

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