

**BLAINE COUNTY PLANNING AND ZONING COMMISSION**  
**Public Hearing Date: December 8, 2016**

<b>REGARDING THE APPLICATION OF</b>	)	
	)	
<b>Terry Rich for a modification to an existing</b>	)	
<b>Mountain Overlay District Site Alteration Permit,</b>	)	<b>Staff Report</b>
<b>Affecting 121 N. Colorado Gulch Road, a.k.a.</b>	)	<b>Kristine Hilt</b>
<b>Commodore Lode Mining Claim</b>	)	<b>dated November 23, 2016</b>

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**Requested Action:** The applicant proposes to revise an existing MOD Site Alteration Permit originally issued to William E. Green in 2007. Mr. Rich is requesting that the previously approved landscaping plan be modified to allow conifers as an acceptable tree species on the property. The unplatted parcel is referred to as **the Commodore Lode Mining Claim**, and is located at T2N, R18E, Section 19, B.M., Blaine County. The property address is **121 N. Colorado Gulch Road**.

**Applicable Regulations:** Title 9 (Zoning Ordinance), Chapters 2, 6, and 21; Title 8, (Comprehensive Plan).

**Representatives:** Terry Rich, Owner

**Section I. General Facts**

The Planning Office received the Mountain Overlay District Site Alteration Permit revision application on October 12, 2016. The application was certified as being generally complete on October 12, 2016.

1. **Notice:** Public notice for the December 8, 2016 public hearing on the Site Alteration Permit revision application was provided as follows:

1. Legal notice was sent to the Idaho Mountain Express on November 17, 2016 for publication on November 23, 2016;
2. Notice to surrounding property owners within three hundred (300) feet of the subject property, all county political subdivisions and area media was mailed November 22, 2016;
3. An on-site notice was posted on or before December 1, 2016, at least 7 days prior to hearing, as evidenced by the affidavit on file;
4. Notice was posted on the County's website on November 23, 2016.

► **Motion:** Upon motion by Commissioner \_\_\_\_\_, second by Commissioner \_\_\_\_\_, and by a vote of \_ to \_, the Commission finds notice to be adequate for the December 8, 2016 hearing, and in compliance with I.C. § 67-6512 and § 9-25-4 of the Zoning Ordinance.

2. **Exhibits:** The following information and exhibits are attached hereto or by reference:

**Exhibits A Application**

- A-1 Mountain Overlay Site Alteration Permit Modification Application signed October 6, 2016
- A-2 Applicant letter requesting modification to MOD permit dated October 12, 2016
- A-3 Assessor's Map and surrounding land owner's list within 300' of parcel
- A-4 Vicinity maps (2)
- A-5 Site photo from Ohio Gulch Road with current landscaping including conifers
- A-6 Color aerial photo illustrating existing conifer location
- A-7 Color photo or adjoining property's landscaping including conifers

**Exhibits B Agency Communications**

- B-1 Subsurface Sewage Permit Application approved by Bob Erickson on August 7, 2006 stamped received October 12, 2016

**Exhibits C Public Comment**

None received by the date of this report

**Exhibits D County Supplements**

- D-1 Original Landscape Plan signed February 26, 2007, and received February 28, 2007
- D-2 Findings of Fact, Decision and Conditions of the Mountain Overlay Site Alteration Permit granted for this property by the Planning & Zoning Commission on June 12, 2007

3. **Property:** The applicant owns an 18.39 acre patented mining claim currently referred to as the Commodore Lode Mining Claim, located at 121 N. Colorado Gulch Road
4. **Zoning:** The subject property is zoned R-10 (Rural Residential District) and is also entirely within the Mountain Overlay District (MOD). There are two perennial streams shown on the site for which Class 3 Riparian Setback shall be maintained; no development was or is proposed for these two riparian areas. See Exhibit A-4, Vicinity Maps.
5. **Permit:** Pursuant to §9-21-2 (B) a site alteration permit was required for any development within the Mountain Overlay District and a permit was issued on June 12, 2007.
6. **History:** Blaine County LUBS staff verified that conifers had been planted on the property on August 1, 2016. Staff notified Terry Rich, owner, that an MOD Site Alteration Permit had been issued for the property and that the approved landscaping plan specifically prohibited conifers as acceptable landscaping on the property. The owner has contacted Bob Erickson of South Central District Health to verify location of drain fields on the property. Mr. Rich has inadvertently planted two Austrian Pines on top of the drain fields in the front yard of the home. Mr. Rich has stated that these two conifers will be relocated.
7. **Landscape Plan:** Please refer to Exhibit D-1, original landscape plan received by Blaine County Land Use & Building Services on February 28, 2007. This landscape plan was conditionally approved by the Planning & Zoning Commission on June 12, 2007. Conifers were originally proposed but the Commission found that conifers were not specifically native to the area immediately adjacent to development. The applicant omitted conifers and landscaping was approved by staff prior to issuance of certificate of occupancy for the home on November 30, 2009.

**Section II. Evaluation of Site Alteration Permit  
Design Review Standards of Evaluation  
Pursuant to §9-21-5 of the Zoning Ordinance**

Pursuant to §9-21-5 (D) of the Zoning Ordinance, the applicant has the burden of demonstrating compliance with this Chapter, including each of the following design review standards of evaluation. Before approving or conditionally approving a site alteration permit, the Commission shall review and find adequate evidence that the proposed development or site alteration meets the following standards:

**1. No sufficient available area for the site alteration exists on the lot outside of the Mountain Overlay District. "Available area" may be found to exclude land located within the 100-year floodplain, floodway, wetlands, and avalanche hazard created by off-site conditions where such environmental concerns outweigh the hillside concerns for the particular project. Existing structures that are nonconforming to this Chapter may be improved, moved, or replaced within the Mountain Overlay District, provided the Commission finds that the proposal is less nonconforming than what is existing and is in substantial compliance with subsections D2 through D11 of this Section.**

► **Staff Comment:** Not applicable to landscaping modification request.

**2. Visibility of the site alteration as viewed from reference roads shall be minimized through design, landscaping and siting. Except where extraordinary circumstances exist that are peculiar to the physical characteristics of the site, site alterations, particularly buildings, other structures, and hillside roads, are less visible the lower in elevation they are as determined by topographic contour lines. New development shall be compatible with the general scale (height, dimensions, overall mass) of development in the vicinity. The maximum bulk of structures shall be hidden or minimized by design, landscaping and siting. Landscaping shall blend harmoniously with the surrounding area, and shall not create excessive contrast with the surrounding area.**

► **Commission Finding (FF May 10, 2007):** Some concerns were expressed regarding this standard. Commissioners Rice, Bailey and Werth felt the landscaping as illustrated on Exhibit A-12 (D-1) was not compatible with the generally sparsely vegetated hillside. *In particular, the evergreen trees seemed out of context, and Commissioner Peck referenced the stands of aspen trees clustered further upstream of the site.* It was agreed that proposed condition #21 could be amended to suggest landscaping more compatible with the hillside, and therefore compliant with this standard.

► **Staff Comment:** Current property owner, Terry Rich, purchased the property in 2012 while the property was in the process of foreclosure. In the subsequent years, Mr. Rich planted 11 conifers in various locations of the property and was unaware of the existing MOD Site Alteration Permit issued for the property in 2007 that specifically prohibited conifers.

**3. The site alteration, and any grading and excavation relating thereto, shall include measures or designs to mitigate the risk of soil erosion, silting of lower slopes, slide damage, flooding, severe scarring and any other geologic instability. All excavation, grading and fill shall be revegetated as provided herein (except for roadway surfaces) and otherwise stabilized to control erosion.**

► **Staff Comment:** Disturbed areas have been revegetated in accordance with the above standard.

**4. The site alteration shall comply with the requirements of the Avalanche Overlay District.**

► **Staff Comment:** Not applicable to landscaping modification request.

**5. Any proposed building or other structure shall remain below the skyline and shall be sited in such a manner so as not to create a silhouette against the sky as viewed from any reference road.**

► **Staff Comment:** Not applicable to landscaping modification request.

**6. Manmade slopes, road alignments, driveways, improvements, grading, excavation, berming, and fill activities shall conform as closely as possible to the natural terrain. Alteration of the natural drainage of the site shall be minimized and mitigated. Hillside roads shall also meet all other applicable road or driveway standards under County ordinances and adopted codes, including, but not limited to, those for grades and emergency vehicles. Existing roads/driveways to existing nonconforming structures located within the Mountain Overlay District may be moved or improved to reduce the degree of noncompliance with requirements for grades and emergency vehicles.**

► **Staff Comment:** All development on site has been in accordance with the above standard.

**7. Native or native-compatible vegetation shall be preserved to the greatest extent possible, and revegetation adjacent to residences shall be with low-combustible plant species. Revegetation of disturbed areas shall utilize plant materials harmonious and/or native to the area. The method for control and prevention of noxious weeds shall be demonstrated. Disturbed areas shall be landscaped or revegetated immediately after completion of the site alteration activities. Components of the revegetation plan shall include the techniques that will be used to ensure the establishment of the proposed vegetation for a period of not less than five (5) years.**

► **Commission Finding (FF May 10, 2007):** Condition #21 states the following:

21. Landscape design submitted as Exhibit A-12 shall be revised for submittal with the building permit to demonstrate materials emulative of the natural vegetation around a hillside spring, such as limited tree clusters (aspen), while maintaining native shrubs such as choke cherry, buck brush, and bitter berry, and *excluding evergreen trees*. However, if tree groves upstream of the residential site and within view of the proposed structure demonstrate additional tree species, including evergreens, they may be allowed to be included within the landscape plan at staff's discretion.

► **Staff Comment:** Staff verified compliance with condition #21 prior to issuance of certificate of occupancy for the home in 2009. To the best of our knowledge, no known conifers currently exist within the groves of trees upstream from the site. According to the applicant's letter, Exhibit A-2, Carl Hjelm of Alpine Tree Services stated that Blue Spruce and Austrian Pine trees are in abundance throughout the Wood River Valley and although not indigenous, the specific conifer species were not invasive and would not reseed. The applicant also stated that Douglas Firs were within view of their home in Croy Canyon near Rotarun Ski Hill.

Adjacent property owners located to the north at 21 and 31 Basecamp Lane have incorporated conifers into landscaping and development occurred prior to MOD mapping in 2012. Both properties are currently within both the MOD and MOD Buffer according to Blaine County GIS.

**8. Exterior building materials shall be of nonreflective materials. The visibility of hillside development shall be lessened by limited glazing and exterior lighting, and by use of materials and colors compatible with the natural surrounding setting. Roofs shall be designed to minimize the visibility of the structure. Reflective metal roofs are prohibited; nonreflective metal roofs may be approved.**

► **Staff Comment:** Not applicable to landscaping modification request.

**9. Exterior lighting shall be directed downward and sited, hooded and shielded such that it minimizes visibility from any reference road. Shielding and hooding materials shall be composed of nonreflective, opaque materials.**

► **Staff Comment:** Not applicable to landscaping modification request.

**10. Construction proposed as part of a site alteration permit application shall comply with other applicable codes and ordinances, including, but not limited to, the Uniform Fire Code; Title 7, Chapter 3 of this Code; and the Uniform Building Code, as amended, in effect at the time.**

► **Staff Comment:** Not applicable to landscaping modification request.

**11. Any proposed new road or driveway is necessary to access a building site or building that was lawfully approved under this Title.**

▶ **Staff Comment:** Not applicable to landscaping modification request.

**12. (This criteria is not applicable, as the Applicant is not the State of Idaho, or any board or agency board, department, institution or district thereof.)**

▶ **Staff Comment:** Not applicable to landscaping modification request.

**Section III. Decision and Conditions**  
**Pursuant § 9-21-5 (E) and § 9-25-5 (A) of the Zoning Ordinance:**

▶ **Suggested Motion:** I move to approve, approve with conditions (or) deny the application by Terry Rich to revise an existing MOD Site Alteration Permit, finding the proposal complies (or) does not comply with the applicable criteria set forth under Title 9, Chapter 21, Mountain Overlay District, subject to the following conditions:

If the Commission finds that there is adequate evidence in the record that the proposed modification meets the design review standards of evaluation as set forth in Section II, the Commission may attach reasonable conditions including, but not limited to:

**POSSIBLE CONDITIONS:**

1. All landscaping shall be retained on the private property, and not encroach onto public lands.
2. A maximum of 11? \_\_\_? Conifers may be planted.