



MEMO

DATE: August 20, 2021

TO: Planning and Sustainability Commission

FROM: Mindy Brooks, City Planner, Project Manager
Daniel Soebbing, City Planner

CC: Andrea Durbin, Eric Engstrom, Sallie Edmunds

SUBJECT: August 24, 2021 PSC Public Hearing on Ezone Map Correction project

City staff are pleased to be coming back to you for another public hearing on August 24, 2021 on the Ezone Map Correction Project. Here is the draft agenda for the hearing.

Agenda for August 24, 2021

- 1. Introduction/Review Agenda/Review Procedure**
- 2. Summary of PSC's Amendments** (*also see page 2 of this memo*)
- 3. Summary of Written Testimony Received** (*also see page 3 of this memo*)
- 3. Public Hearing**
- 4. PSC Commissioners questions and comments based on testimony**
- 5. Next Steps**
- 6. Conclude**



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Reviewing the *As Amended* Proposed Draft

There are two ways to review the *As Amended* Proposed Draft:

1. **Property by property** – The easiest way to review the overlay zone proposal on individual properties is to go to the [Ezone Map App](#) and type in an address. The feature map changes are available for review through the map as well.
2. **Project Report** – The report documents, including the above code amendments, are available in [efiles](#). These include Volume 1A, Summary of Results; Volume 1B, Zoning Code and Map Amendments; Volume 2A-2G, Resource Site Results; Volume 3, Natural Resources Inventory; Volume 4, Metro Title 13 and Oregon Goal 5 Compliance; and Volume 5, Appendices.

Summary of PSC's Amendments to date

The Ezone Map Correction Project has been at PSC since June 2020. A lot has been accomplished over the past year including two public hearings and four work sessions. At the work sessions, PSC voted to approve the following items which are now incorporated into the *As Amended* Proposed Draft. Most of these amendments are a direct result of testimony received. Additional details can be found in the references on the [PSC's document webpage](#).

1. **Feature maps.** 441 site visits and 227 wetland determinations resulted in corrections to the maps of streams, wetlands, tree canopy and steep slopes and the ezones have been adjusted to follow the updated mapping. (*PSC Memo April 28, 2021, Attachment B*)
2. **Wildfire.** New exemption to allows fire breaks between vegetation when the break is the same size and design as trails. Also, clarifications regarding tree pruning. (*PSC Memo April 2, 2021, Attachment 4; PSC Memo April 28, 2021, Attachment C*)
3. **Trails.** Updated the exemption to expand the allowed trail width from 30 inches to 36 inches to match ADA recommendations for public trails. (*PSC meeting minutes April 27, 2021*)
4. **Septic System.** New exemption for replacing failing septic systems and a new standard for new septic systems. Systems must be setback from streams/wetlands and no trees can be removed. (*PSC Memo April 2, 2021, Attachment 5*)
5. **Flood Control Facilities.** New standard to allow for improvements, such as access stairs and ADA ramps, to certain flood control facilities. (*PSC Memo April 2, 2021, Attachment 6*)
6. **Scenic Corridors.** Removed the right-of-way setback requirement where scenic corridors overlap with ezones to avoid conflicting standards in different sections of the zoning code. (*PSC Memo July 16, 2021, Attachment 1*)
7. **Wetland Policy.** New wetland policy for resource sites where there is no existing wetland policy. This policy applies a protection 'p' zone to wetlands and land within 25 feet of wetlands and a conservation 'c' zone to land between 25 and 50 feet of wetlands. (*PSC Memo July 16, 2021, Attachment 2*)
8. **Misc.** Minor non-substantive code clarifications. (*These are included in the decision tables for each of the PSC work sessions, listed under consent items.*)



Testimony to date

On August 4, staff sent 1,304 notices to property owners where there was a change to the zoning proposal since February 2021 (the date of the last public hearing) or where ezones are being added. Staff also sent an email to Ezone Enews list and posted a blog to the website.

Since August 4, there have been 8 pieces of written testimony received. This is in addition to the 276 pieces of testimony, oral and written, received in July 2020 and 58, oral and written, received in February 2021. The recent testimony includes 5 testifiers who provided testimony previously and 3 testifiers who have not testified before. The primary types of comments raised in the testimony received to date are, in order of frequency:

Comment Type 1: Maps are incorrect – The map of streams, wetlands or tree canopy is incorrect. *Staff response* - The vast majority of these concerns have been resolved through site visits or wetland determinations completed over the past year. There are additional site visits scheduled through September 9.

Comment Type 2: Use different mapping protocols – The natural resource feature definitions or mapping protocols should be changed. Specifically, streams that only flow in the winter or flow along a street for some distance should not be included; or forest mapping should not include the tree canopy where it overlaps yards or developed areas. *Staff response* - As described before, staff are maintaining the feature definitions and mapping protocols adopted in 2012 in the Natural Resources Inventory as factual basis for the 2035 Comprehensive Plan.

Comment Type 3: Do not apply ezones – While there is no dispute over the presence of a stream, wetland or forest, the ezones should not be expanded to protect these features because it may impact future development options or property value. *Staff response* - These are site specific concerns and many of the property owners have discussed options with staff. There are standards in the code that allow for development within the ezones and if the standards cannot be met, development may be approved through Environmental Review. Property values are based on many factors. In general, the presence of natural resources, in particular trees, increases property value.

Comment Type 4: Support increased protections – General support for the ezones and requests to increase protections for certain natural resource areas, such as trees on steep slopes. *Staff response* – The staff recommendation is to maintain the existing protection policies for streams, tree canopy and steep slopes.

How to Review Testimony

You can review testimony through the [Testimony Reader](#), by choosing the E-Zone Map Correction project on the left side.

Staff summarized previous testimony (July 2020 and February 2021) and site visits through April 2021 in a table that was shared with PSC on May 4. The table is on the project website [Documents](#) page, listed under PSC Materials. After September 10, staff will update this summary table and post the newest version.

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