credits: Rooftop Solar and EV (Wheels/EcoAction)
  - b. Staff
6. NEW BUSINESS
7. ADJOURN

**\*\*DRAFT\*\*MINUTES OF THE REGULAR MEETING OF THE  
GENERAL ASSEMBLY**

**TOWN OF OPHIR, CO 81426**

**TUESDAY JUNE 17TH, 2025 7:00 PM**

**OPHIR TOWN HALL 36 PORPHYRY ST.**

Video and audio recording available upon request

**1) CALL TO ORDER**

Andy Ward calls the meeting to order at 7:03pm

VOTING MEMBERS PRESENT: Kirk Drogsvold, Abby Gamache, Janice Gerona, Slator Aplin, Abigail Herman, Eric Beerman, Phil Hayden, Leigh Sullivan, Daniel Forgrave, Annabelle O'Neill, David Callicott, Mark Rosenthal, Kim Wheels, Catherine Gockley, Amy Ward, Doris Glynn, Todd Herman, Ben Foster, Andy Ward, Gunnar Doyle, Jerry Oyama, Allyn Hart

NON-VOTING MEMBERS: Hailey Carmer, John Wontrobski, Cindy Wyszynski, Mason Osgood, Jonathan Cooper

**2) ADOPTION & SIGNATURE March 18<sup>th</sup> and May 27th 2025Regular  
GA minutes**

Janice motions, Jerry seconds.

All in Favor (Yay): Unanimous

**3) APPROVAL OF AGENDA**

Motion to approve agenda w/ addition of long form audit exemption

Mark Rosenthal motions, Gunnar seconds.

All in Favor (Yay): Unanimous

**4) BUSINESS ITEMS**

a) Leigh presents on water. Anyone who'd like to contact her to talk more can do so at (970) 728-3204

b) EXECUTIVE SESSION FOR PURPOSES OF DISCUSSION WITH  
TOWN ATTORNEY

Andy motions, Annabelle seconds

All in Favor (Yay): Unanimous

Executive session begins @ 7:25 and recording is stopped.

Executive session ends @ 8:25 and recording is resumed.

Andy requests that if anyone has any concerns regarding the discussion during the executive session to speak now. No one speaks.

c) Motion to approve and second notice at the July GA by Mark Rosenthal, Janice seconds.

Kim asks if we vote no on this motion could we still vote to table?

Hailey says yes, another motion could be entertained but we could change this motion to tabling.

Mark amends the motion to table, Janice denies seconding.

Mark withdraws his motion.

Phil motions to table to July GA, Allyn seconds.

After more discussion Phil amends the motion to include additional information gathering by the town staff from avalanche experts on the map edit before the next GA. Allyn seconds.

John Wontrobski re-reads the full motion as follows: the motion is to table a consideration of ordinance 2025-2 an ordinance amending the town of Ophir hazard overlay map regarding avalanche zones on first reading and to require additional information from our avalanche advisors by that meeting and we are scheduling that meeting for July.

All in Favor (Yay): unanimous

d) Jerry motions to table ordinance 2025-1 until the August GA, Gunnar seconds.

Voice vote is taken, one no vote is counted – motion passes.

## 5) STAFF REPORTS

TOWN MANAGER – Thanks to everyone who helped with and attended Ophir Days!

Joe Shults is a new contract employee for the town of Ophir, with the title of Special Projects Coordinator, focusing mainly on water issues.

Town is still using Werner Springs but efforts are being made to get back to Waterfall source.

P&Z – Working on solar permitting regulations.

Ophir Self Reliance Committee informational fliers are available at town hall if anyone is interested and include a lot of good information for DIY solar.

## 6) NEW BUSINESS

None!

## 7. ADJOURN

Andy adjourns the meeting @ 9:11pm

*Minutes prepared by Ben Foster, Town Clerk*

*Audio and video recordings of all General Assembly Meetings are available to the public. Please contact the Town Clerk if you would like a copy of this month's audio of the meeting minutes.*

**Glenwood Springs Office**  
910 Grand Avenue, Suite 201  
Glenwood Springs, Colorado 81601  
Telephone (970) 947-1936  
Facsimile (970) 947-1937

**GARFIELD & HECHT, P.C.**  
ATTORNEYS AT LAW  
Since 1975

[www.garfieldhecht.com](http://www.garfieldhecht.com)

## MEMORANDUM

To: Town of Ophir Planning & Zoning Commission

From: Garfield & Hecht, P.C.

Date: June 6, 2025

RE: Proposed amendment of Hazard Overlay Map

---

### INTRODUCTION AND PROPOSED ACTION

The Town of Ophir Land Use Code (“Code”) establishes an Avalanche Hazard Overlay Zone District (“Avalanche Hazard Zone”) within the Town. The purpose of the Avalanche Hazard Zone is to define areas where avalanche hazard threatens the health, safety and welfare of persons and property. There are two classifications within the Avalanche Hazard Zone: high avalanche hazard and moderate avalanche hazard. The boundaries of the Avalanche Hazard Zone—including designation of high and moderate hazard areas—are established on the official Hazards Overlay Map of the Town of Ophir. The current Hazards Overlay Map was adopted in 2003 and is included as Appendix C to the Code. The basis for the Avalanche Hazard Zone and the locations of the high and moderate hazard areas are based on the 1976 Natural Hazards in Mountain Colorado study authored by Jack D. Ives, Arthur I. Mears, Paul E. Carrara, and Michael J. Bovis, specifically Figure 10 in the report (the “INSTARR Map”).

The current Hazard Overlay Map designates Lots 1 through 10, Block 2 of the Town (the “Lots”) as a high hazard zone. Section 803.4 of the Code provides that no dwelling structures are permitted in the high hazard area. In 2023, the owners of the Lots sought to amend the Hazard Overlay Map to reclassify the Lots from high to moderate, which, if successful, would have allowed the owners to seek a variance or special use permit to construct homes on the Lots. The General Assembly ultimately denied the application. The owners then challenged the denial and asserted other claims against the Town related to the hazard classification of the Lots.

While working through the possibility of and options for a resolution of the disputes between the Town and the owners of the Lots, the Town identified a discrepancy between the INSTARR Map and its current Hazard Overlay Map. Specifically, the INSTARR Map defines “Zone 1” (high hazard) in the vicinity of the Lots by a straight line running through the northwest corner of Town (see Figure 1, below). In contrast, the Hazard Overlay Map defines the high hazard area by a “finger” (see Figure 2, below). And unlike the Spring Gulch hazard area, the INSTARR Map does not identify a moderate zone around the high zone in the northwest corner. The same is true for the high zone in the southeast corner of Town (see Figure 1).

Figure 1

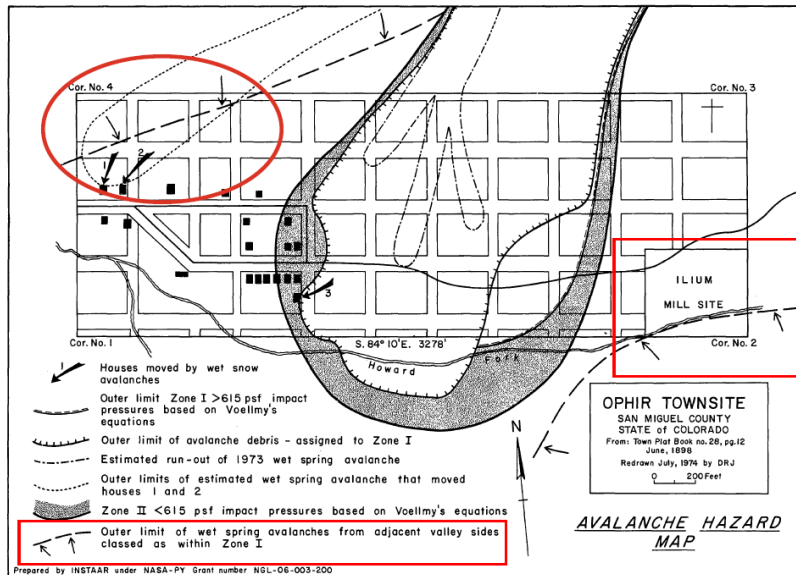
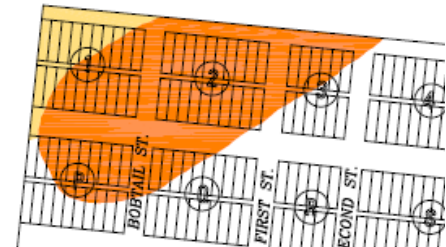


Figure 2



Because the INSTARR Map and associated analysis provide the scientific basis for the Town's hazard areas, the Town is proposing to amend the Hazard Overlay Map to align with the INSTARR Map by defining as "high hazard" those areas (i) north of the line in the northwest corner and (ii) south of the line in the southeast corner of Town. As a result of this change, areas south of the line in the northwest corner that are high hazard under the existing Hazard Overlay Map—including portions of the Lots—will have no avalanche hazard designation. A survey exhibit showing where the northwest line falls in relation to the Lots is enclosed. The revised Hazard Overlay Map making these changes is attached as Exhibit A to the proposed ordinance included with this memo. If the ordinance is approved by the General Assembly, Exhibit A will become the new Hazard Overlay Map for the Town.

## ANALYSIS

Article XIV of the Code governs amendments of the Code and Town zoning and other maps, including the Hazard Overlay Map. Per Section 1415 of the Code, the Planning & Zoning Commission may recommend approval of an amendment to Hazards Overlay Map if the Commission finds that any three of the criteria listed and discussed below have been met.

- A. There has been a substantial change in conditions in the neighborhood or area proposed to be rezoned since the date of approval of the existing zoning map designation which justifies the proposed amendment.

**Staff response:** This criterion is not applicable here because no change in zoning is proposed.

- B. There has been a substantial change in the circumstances or conditions of the Town at large which justifies the proposed amendment.

**Staff response:** This criterion is not applicable here because the proposed amendment is not responding to a change in circumstances.

- C. There is demonstrated to be a material and substantial error in the existing zoning map or LUC text, the correction of which justifies the proposed amendment.

**Staff response:** The purpose of the amendment is to correct a discrepancy between the Town's adopted Hazard Overlay Map and the scientific study upon which it is based. Based on staff's investigation, the discrepancy was not due to a new study or information regarding the avalanche hazard or dangers in the affected areas but, rather, a misinterpretation or mistranscription of the INSTARR Map. It is appropriate to correct this discrepancy now.

- D. The proposed amendment is in conformance with or would implement the Ophir Master Plan, as amended.

**Staff response:** Amending the Hazard Overlay Map to comport with the INSTARR Map will have the effect of removing the high hazard designation from certain areas of Town, thereby making them available for residential development. This result is consistent with Goal E of maintaining housing opportunities in the community. Additionally, the amendment will align the Hazard Overlay Map and development patterns with the scientific study that evaluated Ophir's natural hazards, which supports Goal M of the Master Plan.

- E. The area proposed to be rezoned or reclassified with regard to a hazard overlay is peculiarly suitable for the uses permitted in the proposed new zone district or districts.

**Staff response:** The areas affected by the proposed amendment are zoned residential. Based on staff's investigation, the areas that will no longer be classified as high hazard if the amendment is approved can be developed in a manner consistent with the Code.

- F. There exists a substantial and compelling public interest in adopting such proposed amendment.

**Staff response:** Staff believes that amending the Hazard Overlay Map to be consistent with the scientific study that is the backdrop for the map in the first place is in the public interest.

## RECOMMENDATION

For the reasons discussed above, staff is supportive of a recommendation by P&Z that the General Assembly approve the Hazard Overlay Map amendment.

**TOWN OF OPHIR, COLORADO**

**ORDINANCE NO. 2025-\_\_**

**AN ORDINANCE AMENDING THE TOWN OF OPHIR HAZARD OVERLAY MAP  
REGARDING AVALANCHE ZONES**

**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.

**WHEREAS**, the Town has adopted a Hazard Overlay Map including an Avalanche Hazard Zone that is intended to define areas where avalanche hazard threatens the health, safety and welfare of persons and property.

**WHEREAS**, the Avalanche Hazard Zone locations shown on the Hazard Overlay Map are derived from the 1976 Natural Hazards in Mountain Colorado study authored by Jack D. Ives, Arthur I. Mears, Paul E. Carrara, and Michael J. Bovis (the “INSTARR Report”), specifically the Figure 10 in the INSTARR Report.

**WHEREAS**, the Town has identified a discrepancy between the hazard areas shown in the INSTARR Report and the Avalanche Hazard Zones identified on the current Hazard Overlay Map.

**WHEREAS**, pursuant to Article XIV of the Town of Ophir Land Use Code (the “Code”), the Town desires to amend the Hazard Overlay Map to correct the discrepancy.

**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.**     Findings. Pursuant to Section 1415 of the Code, the General Assembly finds that amending the Hazard Overlay Map as provided in this Ordinance satisfies the following criteria:

- A. There is demonstrated to be a material error in the existing Hazard Overlay Map, the correction of which justifies the proposed amendment;
- B. The areas affected by the amendment are suitable for the uses permitted as a result of the amendment;
- C. The proposed amendment is in conformance with the Ophir Master Plan; and
- D. There exists a substantial and compelling public interest in adopting the proposed amendment.



**Section 3.**     Hazard Overlay Map Amendment.   The Hazard Overlay Map dated April 23, 2003, and attached as Appendix C to the Code is replaced in its entirety by the map dated June 5, 2025, attached to this Ordinance as Exhibit A.

**Section 4.**     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 5.**     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 \_\_\_\_\_ day of June, 2025.**

**Approved and Adopted on Second and Final Reading as Amended by the General Assembly of the Town of Ophir on the \_\_\_\_\_ day of July, 2025.**

**By: \_\_\_\_\_**  
          **Andy Ward, Mayor**

**Attest: \_\_\_\_\_**  
          **Ben Foster, Town Clerk**

\_\_\_\_\_  
          **Approved as to Form: Town Attorney**

**Exhibit A**

Amended Hazard Overlay Map

OPHIR TOWNSITE BOUNDARY (TYPICAL)

NORTH HALF OF BLOCK 2

BLOCK 1

BLOCK 2

LOT 1

LOT 10

BLOCK 3

BLOCK 4

OPHIR TOWNSITE BOUNDARY (TYPICAL)

BLOCK P

BOBTAIL ST

AURUM ST

BLOCK Q

FIRST ST

BLOCK R

SECOND ST

BLOCK S

PORPHYRY ST

BLOCK 14

BLOCK A

BLOCK N

BLOCK M

**NOTES:**

1. This survey does not constitute a title search by Foley Associates, Inc. to determine the ownership of this property or easements of record.
2. NOTICE: According to Colorado law, you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.

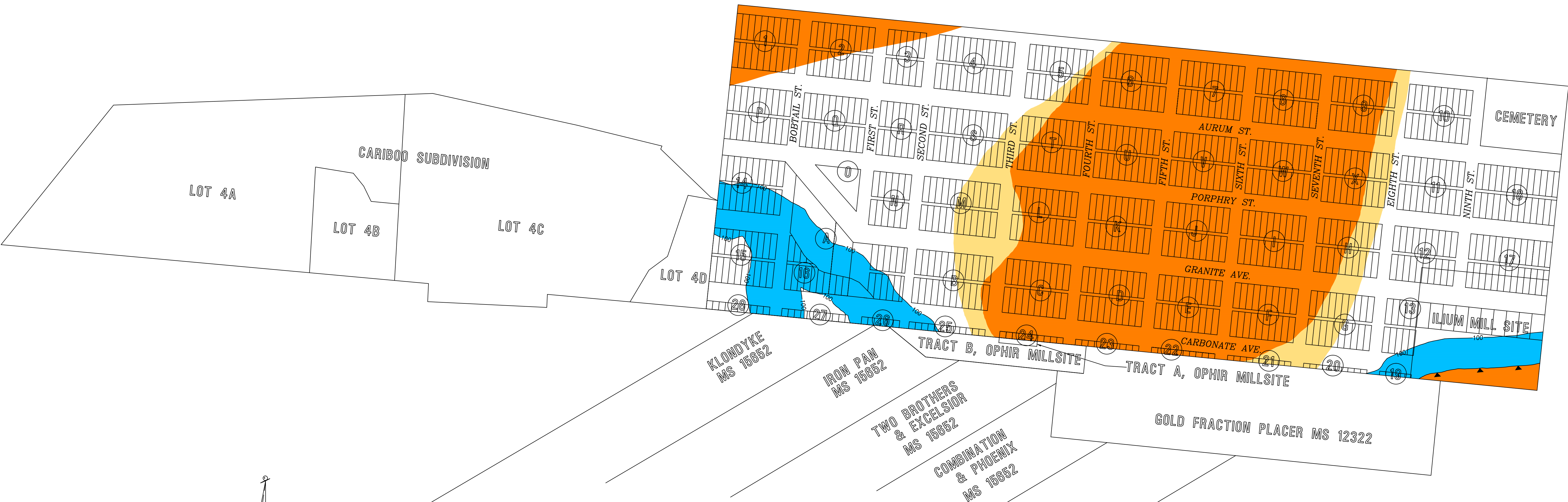
-----  
Date

[illegible]






**Client:**

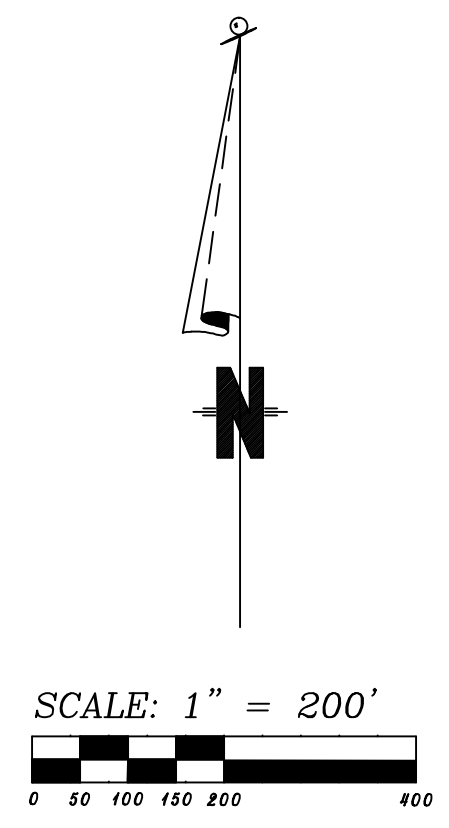
**Contact:**

Project Mgr:	JH
Drawn by:	MC
Checked by:	
Start date:	05/07/2025
Dwg path:	dwg\EXHIBIT 05-25
Sheet No.	1
Project #:	10014



Legend

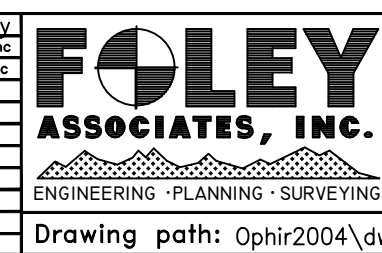
-  Waterways and Wetland Hazard Area
-  100' Buffer Edge
-  Moderate Hazard Area
-  High Hazard Area
-  Edge of Wet Spring Slides



# TOWN OF OPHIR HAZARDS MAP 2025

Project Mgr:	JH
Technician:	MC
Checked by:	
Start date:	05/28/2025

Rev	description	date	by
1	Updated NW corner of town according to 19014 Audubon Exhibit	05/28/25	mc
2	Changed High Hazard area in SE corner of town from Moderate	05/05/25	mc



970-728-6153 970-728-6050 fax  
P.O. BOX 1385  
125 W. PACIFIC, SUITE B-1  
TELLURIDE, COLORADO 81435

Drawing path: Ophir2004\dwg\Haz Map 05-25.dwg Sheet 1 of 1 Project #: Ophir2004

**Memo to:** John Wontrobski  
Ophir Town Manager

**From:** Dan Rohn, P.Eng., and Alan Jones, P.Eng.  
Dynamic Avalanche Consulting Ltd.

**Date:** July 9, 2025

**RE:** Town of Ophir  
Review of Proposed Updated Avalanche Hazard Map  
24-0034-GHP-01 Rev 0

## **1.0 Introduction**

This memo summarizes a review by Dynamic Avalanche Consulting Ltd. (DAC) of the proposed update to the Town of Ophir Avalanche Hazard Map. The proposed map (Foley, 2025) is based on the original Institute of Arctic and Alpine Research (INSTAAR) hazard map (Ives, Mears, Carrara, & Bovis, 1976). The purpose of this review is to evaluate the interpretation of the proposed map in comparison to the original INSTAAR map, from the perspective of professionals who produce avalanche hazard maps. It is important to note that the scope of this review does not include reviewing the methodology used to establish the original INSTAAR map, nor does it review the accuracy of the location of hazard lines on the Foley (2025) map with respect to residential property boundaries. Commenting on the Waterways/Wetland Hazard area depicted on the proposed map is also not part of the scope. This work was conducted at the request of Garfield & Hecht, P.C. on behalf of the Town of Ophir.

## **2.0 INSTAAR Map**

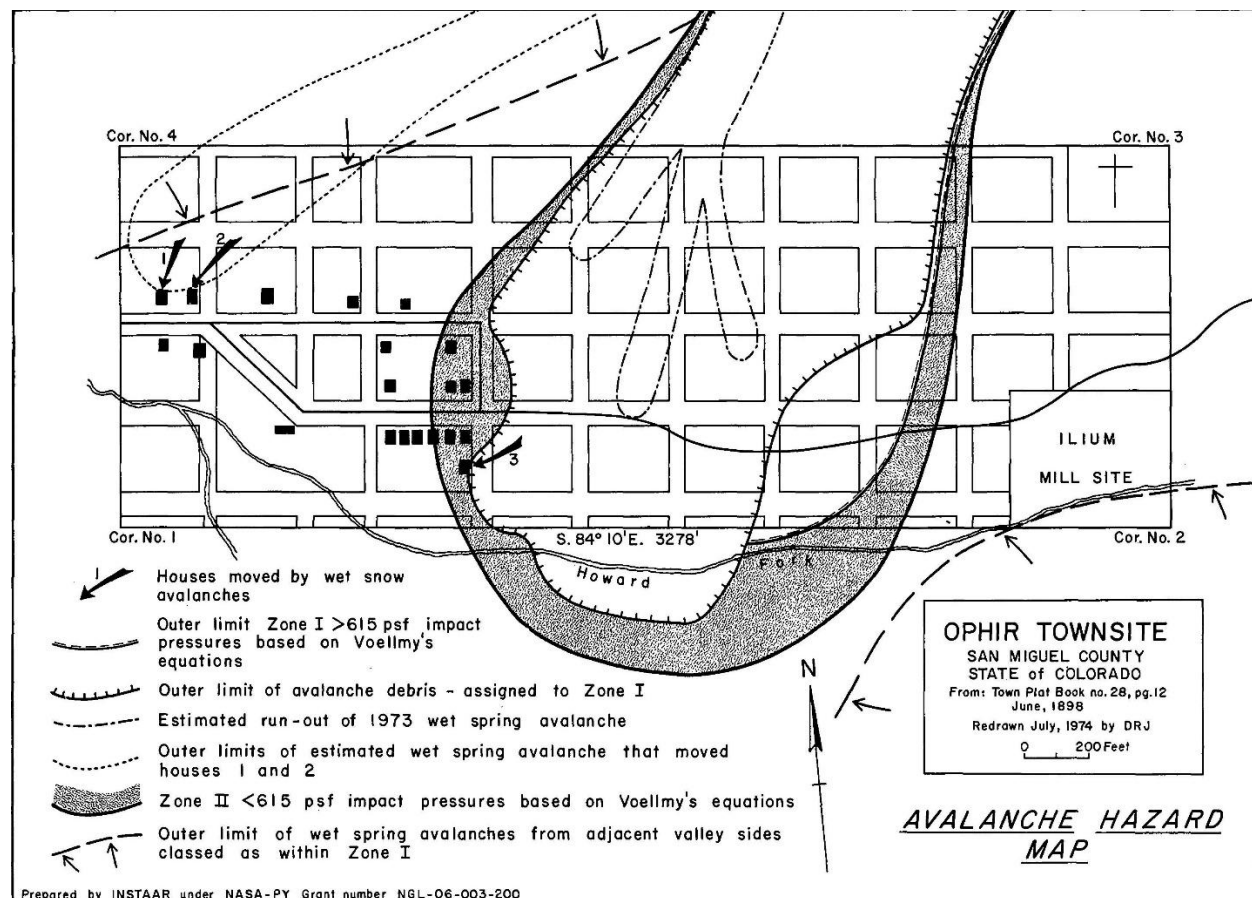
The original INSTAAR map communicates two categories of avalanche hazard (Zone I and Zone II) which are defined based on impact pressures (Figure 1). These categories are similar to modern zoning categories where Zone I is often called the High (or Red) Hazard zone, and Zone II is called the Moderate (or Blue) Hazard zone. Zones I and II are described explicitly on the INSTAAR map with a detailed map legend. Some zone boundaries are defined by avalanche modelling (i.e., Voellmy's equations), and other zone boundaries are defined by the estimated extent of avalanche runout from historical observations.

While some historical avalanche events have been used to establish zone boundaries (e.g., third item in the map legend), two additional historical avalanche events are presented in the legend without explicitly being assigned a hazard zone. The "estimated run-out of the 1973 wet spring avalanche" (fourth item in the map legend) is shown on the map entirely within one of the Zone I (High Hazard) polygons and is therefore clearly within an area of high avalanche hazard.

However, the fifth item in the map legend illustrates the estimated extent of a wet spring avalanche from Spring Gulch that reportedly moved two houses on the west side of the map. The map legend does not explicitly assign a hazard zone to this historical event, as it does for the historical event



described in the third item in the legend. Part of the mapped historical event (i.e., the dotted line) overlaps with the Zone I (High Hazard) area in the northwest corner of the map, while part of it is outside of any defined hazard zone (including where the two houses are shown to have been moved by avalanche impact).



**Figure 1.** Original avalanche hazard map for the Town of Ophir developed by INSTAAR.

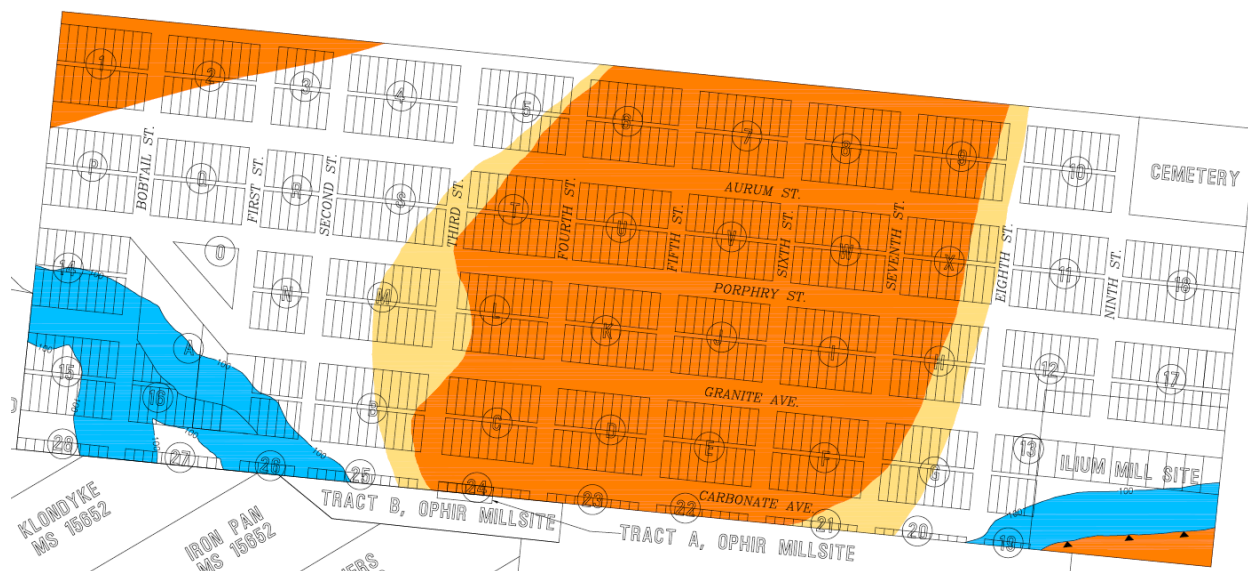
### 3.0 Proposed Updated Town of Ophir Map

The proposed updated Town of Ophir avalanche hazard map is based on the above INSTAAR map and is shown in Figure 2. It illustrates areas of High Hazard (Zone I) in dark orange and areas of Moderate Hazard (Zone II) in light yellow. There is no other avalanche-related information communicated on the map (e.g., no estimated extents of historical avalanche events), which is consistent with modern avalanche hazard maps. The zoning presented in the proposed map matches the zoning that was presented on the original INSTAAR map. Specifically, there are three areas of High Hazard:

1. The northwest corner of the map which was assigned as Zone I in INSTAAR due to wet spring avalanches from adjacent valley sides (not the Spring Gulch path).

2. The southeast corner of the map which was assigned as Zone I in INSTAAR due to wet spring avalanches on the south side of the valley.
3. The center of flow from the Spring Gulch path which was assigned as Zone I in INSTAAR due to a combination of historical avalanche observations and Voellmy's equations.

The only Moderate Hazard area surrounds the third High Hazard area above (from Spring Gulch), as per the INSTAAR mapping (which is based on Voellmy's equations). No other Moderate Hazard areas were identified on the INSTAAR mapping.



**Figure 2.** Proposed updated Town of Ophir Avalanche Hazard Map. Dark orange represents High Hazard areas, and light yellow represents Moderate Hazard areas.

#### 4.0 Discussion

The zoning presented on the proposed updated Town of Ophir Avalanche Hazard Map is the same as the zoning that was explicitly communicated on the INSTAAR map (i.e., the four hazard areas discussed above). For this reason, the proposed map is arguably a reasonable interpretation of the original zoning presented on the INSTAAR map.

However, the original INSTAAR map presents some avalanche hazard zoning ambiguity by illustrating the estimated extent of a spring avalanche that reportedly moved two houses (fifth legend item on the INSTAAR map). This event is shown to extend beyond the Zone I (High Hazard) boundary in the northwest corner of the map into an area without an assigned hazard zone. If the extent of this historical event is represented accurately on the map, and the event did in fact move two houses, that would imply that this area is exposed to some degree of avalanche hazard. It would therefore also be a reasonable interpretation of the information provided on the INSTAAR map to assign a hazard zone to this wet spring avalanche polygon. Insufficient information (e.g., avalanche impact pressure and frequency estimates) is provided in the original INSTAAR work to assign this area as Zone I, Zone II, or no hazard with confidence. Additional investigation would be required to determine appropriate zoning in this area.

Three options could be considered to resolve the ambiguity in the INSTAAR map:

1. Contact the authors of the original INSTAAR map to clarify how the historical avalanche information that reportedly moved two houses was intended to be used in the development of a municipal avalanche hazard map.
2. Investigate the validity of the report of the historical avalanche that supposedly moved the two houses.
3. Complete updated avalanche hazard mapping using modern methods that consider all historical avalanche events.

We trust this memo satisfies the current needs of the Town of Ophir for the review of the proposed update to the town avalanche hazard map. For questions, please contact the undersigned.

### **Dynamic Avalanche Consulting Ltd.**

Prepared by:



Dan Rohn, P.Eng.

Reviewed by:



Alan Jones, P.Eng.

### **5.0 References**

Foley. (2025). *Town of Ophir Hazards Map 2025*. Telluride, Colorado: Foley Associates, Inc.

Ives, J. D., Mears, A. I., Carrara, P. E., & Bovis, M. J. (1976). *Natural Hazards in Mountain Colorado*. Annals of the Association of American Geographers. Institute of Arctic and Alpine Research.