



Notice of the Regular Meeting of the Ophir Planning and Zoning Commission

Town of Ophir, Colorado, 81426

7:00 PM, Thursday, November 3rd, 2022

Meeting ID: <https://sands.zoom.us/j/6190810106>

Agenda

1. Approval of Agenda
2. Approval of September 14th, 2022 Planning and Zoning Meeting Minutes
3. Business Items
 - a. Discussion of proposed changes to the Town of Ophir Land Use Code
 - i. Energy Code update discussion with Kim Wheels
 - ii. Suggestions from OEC
 - iii. Suggestions from Ophir Building Department
 - iv. Suggested definition and stance on Short Term Rental
 - v. Suggestions from Planning and Zoning members
4. Staff Reports
5. New Business
6. Adjourn

MINUTES OF THE REGULAR MEETING OF PLANNING AND ZONING COMMISSION

TOWN OF OPHIR, CO 81426

Thursday, September 14th, 2022 7:00 PM

IN PERSON AND REMOTE MEETING VIA ZOOM PLATFORM

CALL TO ORDER

(TIME: 7:10 PM)

P&Z Members: Phil Hayden (Chair), Mark Ridders, Ernie Watenpaugh, Judah Kuper

Public: Mason Osgood (Clerk), John Wontrobski (Town Manager), Steve Johnson (Serving as Town of Ophir Attorney), Joe Shults, Joe Waller (Applicant), Jonathan Cooper

APPROVAL OF AGENDA

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

Voting Members: Phil Hayden (Chair), Mark Ridders, Ernie Watenpaugh, Judah Kuper

Not in Favor (Nay): None

Motion to approve the agenda passes unanimously

APPROVAL OF MINUTES

Ernie Watenpaugh motions to approve the August 4th, 2022 P&Z Meeting Minutes, Phil Hayden seconds

Voting Members: Phil Hayden (Chair), Mark Ridders, Ernie Watenpaugh, Judah Kuper

Not in Favor (Nay): None

Motion to approve the agenda passes unanimously

BUSINESS ITEMS

- A. Continuation of a July 7th public hearing in regard to an application to change to official mapping to Lots 1-10, Block Two, Town of Ophir, Colorado

Joe Waller Presents

Questions from P&Z Board and Staff with responses from Joe Waller

Public comments from Joe Shults (with presentation)

Public Hearing Closed

BUSINESS ITEMS (Cont.)

Discussion among P&Z Board and Town Staff

Judah Kuper motions to deny the application to change to official mapping to Lots 1-10, Block Two, Town of Ophir, Colorado – Seconded by Mark Ridders

Motion

I move that, based upon the application as amended and supplemented, testimony, evidence and public comments presented at public hearing on June 11, 2019, July 7, 2022 and today, the Ophir Planning and Zoning (P&Z) Commission recommend to the Ophir General Assembly, that the Cornwall-Whittaker application to remove Lots 1-10, Block 2, Town of Ophir from the High Hazard Avalanche Zone District, be denied, for the following reasons:

Applicant has failed to demonstrate by the preponderance of the evidence compliance with at least three criteria for approval of a zone map amendment. Specifically, P&Z finds that Land Use Code subsection 1415.C, REVIEW STANDARDS FOR CODE AND MAP AMENDMENTS is not met, insofar as no material or substantial error in the existing zoning map has been substantiated by the Applicant. Figure 10 of the 1976 Natural Hazards in Mountain Colorado INSTAAR Report included at page 46 of the rezoning application, documented that two houses located downhill from the Owner's property were moved by wet snow avalanches. These two houses were depicted in a 1952 plat map. The Report referenced a 1959 wet slide avalanche, based on reports of local residents. Based on common sense that documentation justified the Town including applicants' vacant uphill property in the high hazard avalanche zone district overlay when adopted in 1979, regardless of whether the INSTAAR avalanche modeling included the Applicant's property. Applicant's suggestions that a 1959 wet slab avalanche over applicant's property did not occur, and that those two houses were not moved by an avalanche, were not persuasive to overcome the INSTAAR documentation. I would also add the Group B avalanches shown on the INSTARR report looked clearly to me as defined as Zone 1 for the lots in question.

Applicant has failed to provide any written narrative explaining how the standards for rezoning approval are met, as required by LUC 1405. Applicant only cited verbatim LUC 1415 subsections C, D and E as in compliance criteria.

Applicant has refused to provide supplemental information specifically requested by P&Z concerning potential avalanche deflection if the rezoning were to be approved and structures were built on the owner's property.

Applicant has not submitted any depiction of the structures that could be built upon the Owners' property if rezoning were to be approved, as required by LUC section 1408.4.

The Owner's consultant, Wilbur Engineering, Inc., stated at page 6 in a 2007 Avalanche Study and Avalanche Hazard Analysis for the Owner's property, that the property is entirely within a "moderate/blue" avalanche hazard classification, but applicant has declined to seek rezoning to such classification.

Motion (Cont.)

The underlying zoning, which may be erroneous, is residential (despite open space being the only use permitted by right in an avalanche hazard zone). Ophir does not permit new residential construction in the moderate/blue zone. Accordingly, the application does not comply with LUC 1415.E.

The application fails to comply with the 2021 Ophir Master Plan, Goal M, detailed objective 3, as required by LUC section 1415.D:

Goal M: Prevent Damage Caused by Natural Hazards

Ophir residents are susceptible to certain natural hazards given the town's location and Ophir aims to protect its residents through ongoing awareness and education.

Promote land use patterns that eliminate or reduce potential development in natural hazard areas.

Voting Members: Judah Kuper, Phil Hayden, Ernie Watenpaugh, Mark Ridders

Not in Favor (Nay): None

NEW BUSINESS

Discussion of valuation of new building

ADJOURN

Motion to adjourn by Judah Kuper, Seconded by Phil Hayden

OEC Lighting Recommendation

303.6

Exterior Lighting. Ophir Residents are required to light their properties. to protect the night. All exterior lighting shall be fully shielded.

Ophir's topography requires that the homeowner are mindful of neighbors above and below a residence ensuring that the source of all exterior lighting is shielded and shall not be visible off the property.

Light from fixtures should be cast downward on the ground onto the homeowners property. Lights should be no brighter than necessary to illuminate what the resident seeks to illuminate being mindful of surfaces that may reflect light. The maximum allowable lighting power is 550 (five hundred fifty) lumens. Homeowners should use warmer color lights where possible to limit the amount of shorter wavelength (blue-violet) light. The use motion sensor devices for lighting devices shall not be triggered off the property. Unshielded large windows transmit light, homeowners should be mindful to reduce the illumination impact on neighbors by concealing light sources from direct view, and/or using window coverings, and/or low vt (visible transmittance) glass. If there are violators to this regulation a written complaint must be sent to the Town Manager at which time the Town Manager will contact the homeowner citing 303.6 of this LUC. The homeowner has 30 days to fix the lighting issue in compliance with the LUC. The Town of Ophir's Plan Checker will enforce the LUC and a fine of \$50.00 per week will be rendered if the homeowner fails to comply within the 30 days. §



Revegetation



Created by
Ophir Environmental
Commission 2021

Revegetation and Native Plant & Soil Preservation

This purpose of this document is to set expectations on how impacts to native plants and soil within the town of Ophir are to be minimized and revegetated. These requirements relate to all manner of soil disturbance including: new construction, renovations, water & powerline installation, septic system installation, road work, event planning, etc. This hand out is to guide you through the requirements placed upon projects with the Town of Ophir.

Ophir's Ecosystem

The town of Ophir itself is situated in the sub-alpine forest life zone and comprises woodland forest, various grassland, wildflower and mycelium communities. The vegetation that exists within the Ophir valley and the surrounding high country is a wild remnant of North America's once expansive native plant population and is home to rare and endangered native flowers, grasses and fungi that extend upwards to the alpine zones.

Since the end of the last ice age approximately 10,000-years ago the valley's native soils and flora have developed symbiotically. Today in the 21st century, the flora growing within Ophir is uniquely old growth in nature and an irreplaceable natural resource. The town of Ophir is proud to be one of only a few communities within the lower 48-states that has a healthy native plant population growing within and adjacent to its town site and the residents of Ophir wish to sustain this resource for future generations to enjoy and return home to.

Anthropic Disturbances to Soil & Plants

The establishment of Ophir in 1881 precipitated numerous anthropic disturbances in the form of mining, tailing, adits, roads, homes, grazing and forest removal. These legacy sites form a mosaic of disturbances that can be seen today within the valley. In the 1970's and 80's home building began again in earnest within Ophir and by the new millennium the size and scope of projects and associated disturbances to native vegetation had increased exponentially.

In the 21st century, the main driver to native vegetation disturbance has been new home construction and road work along with associated exponential increase in the abundance of invasive weed seeds. Until recently, the town of Ophir had not required revegetation to occur after soil disturbances within the town. The result is that the footprints of soil disturbances created growing areas for both noxious and invasive weeds that have infected neighboring lots, meadows and surrounding high country. These newly introduced weeds often outcompete and suffocate Ophir's native wildflowers and grasses with the effects of the warming climate accelerating this process.

Revegetation

Revegetation is required to all soil disturbed within the town of Ophir. Assuring the proper revegetation in Ophir's fragile ecosystem is the responsibility of the land owner. Successful revegetation is a multi-year process that is essential to prevent invasive and noxious weeds from growing and in the reduction of soil erosion.

The Revegetation Plan

Each project is required to submit a Revegetation Plan. This plan shall include the following:

1. A map or drawing of area to be disturbed during construction. Common disturbances include areas around the house, along the driveway, utility corridors, septic system, and staging/construction parking areas.
2. **Step 1: Minimizing Soil Site Disturbances:**
 1. **Protecting** Ophir's established native root systems is far and away the easiest method to sustaining Ophir's native plants. Revegetation above 9,500-feet is akin to alpine gardening, it is a nurturing multi-year endeavor of seeding, mulching and pulling weeds until the natives are established and can out compete the invasives. This much we know, with all things equal, weeds win. Anywhere that the soil is disturbed, weeds now grow in abundance.
 2. **Site Disturbance:** The best Revegetation Plan is thoughtful about altering as little of the site as possible. Fewer disturbances translate into less time and money for revegetation. Also, it is helpful to show on the Revegetation Plan which areas are targeted for specific preservation (such as clarifying which trees will not be cut or where fencing will be used to protect established native shrubs) and any additional measures that will be taken to limit disturbances from construction.
 3. **Fencing the Site:** A sturdy fence or silt fence shall be erected along the property line to contain the impact zone. This is essential for reducing the footprint of projects from damaging adjoining meadows and lots. The fence shows the various sub-contractors not familiar with Ophir that established vegetation in areas outside the fence impact zone shall not be used to store materials, for parking, to drive heavy machinery upon, etc.
 4. **Heavy Machinery:** On occasion, heavy machinery may have to be driven onto a neighboring meadow or lot from the construction site. When this is to occur, it is required that 4x8 sheets of plywood are placed under the machinery's treads to protect the established vegetation.
 5. **Parking Plan:** How many cars do you expect for your project and where will they be expecting to park?
 6. **Topsoil Stockpiling:** Stockpiling entails scraping off the topsoil — or the uppermost, fertile layer of the soil — and setting it aside until needed. After construction, this topsoil should be spread out to a depth of 3" or more on all surfaces that are to be seeded. The addition of

fertilizer is usually unnecessary for native grasses, and it can promote the growth of annual weeds. If a homeowner needs a place to store or deposit this valuable natural resource, please contact the town. Ophir is in need of native topsoil for its own revegetation projects.

7. **Ground Cover:** This is a critical step in preventing the spread of weeds from the disturbed site. If it is late in the growing season or if impacts are continuing for years, at a minimum, the homeowner shall cover exposed dirt with wood chips or mulch to prevent weeds from growing and going to seed on their exposed lots and seeded the following growing season.

3. Step 2: Revegetation

1. **Revegetation** efforts shall begin before the issuance of a Certificate of Occupation.
2. **Native Vegetation:** Although the establishment of both native grasses and wildflowers surrounding our homes is the most desirable outcome, in mountain ecosystems, native grasses are commonly the first vegetation to establish and lead (2 to 5 years later) to the establishment of native wildflowers & other plants.
3. **Approved Seed List:** In the Revegetation Plan, attach the seed mix to be purchased and where it is to be used. The Town of Ophir requires use of the "Telluride Mix/US Forest Service" from the Southwest Seed Company in Dolores. **ANY OTHER RECOMMENDATIONS HERE**
4. **Soil Preparation:** A good seedbed is crucial to successful revegetation. Slopes should be graded to avoid concentrated water flow and subsequent erosion. If possible, any areas severely compacted by machinery and equipment during construction should be ripped by tractor or backhoe to loosen soils and allow for water infiltration and root growth. Clods larger than 3" should be broken, and any weeds controlled by hand pulling or if they have not yet gone to seed, by tilling into the soil.
5. **Seeding:** Establishing native vegetation within Ophir is akin to alpine gardening, it is a 3-year process that takes patience. Areas that have been seeded need to be cordoned off to protect the tender growth from vehicle and pedestrian traffic. Pay close attention to the recommended rates of seed application for Ophir's required seed mixes. Not all the seed needs to be buried; it is fine if some is still visible.
Year #1 is soil preparation, seeding and mulching.
Year #2 is weeding, additional fertilizing and a second seeding.
Year #3 is more weeding and seeding where necessary.
6. **Weeds** will appear along with, or before, grass seedlings. There are already weed seeds in the soil waiting for a disturbance that allows them to grow. Weeds will inevitably grow in areas that have been reseeded. Pulling the weeds allows the grasses and flowers that have been seeded to establish their root systems. The growing season in Ophir is short. Although seeding is most successful in the fall before it snows in (September and October) or the early spring (April and early May) when the ground is still moist or snow covered, germination can be successful anytime it is above freezing and raining in Ophir. Many native seeds require a period of cold to germinate and are not harmed by being in the soil over winter. Ophir recommends seeding early, often and liberally.
7. **Mulching:** Mulch keeps the top soil in place and maintains moisture within the soil. Wood chips make great mulch along with store bought mulch material. After mulching some of the soil should be visible to allow solar warming.
8. **Erosion Matting:** Slopes steeper than 2:1 require erosion matting. Approved matting types for

Ophir include coir (coconut or jute fiber), aspen fibers, or a blend of these. Straw and plastic woven matting is not permitted. Biodegradable netting is required since this breaks down more quickly and is less of a hazard to wildlife.

9. **Irrigation:** If you have seeded at the optimal times of the year, and there is regular and normal precipitation, then supplemental irrigation may not be necessary. However, irrigating seeds the first year will improve success.
10. **Time** – Be patient. Native grasses expend a lot of energy the first year in putting down roots. Because of this, the plants may look small after one year of growth. This is normal. It may take two growing seasons and good moisture before adequate results are seen.
11. **Gratitude:** The Town of Ophir and its residents appreciate your efforts in preserving the valley's native plant population. If you need help, please reach out to the Ophir Environmental Commission for guidance and a helping hand.

“Remember who we are and why we came here”

-David Glenn- (Former Ophir Mayor)

Suggested LUC recommendations from the Building Department:

Adopt 2019 IRC along with additional and deletions adopted by SMC

“Basement” definition is wrong and says average pre-existing grade. should just be pre-existing grade.

The 5ft above building height limitation needs to be looked at, I do not believe my house would pass with the current limitation. Any roof plane that rises over 10 ft fails regardless of building height. Maybe this is fine since it disallows A-frames.

Sheds under 8ft total height should be allowed within 3 ft of the side setbacks and 5 ft of front and back. This intrusion into the setbacks could be limited to 100 sq ft. per building site

Contractors cannot be LUC officer or building inspector on their own jobs.

Remove allowance for square footage under 5’-6” to be removed for floor area. Floor space is floor space. Possibly lower to 3’

Allow unlimited floor area that is 100% below pre-construction grade.

Require 1ft topographic survey by licensed surveyor or engineer and have pre-existing grade plotted on all elevations. look at 1501.7

Require topographic elevation for building reference.

Look at Dwelling definition, this is how secondary units should be enforced. I believe we should allow “mothers In Law Suites” These are not multifamily units but allow for small secondary kitchens.

Is the garage square footage counted as part of the dwelling? Need to clarify. Should garages be allowed to count for off street parking?

Non-reflective should be “low-reflective” Everything but black is reflective. Could be argued.

Fences over 3’ big should require a plan and inspection.

Require all new homes to offset energy use, on site, 2 Watts per square foot.

Clean up bond needs to raised considerably, the current rate is not a deterrent.

20011106 Recommendations for the Town of Ophir

Post building, all impacted soils should be required to be re-seeded with approved native seed. No in ground sprinkler systems should be allowed. Xeriscaping should be encouraged.

No heated exterior surfaces should be allowed.

During building, any dumpsters, port-potties or materials can only be stored on town roads directly adjacent to permit holders lot and on the side that the driveway access will be built (corner lots do not get 2 sides). Temporary permission may be granted for short term storage outside of that zone

Summer parking ordinance: No non-wheeled (vehicular?) storage on maintained road surfaces at any time (no shipping containers). No vehicles, RV's or anything should be able to be parked on Maintained Road surfaces for more than 48 hours. (Right now I can park an rv or a car anywhere for as long as I want, including in front of your house).

Parking is allowed off maintained roadway but on town property adjacent to owners lot on one side, where the driveway access is. Corners lots do not get 2 sides. No parking should be allowed in alleys.

No idling ordinance. 30 second max except cold mornings, then 3 minutes. This would be unenforced and is more of an education process. Possibly a few signs that say "Ophir is a non-idling community"

Can we say that once plans are approved by P&Z you have 12 months to pull a permit on them. Otherwise we lose track of the information and regulations change. Thanks