



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

**TOWN OF OPHIR, CO 81426**

**TUESDAY 7:00 pm      June 17, 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 March 18, 2025 and May 27, 2025 MEETING MINUTES
3. APPROVAL OF AGENDA
4. BUSINESS ITEMS
  - a. Water Quality and Quantity Measurer Leigh Sullivan (15 minutes)
  - b. 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
  - c. 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
  - d. Tabled from March 18, 2025: Consider Ordinance No. 2025-1, An Ordinance Authorizing Residential Construction and Improvement in Moderate Avalanche Hazard Zones When Hazard Mitigation Procedures are Followed on First Reading and Scheduling a Public Hearing Regarding the Same
5. STAFF REPORTS
  - a. Town Manager
    - i. New Town Employee Joe Shults
  - b. Staff
6. NEW BUSINESS
7. ADJOURN

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

**TOWN OF OPHIR, CO 81426**

**TUESDAY MARCH 18TH, 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 7:06pm

VOTING MEMBERS PRESENT: Andy Ward, John Humphries, Mark Rosenthal, Slator Aplin, Gunnar Doyle, Allyn Hart, Rachael Lackey, Doris Glynn, Janice Gerona, John Gerona, Eric Beerman, Amy Ward, Annabelle O'Neill, Catherine Gockley, Dan Forgrave, Kara Binkley, David Callicott, Eric Beerman, Jerry Oyama, Joan May, Kim Wheels, Lucas Leighton, Mark Ridders, Natalie Fijalkowski, Tyler Schultz, Teri Steinberg, Phil Hayden, Larry Rosen, Ryan Taylor, Dave Chew, Parke Ehlers, Ryan Ehlers, Corinne Platt, Jacey DePriest, Mark Worth

NON-VOTING MEMBERS: Hailey Carmer, John Wontrobski, Corey Hiseler, Glenn Pauls, Cindy Wyszynski

**2) ADOPTION & SIGNATURE March 18<sup>th</sup>, 2025 Regular GA minutes**  
Mark Rosenthal motions, Mark Worth seconds.

All in Favor (Yay): Unanimous

**3) APPROVAL OF AGENDA**

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

Mark Ridders motions, Mark Worth seconds.

All in Favor (Yay): Unanimous

**4) BUSINESS ITEMS**

a)Long form audit exemption is read by Andy Ward

Mark Worth motions to approve, Mark Rosenthal seconds.

b) EXECUTIVE SESSION FOR PURPOSES OF DISCUSSION WITH TOWN ATTORNEY

Andy Ward motions, Mark Worth seconds

All in Favor (Yay): Unanimous

Executive session begins @ 7:14 and recording is stopped.

Executive session ends @ 8:44 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) GA approval for tolling agreement between the town of Ophir and Waller/Cornwall/Whitaker

Mark Worth motions to accept the tolling agreement with a modification to make the agreement for one year, making it effective until March 18th, 2026. Jerry Oyama seconds.

All in Favor (Yay): unanimous

d) Andy moves that we table first reading of ordinance 2025-1, an ordinance authorizing residential construction and improvements in moderate avalanche hazard zone when hazard mitigation procedures are followed.

John Humphries seconds.

Mark Worth recommends that we deny the motion. He would like to vote now.

Andy wonders if P&Z could take another try at a recommendation to the town on this issue.

Kim Wheels is in favor of tabling.

Jerry is not in favor of tabling, would like to vote it down.

Teri notes discussion should stick to motion on the floor.

Voice vote taken: 10 no votes, motion passes.

5) STAFF REPORTS

TOWN MANAGER - Town bought a new backhoe and is researching new plow blade for next winter.

Kim notes Ophir days is June 14-15.

OEC – Dark skies, mining regulations, and grants are in the works for greenhouse, composter, plants & pollinators.

New Dominion mine cleanup – USFS funding is in limbo.

For Ophir days : Bee Happy will be here weeding, Katrina Blair will come back again for a foraging walk, early season wildfire prep for both town and residents.

P&Z – Plan to modernize LUC in 2025. Email P&Z if you have ideas/suggestions.

## 6) NEW BUSINESS

Tyler notes mapping apps do not work correctly because Ophir Road is marked closed during winter. Maybe town staff can contact providers to fix. John W. will look into it.

## 7. ADJOURN

Andy adjourns the meeting @ 9:24pm

*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.*

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

**TOWN OF OPHIR, CO 81426**

**TUESDAY MAY 27<sup>TH</sup>, 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 7:11pm

VOTING MEMBERS PRESENT: Slator Aplin, Allyn Hart, Gerry Oyama, Gunnar Doyle, Kirk Drogsvold, Abigail Gamache, Eric Beerman, Lucas Leighton, Holly McCarthy, John Humphries, Marc Campbell, Teri Steinberg, Mark Ridders, Joe Schults, Jacey DePriest, Corinne Platt, Phil Hayden, Annabelle O'Neill, Janice Gerona, Natalie Fijalkowski, Doris Glynn, Dylan Sloan, Chris Drew

NON-VOTING MEMBERS: Haley Carmer, John Wontrobski, Kara Pauls Gray

2) ADOPTION & SIGNATURE March 18<sup>th</sup>, 2025 Regular GA minutes  
Moved to June GA due to no packet being sent out to GA voters prior to meeting.

**3) APPROVAL OF AGENDA**

Slator Aplin motions, Gunnar Doyle seconds.

All in Favor (Yay): Unanimous

**4) BUSINESS ITEMS**

**A) EXECUTIVE SESSION FOR PURPOSES OF DISCUSSION WITH  
TOWN ATTORNEY**

Andy Ward motions, Slator Aplin seconds

All in Favor (Yay): Unanimous

Executive session begins @ 7:12 and recording is stopped.

Executive session ends at 8:03, 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.

B) GA Authorization to increase Eco Action annual support from \$1750 to \$2000.

Mark Ridders motions, Phil Hayden seconds.

Corinne asks what EcoAction does for Ophir.

Andy notes they have and will be assisting with solar projects. John Humphries states they help with education, working with SMPA.

Motion passes with unanimous approval.

## 5) STAFF REPORTS

OEC – Ophir received a Plants and Pollinators grant for \$2k in March.

This money will go to education, plant ID and protection.

In late April Ophir received a \$34k grant for a new composting machine, which will be newer and smaller than our current cubes and will also require less labor. Town has also purchased a bio-char kiln with these funds.

Funding has been restored for the New Dominion mine cleanup, to be done in 2026.

TOWN MANAGER - John has contacted the county about Ophir Pass but hasn't received word on when it will be open yet. San Miguel County Road and Bridge says Ophir Road will be graded and dust controlled in mid-July. Spring road work on Ophir streets by Ground Pounders should begin next week.

The 2<sup>nd</sup> Ophir spring cleanup dumpster is full, a 3<sup>rd</sup> will be incoming  
5/28

Please don't throw out electronics or batteries in the town trash barn. Eco-Action/Town of Telluride/Mountain village do spring and fall electronics trash collection. Also Cortez has a dump that will take pretty much every kind of trash all year.

Ophir Days is June 14 and 15!

Eric Beerman asks about speed mitigation for summer and what the status is with Ophir's water. John Wontrobski responds Ground Pounders will be putting in speed dips again this year and planters will be put out soon. Ophir is still on Werner springs for water as the redwood box in Waterfall needs maintenance before we can switch back.

Annabelle O'Neill asks if SGM has any updates on water. John Wontrobski responds there is no update but we have a new contact there and Andy Ward is also in touch with them.

MAYOR – Andy asks residents to contact Fritz about his potential guidebook on skiing the San Juans, requesting that Ophir not be included. Corinne notes that increased backcountry skiing tourism could cause undue strain on local search and rescue. Ophir also does not have much parking or public restroom facilities. His email if you would like to reach out is [fritz@giterdunpublishing.com](mailto:fritz@giterdunpublishing.com).

## 6) NEW BUSINESS

Carpenter ants in the greenhouse – John W. laid traps and hasn't seen the ants since. Any help is appreciated.

## 7. ADJOURN

Andy adjourns the meeting @ 8:40pm

*Minutes prepared by Ben Foster, Town Clerk*

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

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## MEMORANDUM

To: Town of Ophir Planning & Zoning Commission

From: Garfield & Hecht, P.C.

Date: June 6, 2025

RE: Proposed amendment of Hazard Overlay Map

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### 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

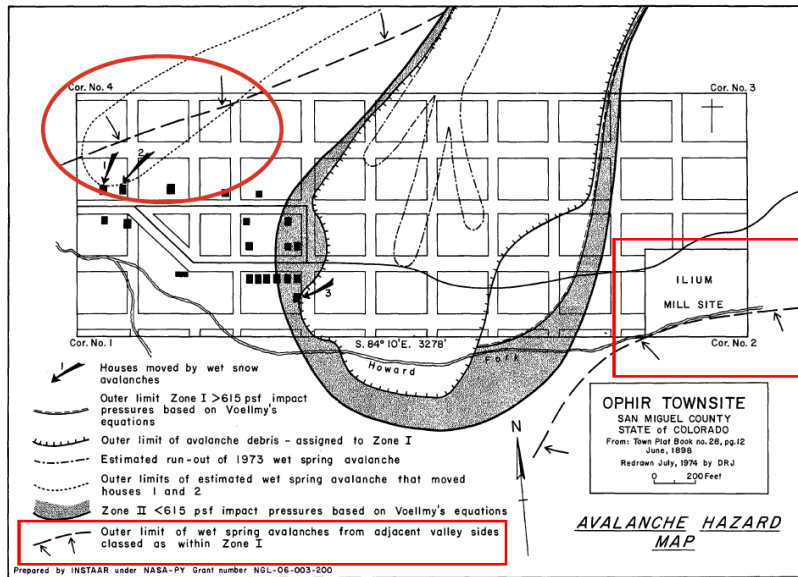
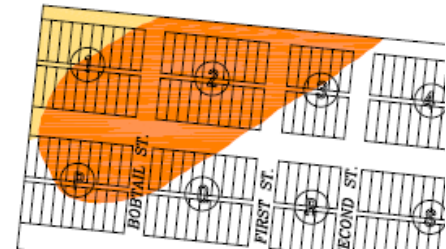


Figure 2



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)

BLOCK 1

NORTH HALF OF BLOCK 2

BLOCK 2

LOT 1

LOT 10

BLOCK 3

BLOCK 4

OPHIR TOWNSITE BOUNDARY (TYPICAL)

BOBTAIL ST

AURUM ST

FIRST ST

SECOND ST

PORPHYRY ST

BLOCK P

BLOCK Q

BLOCK R

BLOCK S

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.

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Date

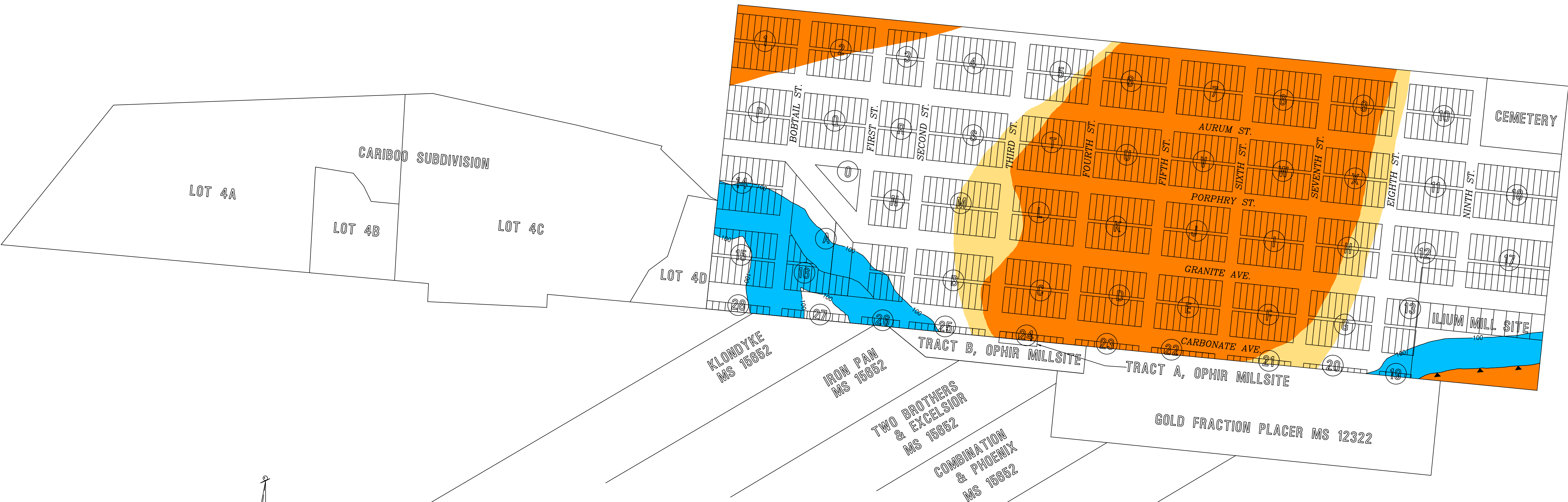
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**Client:**

**Contact:**

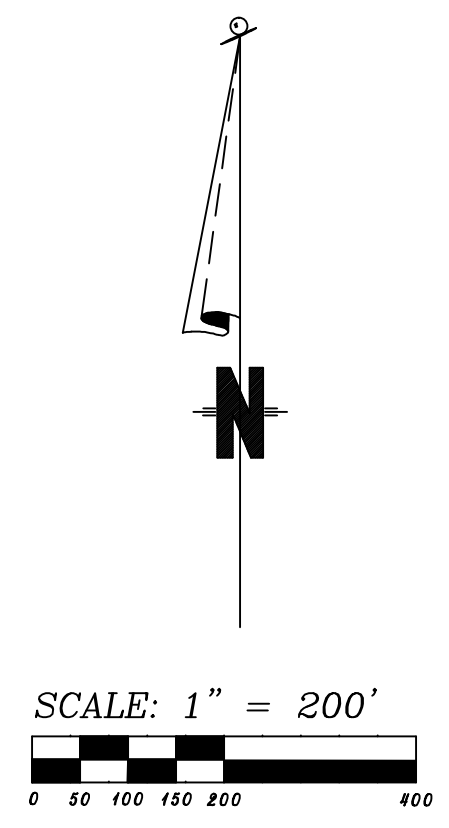
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Drawn by:	MC
Checked by:	
Start date:	06/07/2025
Dwg path:	dwg\EXHIBIT 05-25
Sheet No.	1
Block #	10014





Legend

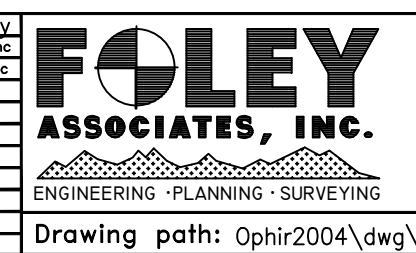
- Waterways and Wetland Hazard Area
- 100' Buffer Edge
- Moderate Hazard Area
- High Hazard Area
- Edge of Wet Spring Slides



# 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



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