

MINUTES OF THE REGULAR MEETING OF PLANNING AND ZONING COMMISSION

TOWN OF OPHIR, CO 81426

Thursday, July 7th, 2022 7:00 PM

REMOTE MEETING VIA ZOOM PLATFORM

CALL TO ORDER

(TIME: 7:10 PM)

P&Z Members: Phil Hayden (Chair), Mark Ridders, Jen Rose, Ernie Watenpaugh, Janice Gerona, Judah Kuper (joined 7:24)

Public: Mason Osgood (Clerk), John Wontrobski (Town Manager), Steve Johnson (serving as Town of Ophir Attorney), Joe Shults, Todd Rutledge, Stacy Passmore

APPROVAL OF AGENDA

Janice Gerona motions to approve the July 7th, 2022 P&Z Agenda, Ernie Watenpaugh seconds

Voting Members: Phil Hayden (Chair), Mark Ridders, Jen Rose, Ernie Watenpaugh, Janice Gerona

Not in Favor (Nay): None

Motion to approve the agenda passes unanimously

PUBLIC HEARING

2a Project Name: Cornwall Property Project Summary: The evaluation of avalanche hazard and mapping within lots 1-10, block two, Article 804 overlay adjustment, Appendix C Town of Ophir Hazards Map. Action Sought: Removal of lots 1-10, block two from the high hazard area designation on the Town of Ophir Hazards Map Legal Description: Lots 1-10, Block Two, Town of Ophir, Colorado Address: TBD Aurum Street Owner: Joyce Whitaker, David Cornwall Applicant: Joseph Waller

John Wontrobski presents historical timeline for the Cornwall Whittaker Property with the Town of Ophir

Steve Johnson explains the decision before P&Z this evening: either to approve, approve with conditions, or deny the Cornwall Whittaker Property to remove those specific lots from the high avalanche hazard zone. The decision would then go before the GA, with a recommendation from P&Z.

Steven Johnson asks P&Z members if anyone has a conflict of interest in this public hearing, all members reply "no." (Judah Kuper not present for this question)

Applicant Presentation- Joe Waller presents the application and his packet materials, included in the 7/7/22 P&Z packet. He utilizes several different avalanche hazard maps to present to P&Z and the public, and believes the INSTAAR map does not match the current hazard map.

Steven Johnson is recognized by the P&Z chair to ask questions on behalf of staff. He asks 1) What research has been done to confirm if houses 1 & 2 in the Art Mears Figure 10 map were moved after the April 1959 wet slide and whether these structures were on the ground in 1952 as shown in the 1952 Ophir

Plat map. Waller confirms he can do research to expand this question on what houses were potentially moved in this timeframe, and any assessed improvements on these lots.

The P&Z Chair closes the applicant presentation and moves to public questions.

Stacey Passmore is recognized, and asks if there is a debate whether there was an avalanche in the applicant's discussed location or is the debate whether or not the buildings were moved by the avalanche. Waller responds—the application is based on the INSTAAR map, and these three referenced houses are not in the hazard zone. He says the INSTAAR map says “estimated slide,” and we therefore do not know about this hazard zone. Stacey asks, has the town considered further impacts on open space, and water resources if they consider different applications similar to this, and further development in this town. She also asks if the town has standards for developing in the moderate hazard zone. Phil Hayden (chair) responds—yes there are standards to protect the safety and welfare of this community. Phil recognizes Steve J—Steve responds that the town's current position is Ordinance 2007-05 that no new structures can be built in moderate hazard zones, but only improvements of historical structures. Phil recognizes Joe Waller—applicant is asking that their lot be removed entirely, and correct the map. Waller also responds—the family has owned these lots from 1942 and have been paying taxes on it for this long and he says if he was on P&Z then these lots would be grandfathered in, and eliminate any other situations like this in the future. Steve Johnson is recognized and responds to the moderate hazard zone question—he clarifies that Waller is asking for complete removal from the hazard zone, Waller confirms.

Todd Rutledge is recognized, and asks about the INSTAR map, which seems to state as fact that houses were moved by avalanche, and the second reference to it, the outer limits of the wet spring avalanche. He asks, “are you reading the avalanche that moved from the wet spring avalanche, that *may* have been moved”? Joe Waller responds—if it was that clear, why did they not use the symbol that they use in the rest of the maps? Rutledge asks, isn't this a statement of fact in the map that these houses were moved? Joe Waller responds—this is why he can do further research to confirm this

Joe Shults is recognized, and asks if the INSTAAR map the dotted line in Old Ophir is the outer limit of zone 1. Waller responds clarifying the different avalanche zones in the INSTAAR map

Phil Hayden moves the discussion to questions from P&Z commission members

Janice Gerona asks about grandfathering in these lots, and if the Town is able to grandfather in lots and have an indemnification clause. Steve Johnson responds—yes we have indemnification requirements for structure in the hazard zone. He also says if we grandfather these zones, we would have to open up other similar lots or else it would be a denial of equal protection.

Ernie Watenpaugh asks Waller—on Resolution that is referenced about the adjustment of boundary in Block 11, and asks why it was included. Waller responds that this ordinance coincides with the same month that the modern map was made and this confirms that there were inconsistencies with the new map, and that corrections were made to match the INSTAAR map.

Mark Ridders is recognized, and asks does the applicant have quantitative data questions or the understanding of trying to put together different story lines and gaps. Mark clarifies asking multiple times whether Waller has actual data rather than inferring for this question at hand. Mark also says that one be taken over the other without quantitative data for one over the other.

Jen Rose, Judah Kuper, and Phil Hayden have no questions for the applicant

Steven Johnson is recognized, and asks why do you think the town is bound to restrict its mapping to the INSTAAR locations, and that the four variances are errors, do you not concede that they could have been made intentionally different based on knowledge not in the INSTAAR report, such as knowledge of a wet slide avalanche moving structures? Joe Waller responds—the reason this resolution presented is important is because the town defines match the west side of Block 11 with the INSTAAR map, they want the map to match INSTAAR. Steve responds with a question—is it your position that the Town is required to limit its hazard overlay map to the INSTAAR boundaries of zone 1 and 2? Joe Waller responds no.

Steve continues—speaking about houses 1 and two, and about how houses can create deflection. Steve clarifies that P&Z would like to have a deflection analysis done on this zone and is part of the application to satisfy the application requirements. Steve advises that this is included in supplemental information, the original ask is found in an email from Jason Wells, for example, what happens when new buildings are built, what type of deflection structures are needed. Phil Hayden confirms, this is necessary for the application.

Steven Johnson advises Phil to request supplemental information and re convene when this is done and finish deliberations.

Phil asks Steve if he will stick around for deliberations.

Steve responds and says he advises that P&Z requests this supplemental information and then comes back at a later date and deliberates.

Phil asks if there are any closing remarks of staff. Steve Johnson recommends that P&Z is ready to make a motion to continue to public hearing and ask the application for supplemental information on Lots P & Q, pre and post 1959 avalanche, and submit engineering analysis for avalanche deflection on Cornwall lots if there are to be developed.

Mark Ridders—so moved on the motion proposed by Steve Johnson. Jen Rose seconds this motion

Joe Waller—closing remarks on motion on the table. He has qualms about the engineering analysis and how he says the Cornwall lots are no in the hazard zone, but that Steve wants him to do an analysis on the basis that they are in the hazard zone. Steven clarifies that the engineering would be for any structures developed on the Cornwall lots and any impacts of avalanche deflection to neighboring properties.

Joe Waller asks another question—the town chose this as a high hazard zone, but why would you then include the Wilbur report, and yet Joe is asking for it to be removed from the high. Steve says whatever Mr. Wilbur would feel appropriate, but Joe says this is not what Wilbur would do, and Steve says there's going to have to be some assumptions about what this deflection analysis would say. Steve says the engineer can make assumptions based on existing mapping.

Ernie Watenpaugh says to base the deflection analysis on a 100 year event.

Phil Hayden asks if there is any discussion on the motion. There is none.

Phil motions to vote, Mason Osgood leads the vote

All in favor: Ernie Watenpaugh, Judah Kuper, Phil Hayden, Janice Gerona, Jen Rose, Mark Ridders

Not in favor: -

Motion to approve the continuance of this hearing and addition to supplemental information from the Application is approved.

Phil Hayden motions to hold continuance of P&Z public hearing on Wednesday September 14th, Janice Gerona seconds

All in favor: Ernie Watenpaugh, Judah Kuper, Phil Hayden, Janice Gerona,, Mark Ridders

Not in favor: -

Abstain-Jen Rose

Motion to approve the continuance of this hearing till Wednesday September 14th passes

NEW BUSINESS

No new business

ADJOURN

Having reached the end of the agenda, and with no new business presented, Phil Hayden declared the meeting adjourned at 8:50pm

Audio recordings of all Planning and Zoning 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.