

Introduction

This attachment includes a detailed explanation of the City of Portland zoning codes that apply to land divisions or planned developments on properties that also have an environmental conservation 'c' or protection 'p' zone on a portion of the property; the 'c' and 'p' zones are collectively referred to as ezones. Following the zoning code explanation is an example lot that has an existing 'c' zone, on which the Environmental Overlay Zone Map Correction Project proposal is to expand that 'c' zone to cover the entire lot. The example gives options for how the site may be divided and the impact on the potential number (density) and size of the resulting lots.

Zoning Code Explanation

Land divisions are generally governed by the Land Division and Planned Development chapters of the zoning code (33.600s). Within the single dwelling zones, the density, setback and dimensional standards typically lead to subdivisions with roughly uniformly sized lots that are evenly dispersed throughout a land division site. But sites with ezones may be constrained by stream or wetland setbacks or limits on allowed disturbance area. Environmental standards for Land Divisions and Planned Developments are in 33.430.160. If all environmental standards are not met, a discretionary land use review, Environmental Review, is required.

The allowed maximum density is not impacted by the presence of ezones on sites. What that means is the total number of lots allowed through a land division is determined without considering the ezones – it is based solely on the site base zone and area. In certain areas of the City, the slope of the site may also be factored into maximum density allowances. Property owners are allowed to deduct all of the site area located in ezones from minimum density calculations. On sites that are entirely covered by ezones, there is no minimum density for land divisions.

Once the maximum density is calculated, then the new lots are delineated. Depending on the original site's shape and dimension, as well as required protection of resources, such as streams, wetlands and trees, the full maximum density may not be achievable on the site; especially if an access road is required or there are other constraints such as landslide hazards.

When there are ezones present, the size of the new lots can be reduced through a modification as part of an Environmental Review to try to maintain the maximum density of allowed lots while minimizing the impact to natural resources. For instance, a land division within an R10 zone (6,000 ft² minimum lot size) might produce lots that are more consistent with lot sizes in the R7 zone (4,200 ft² minimum lot size). This allows property owners and developers to create land divisions that may approach the maximum allowed density while still preserving as much of the natural resources on the site as possible outside the disturbance areas of the lots that are created.

Development standards limit the disturbance area in the resource area of the environmental 'c' zone on the land division site. The allowed disturbance area per site varies depending on the base zone (22% for R5, 17% for R7, and 15% for R10, 12% for R20 and 5% for RF). If any portion of the site is located outside

the resource area of the ezones, that area is deducted from the disturbance area that may be allowed by standards in the resource area. If disturbance area limits cannot be met by the proposed land division, Environmental Review is required. Once the developable lots are delineated, either through meeting standards or Environmental Review approval, the area of the original site that is left in ezones is defined as an environmental resource tract and is undevelopable. Any mitigation for impacts to the natural resources on the developable lots is often achieved in the resource tract.

Example Dividable Lot

The following section is a discussion of the factors and constraints that could come in to play if a land division and development were to be proposed on an example lot. The example lot has existing 'c' zone and the proposal is to expand the 'c' zone to cover the entire lot. While the lot has considerable and varied constraints that could potentially make development challenging, these constraints are fairly typical of the types of limitations that exist on most of the remaining potential land division sites in Portland.

The lot is vacant and is bordered on the west and the south by undeveloped right of way. To the north and east are lots that have already been developed. The lot is completely covered by forest vegetation, it slopes from the northwest to the southeast, and the lot is located within Portland's regulated landslide hazard area. The lot is 15,682 ft² in area, and it is zoned R7. The standards for land divisions in the R7 zone allow lots to be divided into one unit per 7,000 ft² at maximum density (33.610.100). Therefore, this lot could be divided into two buildable lots. Because the lot is in the landslide hazard area, there is no minimum density for land divisions on this site.

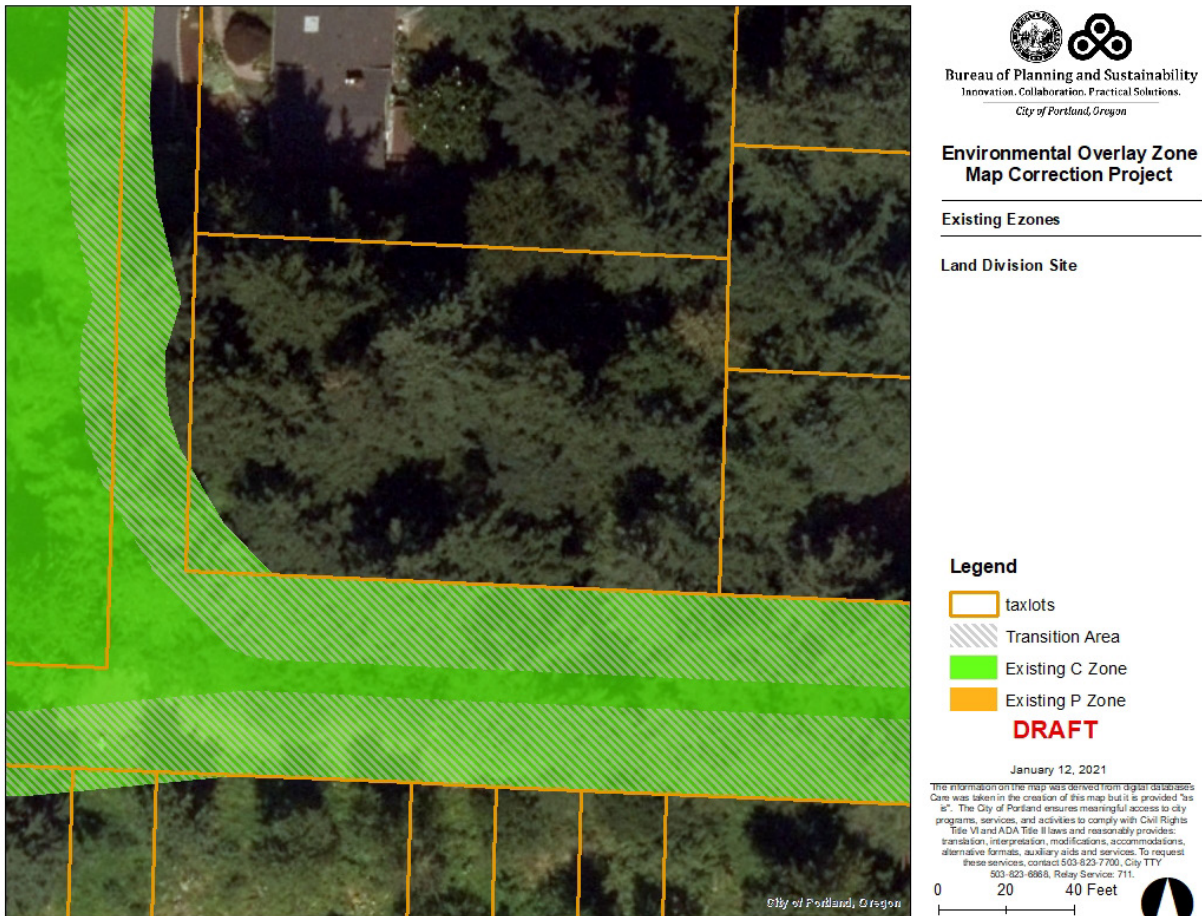


Figure 1. 2019 image of site with existing ezones overlaid.

If the lot was to be divided and developed, the property owners would be required to pave and build out 255 feet of street, sidewalk and frontage to city standards. The undeveloped streets are designated as local service streets. So, the property owners could opt to pay the Local Transportation Infrastructure Charge (LTIC) as an alternative to building out the undeveloped streets.

Under current zoning, the 'c' zone runs along the west and south lot lines, with a small area of 'c' zone cutting across the southwest corner of the lot. The edge of the 'c' zone extends less than 25 feet into the site, and the outer 25 feet of the 'c' zone is transition area. Few of the development standards that apply to the 'c' zone (33.430.140) are applicable in the transition area, though the removal of any native trees or native vegetation would require mitigation. Effectively, the small area of 'c' zone that currently intersects with this lot would have no impact on potential development on the site.

The existing 'c' zone could have potential impacts on development if the property owners made the choice to build out the streets instead of paying into the LTIC. Improvement of a right of way that exceeds 2,600 ft² of paved area or 3,300 ft² of total disturbance area within the ezones cannot meet standards (33.430.175) and would require an Environmental Review. Construction of streets along the west and south frontages of this lot would most likely exceed these amounts.

The proposed revisions to the ezones would extend the 'c' zone to cover the entire mapped forest patch, which covers the entire lot and portions of surrounding lots that previously fell outside of the existing ezones. Some nearby lots and part of the undeveloped right of way would have 'c' zone coverage reduced. There would be a strip of transition area in the northwest corner of the lot, while the rest of the lot would be in the resource area of the 'c' zone. Ezone development standards (33.430.140) limit the amount of disturbance area that can be created in the resource area per R7 lot to 3,500 ft², minus any lot area that falls outside the ezones or area that is in the transition area. The transition area occupies roughly 1,700 ft² of the lot. So, to maximize the amount of disturbance area that would be allowed on the site by the standards, a potential development would have to be placed in the northwest corner of the lot and it would have to include the transition area. The development would also have to meet all other applicable standards.

If the landowners wished to place a development in another part of the lot or if they wished to clear an area for development that exceeds the 3,500 ft² of allowed disturbance area, they could do so. But if they could not meet the limit on disturbance area or other applicable standards in the ezone code, their development would be subject to Environmental Review (33.430.210), and they would be required to mitigate for the additional impacts to the resources.

The lot would still be dividable with the proposed changes to the ezones. The maximum and minimum density calculations would be unchanged by the remapping of the ezones. The lot could still be divided into 2 buildable lots. But in land divisions, the amount of disturbance area that is allowed by standards in the resource area of the 'c' zone is limited to 17% of the site area for lots that are zoned R7 (33.430.160). This comes out to roughly 2,666 ft², which may not be enough space to develop multiple detached houses even if the development also included the part of the lot that is in the transition area. Again, a potential land division and development on the lot could exceed the area that would be allowed by the standards, but an Environmental Review would be required.

If a land division was carried out on the lot, two buildable lots could be created with mitigation, provided that other applicable standards could be met or modified through a land use review. When land divisions occur in the 'c' zone, the size of the developable lots that are platted are often reduced below the minimum size that is allowed for land divisions in the given base zone. The minimum lot area for R7 lots created through land divisions is 4,200 ft². Once the new lots were created, the entire area within the buildable lots would be considered to be an approved disturbance area. The rest of the original lot that would be located outside of the buildable lots would be required to be placed in a resource tract, within which, future development would be prohibited.

This example is typical of sites with extensive or complete coverage by the conservation zone. Development is allowed on the site with mitigation up to limits that are specified in the code. Land divisions are also allowed on lots with ezones. In some cases, land divisions within the 'c' zone may be able to reach the maximum possible density of new lots, but they frequently do not. When land divisions do not reach maximum density, it is often because there are other constraints that are imposed on the site that limit development. These constraints may be physical, such as the location of large trees, steep slopes or the layout of the original lot, or they may be regulatory, such as requirements for the installation of utilities or the construction of through streets.

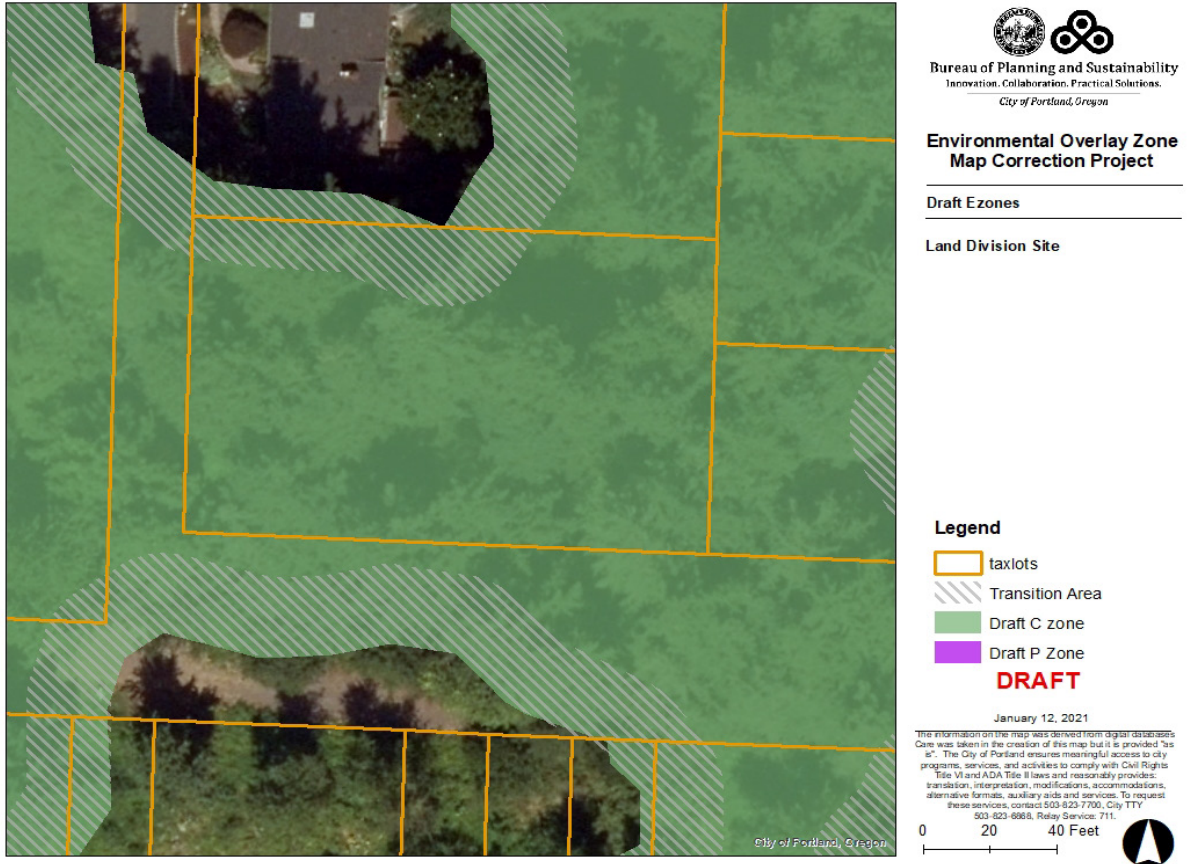


Figure 2. Proposed Ezones

The property owners would also be subject to tree preservation requirements if they proposed to divide this lot. Tree preservation standards apply to land divisions in all residential lots, regardless of whether they have ezones. There are several options that are available to property owners to meet tree preservation standards (33.630.100), but in general, 20-35% of the diameter inches of trees on the site would need to be retained and preserved on the site. Because tree preservation is calculated in diameter inches, these requirements could possibly be satisfied by preserving a few larger trees. But ultimately, the effect of the tree preservation requirements would be that some portion of the lot could not be cleared and developed. If the landowners wished to develop the lot without dividing it, they would not be subject to these tree preservation standards, but impacts to trees would still be regulated by Title 11, Tree code.