



**MEMO**

**DATE:** April 6, 2022  
**TO:** City Council  
**FROM:** Daniel Soebbing, City Planner, Project Manager  
Emma Kohlsmith, Environmental Planner  
**CC:** Eric Engstrom  
**SUBJECT:** Ezone Project Site-Specific Testimony and Staff Responses

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At the City Council hearing on the Ezone Map Correction Project that was held on February 16, 2022, 47 people testified verbally and many more submitted written testimony. In total, 124 different individuals submitted written or verbal testimony to City Council regarding the Ezone Project. Mayor Wheeler and other Commissioners asked Ezone Project staff to review the testimony and to respond to the issues and concerns that were raised.

In the opening section of the following memo, project staff have attempted to summarize the most common themes of the testimony and have included staff commentary on those themes. The remainder of the memo contains staff analysis and responses to all of the site-specific and process-related questions, concerns, and disputes that were raised in the written or verbal testimony.

For each site-specific response, we have included a map of the site, a description of the zoning, ezone mapping protocols, and development capacity of the site, a summary of the testimony that was submitted regarding the site, and responses from project staff to the issues that were raised in the testimony. If staff have visited the site, the outcomes of the site visits are also described.

Project staff would welcome additional conversations with commissioners or their staff regarding any of the general testimony themes or sites that are discussed in this memo. Please contact project staff if you have any follow up questions.

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# General Themes of Testimony and Staff Responses

## Testimony Supporting the Passage of the Ezone Project

Support for the adoption of the Ezone Project was voiced by many individuals. Of people who testified verbally at the hearing, 10 requested that City Council move forward with the adoption of the Ezone Project without further delay. In addition to the supportive verbal testimony, more than 50 individuals submitted written testimony in support of the adoption of the Ezone Project.

## Testimony Requesting More Ezone Coverage on Specific Sites and Process Related Issues

Several people submitted testimony that raised concerns that can generally be categorized as asking for more protection of critical features, such as streams and wetlands, or other sensitive natural areas. There were differences between the testimony that was submitted by these individuals, but they shared a number of common themes:

- 1. If an ezone was applied in a specific location previously, the ezone should not be removed from that location.**

**Staff Response:** When previous natural resource protection plans were adopted, the mapping of conservation and protection zones was done using low tech, hand drawn techniques. In many cases, the ezones don't align correctly with the natural resources, and ezones that were mapped around linear features, such as streams, may grow wider and narrower for reasons that aren't clearly spelled out or explained in the adopted natural resource protection plans.

The Ezone Project is using objective mapping criteria and employing fully elucidated and repeatable mapping protocols to determine where ezones should be mapped. A computer model is used to map the recommended ezones, and the model is programmed in a way that is intended to reproduce the natural resource protection decisions that were made in previous protection plans, thereby following adopted natural resource protection policy. The Ezone Project area is divided into more than 100 different resource sites, which were created when the ezones were first adopted. The mapping decisions of the previous protection plans vary from resource site to resource site, and the rules that are applied by the program are intended to also vary from resource site to resource site to be consistent with existing adopted policy.

Because the mapping techniques that are employed in the Ezone Project are consistent within resource sites and are tied to specific, objective criteria, it necessarily means that ezones may grow or shrink in certain locations because the old ezones did not follow objective or consistent criteria as specifically or accurately as the draft ezones do.

- 2. Requests for broader widths of protection zones around critical features, such as streams and wetlands.**

**Staff Response:** The mapping protocols vary from resource site to resource site to match existing adopted policy. The Ezone Project is intended to follow adopted policy as closely as possible. This means that protection zone widths may vary between resource sites.

There are a few exceptions in which the Ezone Project deviates from the strictest possible adherence to existing adopted policy: streams and wetlands in some specific resource sites. For all resource sites in which protection zones of some width were not previously applied to streams or wetlands, the PSC voted to adopted minimum protection criteria for these features. In these resource sites, a protection zone is applied to streams and wetlands and land within 25 feet of streams and wetlands, and a conservation zone is applied to land within 25 and 50 feet of streams and wetlands. This is intended to be a conservative approach to applying protection zones consistently to the most critical natural resources while minimizing impacts to development capacity of lots on which these features are located.

### **3. Requests that the Ezone Code be updated to include specific performance standards that are contained in Metro Title 3 code.**

**Staff Response:** Metro has found Portland's existing adopted natural resource protection programs to be in compliance with Metro Title 3 and Title 13. Metro offers multiple pathways to comply with natural resource protection and water quality and flood management requirements. It is not necessary for jurisdictions to adopt prescriptive provisions of Metro code language as long as they can demonstrate substantial compliance with the requirements to protect natural resources and mitigate natural hazards.

### **4. Apply Ezones to all mapped forest vegetation patches.**

**Staff Response:** The majority of the mapped forest patches in the City of Portland are not currently in ezones. In most resource sites, ezones were only applied to forest patches that were contiguous to water bodies or that met other specific criteria. If ezones were expanded to apply to all mapped forest patches, that would significantly expand the area covered by the ezones and the number of properties with ezones and it would not be consistent with existing adopted policy.

A number of individuals that testified about these themes also submitted more technical process-related testimony or testimony about natural resource mapping on specific sites. Staff respond to these more detailed issues in later sections of this memo.

## **Property Owner Notification Concerns**

Several people testified that they had not received adequate or timely notification about the Ezone Project.

**Staff Response:** Project staff attempted to notify the owners of all properties that have existing or draft ezones, and all properties that are located in close proximity to ezones. Project staff used County tax lot records to generate mailing lists that were used to send at least three

separate notifications to every impacted property. The first round of mailings went out in several batches that were based on geographical area in late 2018 and early 2019. A second round of mailings went out to all impacted properties in late 2019. And a third round of notices were sent to all properties with existing or draft ezones in June of 2020, prior to the start of public hearings at the Planning and Sustainability Commission. Also, between 2018 and 2020, project staff delivered presentations on the Ezone Project at more than 30 neighborhood meetings around Portland and held several open houses to try to generate public awareness of the Ezone Project. Project staff always operated with the intention of notifying every affected property owner as early as possible in order to conduct as many site visits as possible early on in the process. The level of outreach and the attempt to front load the public engagement early in the process go far beyond state and local requirements.

## **Septic Systems**

Joseph Angel and Steven Pfeiffer, testifying on behalf of Joseph Angel, requested a change to the proposed new standard that would allow for the replacement of existing septic systems. They asked for an amendment to allow the standard to apply to new septic systems, as well.

**Staff Response:** The proposed new standard for septic system replacement was drafted in conjunction with staff from BDS to address specific circumstances that arise periodically when the septic systems of older homes fail catastrophically. Septic failures result in discharges of raw sewage into the environment, which can foul streams, wetlands, forests, and other critical natural resources. Speedy replacement of failing septic systems is important to prevent ongoing sewage discharges from causing further environmental damage.

Septic systems take up a lot of space, and many home sites are constrained by the arrangement of existing development and natural features, such as topography and streams. There is often only a single possible location on a site where a replacement septic system could be approved by the County Septic Sanitarian, and this location may, in many cases, be predetermined before the permitting process even begins. Due to site constraints, the existing ezone standards may not always provide a pathway to zoning code approval, thus necessitating environmental review. If a site is constrained, and there are no alternative locations for septic systems on the site, the environmental review would be a redundant step that would simply result in the confirmation of a predetermined location for the replacement septic system.

The septic replacement standard was tailored narrowly to avoid tree removal and other impacts to natural resources, while allowing for replacement septic systems to be approved speedily and with minimal delay. The septic replacement standards are strict. If applicants cannot meet the standards, their replacement septic systems will be subject to environmental review.

When new development is proposed on vacant sites that require septic system installations, there typically are no ongoing sewage discharges that need to be addressed rapidly. Unlike sites that require septic system replacement, there is no imperative to rapidly approve development proposals and bypass portions of the permitting process. When new development occurs, the environmental review process allows for the careful consideration of a range of possible site plans to determine how to minimize development impacts to natural resources. This does not mean that it would be inappropriate to extend the septic standard to new development, but it is

the reason that staff only proposed a septic replacement standard rather than a general standard that would apply to new development.

### **Concerns with Mapping Protocols**

Craig Kiest and others raised concerns about the natural resource mapping protocols and the often-jagged lines that comprise the edges of the draft ezones. It was also noted that sometimes, the edges of the ezones form straight lines, which, he said, doesn't make sense if the ezones are intended to follow the edge of the forest canopy. It was also pointed out that it would be difficult to survey the ezone lines.

**Staff Response:** The ezones are intended to follow the natural resources. The edge of the forest canopy is often wavy or jagged. The draft ezones are not intended to be generalized and smooth the way the existing ezones are. The draft ezones should, ideally, exactly apply to where the resources are located, as specified in the mapping protocols.

Regarding straight lines, ezones often follow linear features, like streams. If the stream is relatively straight, the ezones that follow it will also be straight. In general, when conservation zone is applied to contiguous forest canopy, it extends all the way to the edge of the forest, and thus the edge of the conservation zone is wavy or jagged. But there are a handful of resource sites in which, in order to match existing policy, the ezone mapping protocols stipulate that the conservation zone should extend no further than 200 feet from the top-of-bank of streams. In these specific resource sites, the edges of some conservation zones may form straight lines.

Other places where ezone mapping protocols may form straight lines are at the edges of resource sites. There are more than 100 different resource sites in the Ezone Project, and the natural resource protection policies vary from resource site to resource site. The edges of the resource sites typically follow property lines. If the natural resource protection decisions are different in two resource sites that are located next to each other, there very well might be a straight line in an ezone at the edge of a resource site. For example, the resource protection decision that applies in one resource site might be to apply a protection zone to land within 50 feet of streams. The resource protection decision in an adjacent resource site could be to apply a protection zone to land that is within 100 feet of streams. If a stream was to cross both of the resource sites, at the edge of the two resource sites, there could be an abrupt transition, where the protection zone suddenly becomes more narrow, and there could be a straight line in the protection zone where the two resource sites meet.

Regarding surveys, in the majority of development situations, it is not necessary to survey the edge of an ezone or natural resource features on a site. The zoning code specifies that when a zoning line does not follow a line or an identifiable landmark, its location on a site can be determined with a scale (PCC 33.10.050). That means that a property owner can scale up an official zoning map and use that to determine where the ezones are located on a site. The City of Portland also provides zoning information as Geographic Information System (GIS) files that are freely available to download. Both the City of Portland and Metro have public web portals that provide access to all of Portland's zoning maps.

Either the scaling of the zoning maps or the use of GIS files to demonstrate the location of the edges of the zoning overlays would be sufficient to demonstrate that proposed development

meets standards or exemptions in the ezone code in most situations. Property owners may choose to provide a cadastral survey as supplementary information, but this level of documentation is often not necessary unless the proposal is to subdivide a lot (which is a situation in which a complete site survey would be required, regardless of ezones) or do some other complicated development proposal. Outside of these situations in which a complete site survey would be required, property owners would be unlikely to need to actually survey the ezone lines on their property.

### **Property Maintenance/Trees**

Several individuals testified about the application of ezones on portions of lots that are already developed. People were concerned about whether they would be able to remove hazardous trees or remove invasive vegetation from natural areas on their sites.

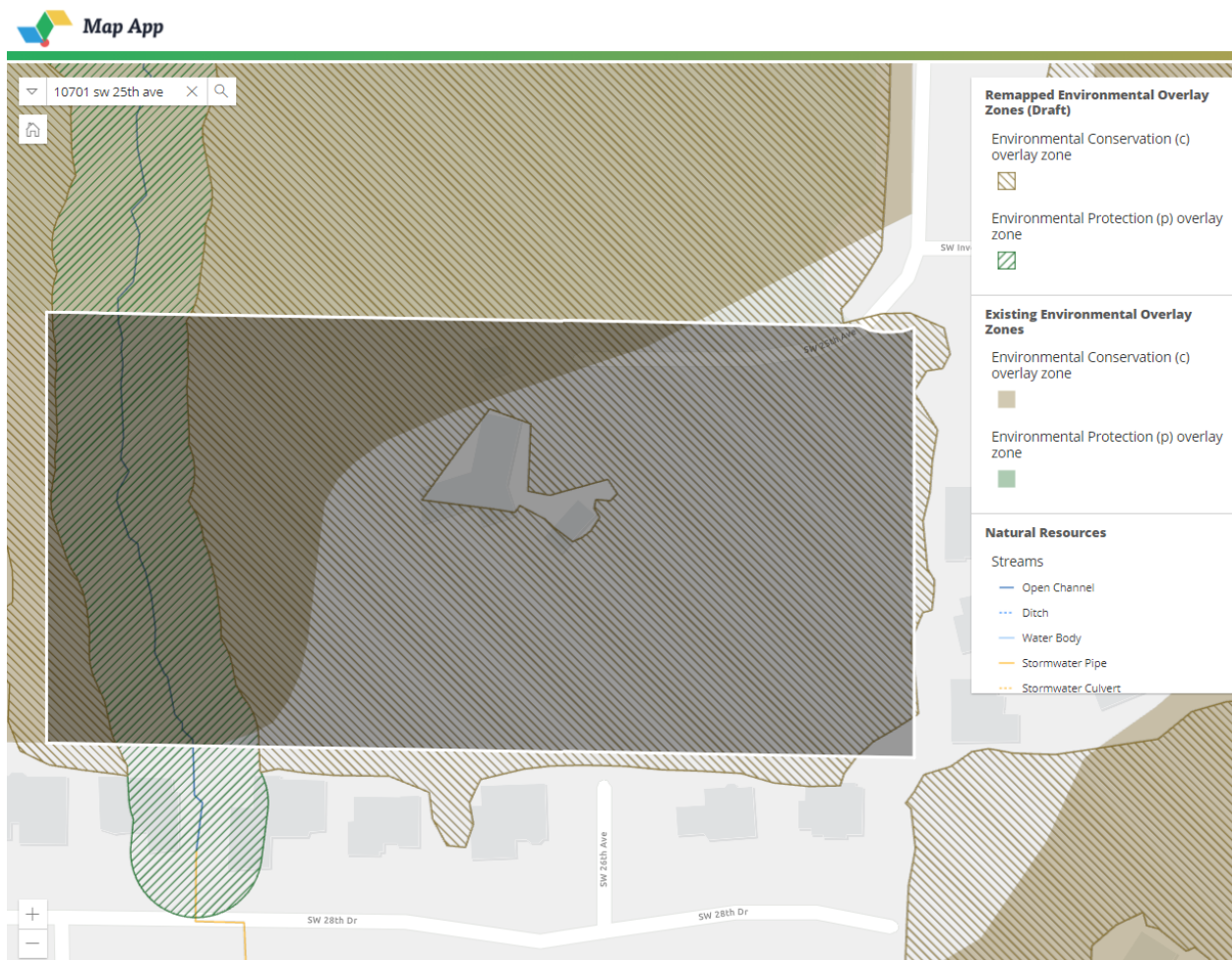
**Staff Response:** There are exemptions in the Ezone Code that allow for the ongoing maintenance of existing developed areas. Categorical exemptions apply to the maintenance of lawns, gardens, and landscaped areas on sites. There are also categorical exemptions for the removal of any plants that are listed as nuisance species in the Portland Plant List. The exemption for the removal of invasive species applies both within and outside of existing disturbance areas.

Protections for trees are stricter within the ezones than they are elsewhere in Portland. Within the ezones, protections apply to trees on private property that are 6 inches in diameter or greater, whereas outside of the ezones, protections only apply to trees 12 inches in diameter or greater. There are also tree pruning regulations that apply within the ezones that don't apply elsewhere. However, both the Tree Code and the Ezone Code have provisions that allow for the removal of trees that are located within 10 feet of houses, or that are dead, dying, or dangerous in the professional judgement of a certified arborist or the City Forester.

Note that even if a tree meets an exemption or a standard for removal, property owners are required to apply for tree removal/replacement permits (which is true both within and outside of ezones).

# Site-Specific Testimony and Staff Responses

## 10701 SW 25th Ave



### Testifiers:

Laurie Rutenberg and Gary Schoenberg  
Jeffrey and Luci Batchelor  
Marianna Grossman  
Zivit Atkins  
James Gillen  
Ann Fish  
Jeffrey and Luci Batchelor  
Rachel Harris  
Bobby McCoy  
Scott Terrall  
Joe Hertzberg  
Hans Steuch  
Matthew Forsyth  
Steve Lebwohl  
Carol Stampfer

**Property Owner:** Laurie Rutenberg and Gary Schoenberg



**Site Visit:** BPS staff have offered to conduct a site visit to review the natural resource mapping on the site. Staff have explained that a site visit could potentially result in edits to vegetation mapping on the site, which could impact how much of the site is encompassed by proposed ezones. In lieu of a site visit, the property owners provided photographs and other documentation that showed that portions of the site are not completely forested. Project staff reviewed the materials that were provided alongside aerial imagery and LiDAR data. Upon review, staff made edits to the vegetation mapping. If City Council votes to adopt the proposed edits, which are included in an amendment package that has been provided by staff, the extent of the draft conservation zone on the site will be reduced. The property owners have stated that their concerns will not be fully satisfied by the proposed changes.

**Description:** The site is 4.96 acres (216,058 sq ft) with approximately 3,202 sq ft of existing development. The base zone is R10, and the site is dividable. The land division standards would allow this lot to be divided into up to 22 lots at maximum density if no street is required to be created. However, the property owners have obtained preliminary approval through BDS for a 17-lot subdivision of this property, including a new public street. When public streets are required by PBOT as a condition of approval of a land division, the maximum density calculation changes, and the maximum number of lots that is allowed to be created is reduced. In order to finalize their subdivision and develop their site according to the terms of their LUR approval, the property owners need to file for final plat by 2024 and finish the development by 2029. If they fail to meet the timeline or the conditions that were laid out in their LUR approval, they would have to start over on the land division and development approval process.

There is a stream, riparian area, and forest canopy on this site. The protection policy is to apply a 'p' zone to streams and land within 50 feet of streams and a 'c' zone to forest contiguous to and more than 50 feet from streams. Under the existing zoning maps, roughly one third of the site is covered by ezones. If the proposal is adopted, the ezones will expand to cover the majority of the site. Most of the lot area that would be covered by proposed ezones would be 'c' zone, which is developable with mitigation.

**Testimony:** Do not expand the ezones on the site because it will impact the ability to subdivide the site in the future and will decrease property value. Don't change ezone mapping on this site because ezones would prevent the owners from building houses that would help to reduce the citywide housing shortage. Honor the existing land use decision by maintaining the ezones in their current location. It was also noted that there is stormwater runoff that is coming onto the site from the existing SW 25<sup>th</sup> Ave cul-de-sac, and that if the road was built out as would be required as a condition of approval of the land use review, there would be new stormwater facilities that would be designed to handle the runoff that currently discharges onto the property. Testimony ID #331563, #331562, #331564, #331565, #331566, #331567, #331568, #331569, #331570, #331571, #331572, #331473, 331476

The property owners do not dispute the natural resource mapping which shows that there is a stream that crosses the site, and a forest patch that is contiguous to the stream that is greater than ½ acre in size that encompasses much of their site. But in conversations with project staff, they have disputed the ezone mapping methodology. They argue that that contiguity should not be used as a basis for determining if conservation zone should apply to the mapped forest

vegetation. They have stated that they think the c zone should only be applied to portions of the mapped forest patch that are located on hillsides that are sloping directly toward the stream. If any portion of the lot is not sloping toward the stream, they say, then the forest vegetation that is located on that slope should not be in the c zone, even if the vegetation is part of a patch that is contiguous to the stream.

**Staff Response:** The conservation zone is applied to portions of mapped forest patches that are contiguous to streams. Ezone Project staff have reviewed the existing adopted ezone maps and the adopted natural resource protection decisions that apply to resource site SW18, and they do not believe that adopted policy is to only apply conservation zone to forest vegetation that is located on land that slopes toward particular streams. The forest vegetation provides a variety of ecosystem services. One of the most important is retention, filtration, and infiltration of stormwater, that would otherwise turn into surface runoff and flow directly into streams or sewer systems. But the forest vegetation provides a variety of other ecosystem services, as well. These include moderation of temperatures and reduction of heat island effect through shading and evapotranspiration, stabilization of soils and prevention of erosion. And the forest vegetation serves as habitat for wildlife and provides migratory pathways and habitat connectivity. Many of these ecosystem services are in no way dependent on whether or not the angle of the slope of the land on which the forest vegetation is located is angled in the direction of a particular stream.

The property owners have a land use review approval that would allow them to create a 17-lot subdivision on their site regardless of the proposed new ezones as long as they meet applicable deadlines to move the project forward and meet all applicable conditions of approval.

Staff have had numerous discussions with the property owners, who contend that despite their preliminary land division approval, they cannot find a developer who is willing to purchase the site. They argue that Portland rules and regulations are too onerous, and that the ezone project, itself, may be deterring potential buyers. The property owners are concerned that they will be unable to satisfy the conditions of the final plat approval within the specified timeframe.

If the draft ezones are adopted as proposed on the site, future development could proceed according to three possible scenarios:

1. The property owners could follow the steps that are outlined in their approved land use review and meet all City and State timelines for the final plat and development of the site. They could build a 17-lot subdivision or sell the lot to someone else, who could complete the subdivision according to the terms of their LUR approval. They would need to apply for a final plat in 2024, at the latest, and they would need to move forward with permitting and site development no later than 2029. Note that the deadline for initial final plat submittal was extended from 2022 to 2024 by an act of City Council that granted extra time for the recipients of LUR decisions in response to the COVID-19 pandemic.

If the property owners follow these steps and meet all deadlines, they will remain vested in the code and the zoning maps that were in place when they applied for their land use

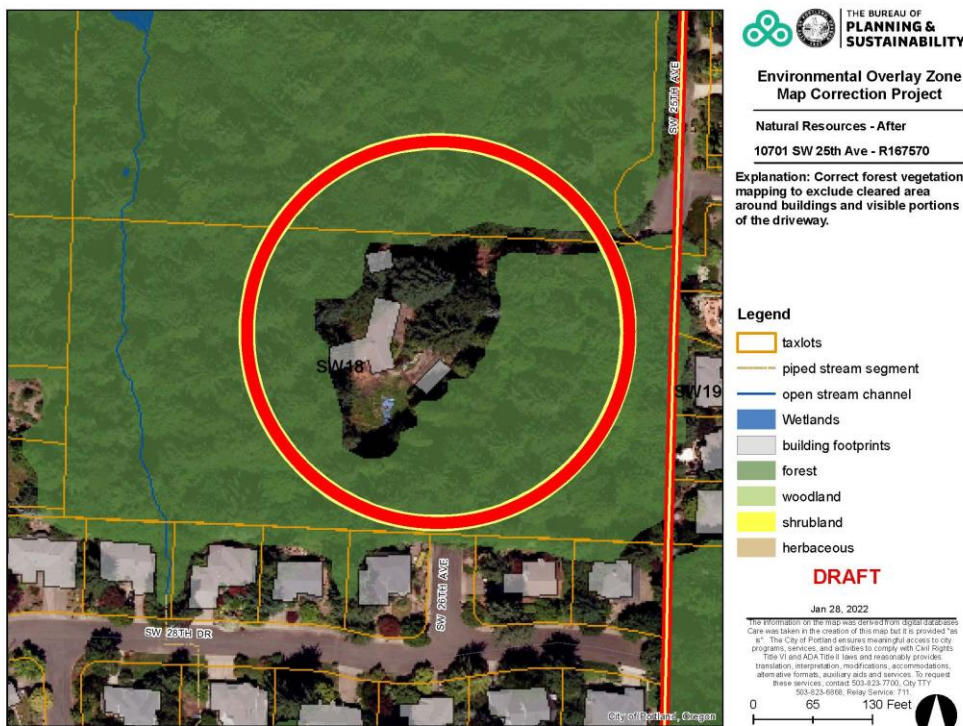
review. They can proceed with clearing the vegetation within the approved lots and the public street, they can install the required utilities, and they can build out the homesites. If they follow this track, no Environmental Review will be required and no mitigation for impacts to resources will be required beyond those that are stipulated in their LUR approval.

2. Alternatively, the property owners could obtain their final plat within the specified timeline but fail to move forward with site development by 2029. If this happens, the subdivision will be finalized, and the 17 lots that were approved in the LUR decision will exist as separately developable lots. The number of the lots and the size of the lots will be set, but the *vesting* of the development under the previous zoning code would no longer be valid. If at that point, the property owners wanted to develop the site, they would be subject to whatever code and zoning maps are in place at the time of development, including the ezones. Development of the road and each of the lots would either have to meet standards or be subject to Environmental Review and/or other conditions of approval. Additional mitigation for the impacts of development would likely be required if the site was developed due to the expanded ezones. Mitigation plantings could be installed in the natural resource tract. Note that the vesting deadline of 2029 is a State-mandated deadline.
3. If the property owners do not apply for their final plat by 2024, all aspects of the LUR approval will expire. Note that *completion* of the final plat is not required by 2024, just the initial application submittal. If the final plat application is submitted before the deadline, the applications would have at least 3 years to complete the final plat approval process. If the LUR approval expires, any future development on the site would be subject to current zoning. Assuming the Ezone Map Correction Project is adopted, the majority of the lot would be covered by ezones and any new land division application would likely not meet the standards of the ezone code and would thus be subject to Environmental Review. Environmental Reviews are negotiated processes with uncertain outcomes. With mitigation, it is possible that the development could be approved on the site with a footprint that would be similar to what was previously approved for the 17-lot subdivision. But it is also possible that a new subdivision on the site would occupy less area than the previous subdivision did in order to appropriately respond to the updated ezone mapping. Depending on the proposed layout, the lot sizes and the number of lots in the subdivision could be reduced to minimize the impacts to the natural resources on the site. There are additional conditions of approval that would likely come into play again as part of a new land use review, such as requirements to build public streets and utilities, that complicate site development. These requirements are separate and unrelated to ezones, but they can have a significant impact on how sites can be laid out and developed.

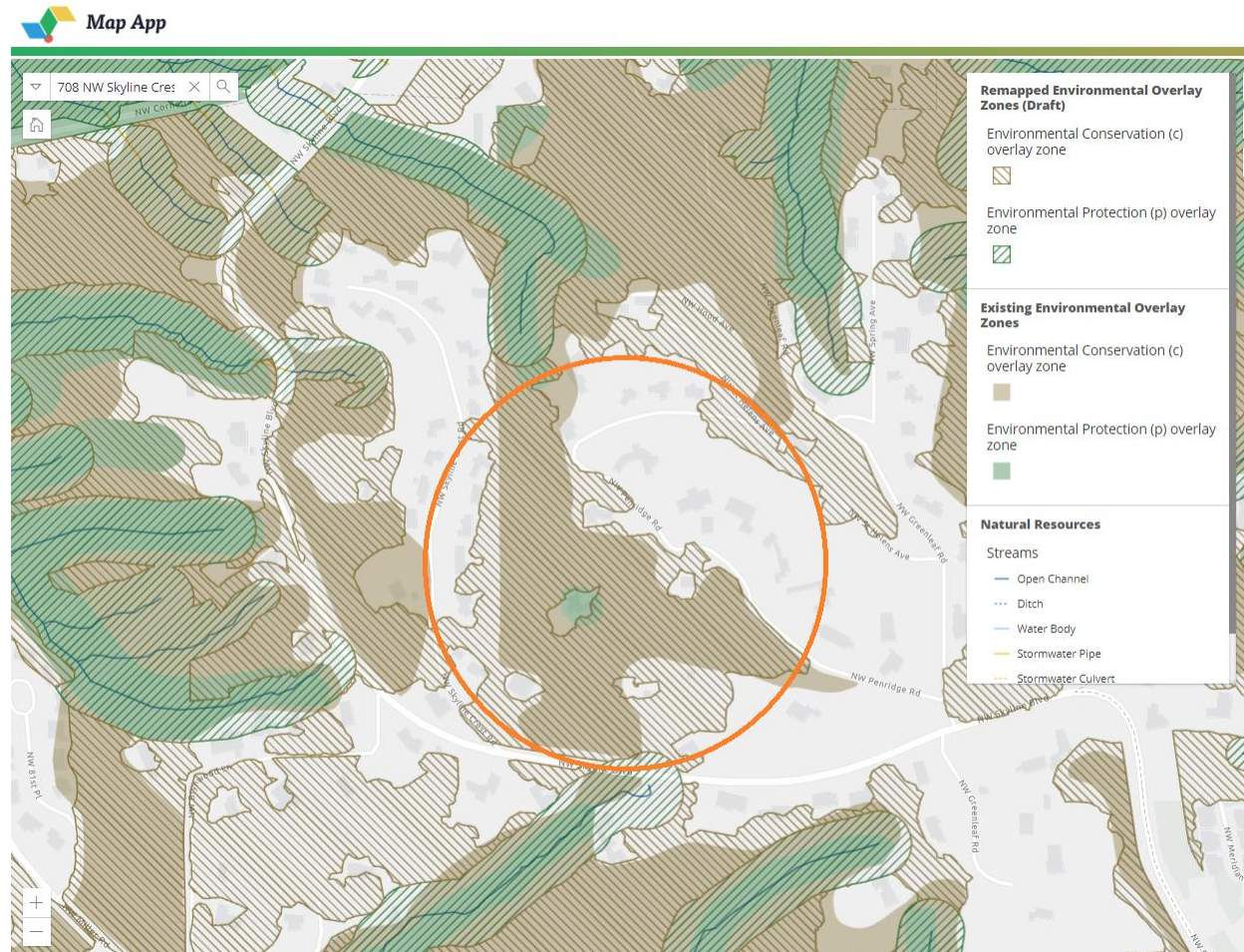
10701 SW 25<sup>th</sup> Ave – Natural Resource Mapping as of January 28, 2022:



10701 SW 25<sup>th</sup> Ave – Proposed Edit to Natural Resource Mapping:



# Cornell Mountain



## Testifiers:

Teos Abadia (neighbor, 708 NW Skyline Crest Road)  
Robin Abadia (neighbor, 708 NW Skyline Crest Road)  
Cassandra Dickson (neighbor, 638 NW Skyline Crest Road)  
Emily Matson/Columbia Land Trust  
Carrie Akers

## Additional Properties Impacted:

- 7306 W/ NW Penridge Road, owned by Randall S. Carlson and Barbara Carlson (have not testified)
- 7324 SW/ NW Penridge Road, owned by Kevin Dale and Genevieve Krietemeyer (have not testified)
- 7324 NW Penridge Road, owned by Lynne Osmundsen and Blake Osmundsen (have not testified)
- 7226 NW Penridge Road, owned by Charles and Karen Mauro (have not testified)
- 7260 NW Penridge Road, owned by Jason Nims and Maria Bezattis (have not testified)
- 7026 NW Pendrige Rd, owned by Leonard Carr and Hester Carr (have not testified)
- 456 NW Skyline Blvd, owned by Lauren Hirsh (has not testified)

**Site Visit:** Yes, 3/4/2022, 8/27/21, 6/17/21, 8/19/2020, 2/11/2020, 4/3/2019, 3/17/2019, 2/17/2019

**Description:** This area includes multiple lots, under the ownership of several different people. The impacted lots include a 1.17 acre (50,965 sq ft) undeveloped lot, a 0.92 acre (40,254 sq ft) undeveloped lot, a 4.56 acre (198,634 sq ft) lot with an existing 4,043 sq ft structure, a 0.54 acre (23,371 sq ft) developed lot with an existing 3,299 sq ft structure and other adjacent lots. The base zone is R20 and several of the lots are potentially dividable. There is a stream mapped to the north and forest vegetation on the site. The largest of the lots has an existing conservation easement that would preclude any further development or division of the site beyond the home that has already been built there. The protection policy is to apply a 'p' zone to the stream and land within 100 feet of the top-of-bank of the stream and a 'c' zone to forest vegetation contiguous to but more than 100 feet from the top-of-bank of streams.

**Testimony:** The testifiers contend that the 'p' zone should be expanded to protect Cornell Mountain due to its unique habitat features, steep slopes, watershed benefits, and function as a wildlife corridor. Testimony ID 331432, 331454, 331578, 331463, 331435, 331458, 331463

**Staff Response:** Staff agree that Cornell Mountain is a unique and important natural resource feature in Portland. However, this is a correction project, and adding a 'p' zone to portions of the site in which there are no mapped streams or wetlands would be a change to the protection policy and would impact the proposed zoning and future development capacity of several properties. Whether the proposal is to apply 'p' zone or 'c' zone on these lots, any proposed development or land division would be required to limit impacts to natural resources and to mitigate for the removal of trees or native vegetation.

Staff have conducted site visits with owners of several of the lots on which changes have been requested by testifiers. The owners of the lots that would be most impacted by the requested changes are not among the people who have testified.

In order to remain consistent with current policy, Ezone Project staff are not recommending an increase of the protection zone on Cornell Mountain. However, during the PSC hearing process, Ezone Project staff created conceptual maps that show how the 'p' zone could potentially be expanded on the site if City Council wanted to change policy in the Cornell Mountain site. The conceptual maps that were provided to the PSC would apply a protection zone to the mapped Special Habitat Area that is located near the summit of Cornell Mountain. Note that staff have included 'p' to 'c' zone conversions, following the methodology laid out in the Recommended Draft, to ensure that adequate space exists on the four vacant or dividable lots for additional development. There are other possible ways that new p zone could be added to the Cornell Mountain area, but staff believe that any addition of p zone to areas in which there are not identified streams or wetlands in this resource site would be a change in ezone mapping policy.

Draft Ezones – As Currently Proposed



THE BUREAU OF  
**PLANNING &  
SUSTAINABILITY**

**Environmental Overlay Zone  
Map Correction Project**

Cornell Mountain  
Proposed Ezones

NW Penridge and  
NW Skyline Crest

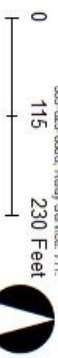
**Legend**

-  taxlots
-  Draft C Zone
-  Draft P Zone

**DRAFT**

August 30, 2021

This map is a draft map and is not intended for use in any legal proceeding. The map is taken in the creation of this map but it is provided "as is". The City of Portland ensures meaningful access to city programs, services, and activities to comply with Civil Rights Title VI and ADA Title II laws and reasonably provides: translation, interpretation, modifications, accommodations, alternative formats, auxiliary aids and services. To request these services, contact 503-823-7700, Cap 11V, 503-823-6888, Relay Service 711.



Testifiers requested a change to the Ezones on Cornell Mountain – With 'p' to 'c' Conversions



**THE BUREAU OF  
PLANNING &  
SUSTAINABILITY**

**Environmental Overlay Zone  
Map Correction Project**

**Cornell Mountain  
Requested Change to Ezones**

**NW Penridge and  
NW Skyline Crest**

**Legend**

 taxlots

 Proposed Ezone

 'c' zone

 'p' zone

**DRAFT**

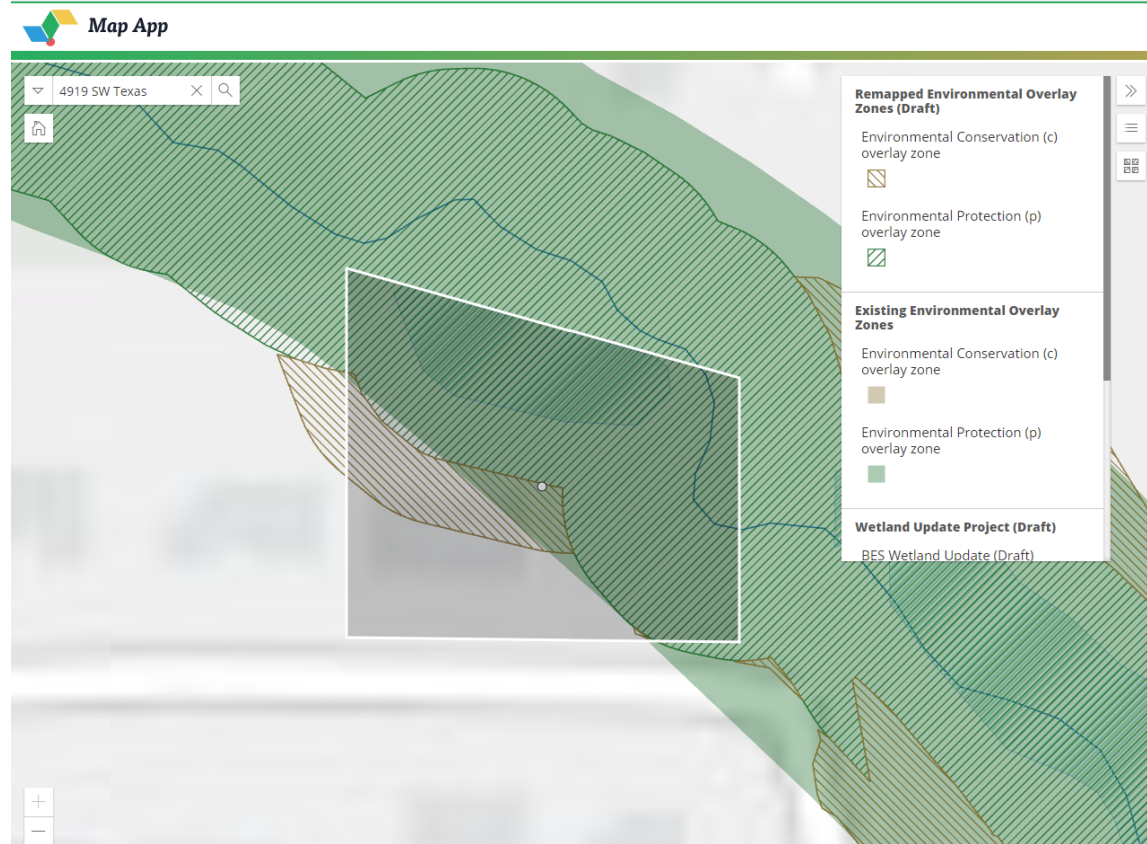
August 30, 2021

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data was taken on the creation of this map but it is provided "as  
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programs, services, and activities to comply with Civil Rights  
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translation, interpretation, modification, accommodations,  
alternative services, and other services. Contact: 503.823.7200. City TTY  
access: 903.823.8868. Relay Service: 711.





## 4919 SW Texas Street



**Testifier:** David Youmans

**Property Owner:** David N Youmans Tr and Dana K Via

**Site Visit:** No

**Wetland Determination:** Property owner has requested a 2022 wetland determination

**Description:** The site is 0.39 acres (16,873 sq ft) in size, with an existing 3,422 sq ft structure. The base zone is R7, and the land division standards would allow this lot to be divided into two lots. There is a wetland and a stream located on the site. The protection policy is to apply a 'p' zone to the wetland and land within 25 feet, a 'p' zone to streams and land within 50 feet, and a 'c' zone to land between 25 and 50 feet of the wetland. Existing ezones cover 12,300 sq ft of the lot and the proposed ezones cover 14,000 sq ft of the lot. The expansion is entirely due to wetland mapping. If field verification resulted in the deletion of the wetland from the inventory, the proposed ezones would be reduced to cover slightly less of the site than the existing ezones do. The outer 25 feet at the edge of the ezones is transition area and can be further developed if the standards of 33.430.140 are met. Standards that require setbacks from streams and wetlands would likely preclude any expansion of development footprint in the resource area of the ezones on this site.

**Testimony:** The property owner contends that because a wetland determination on nearby lots resulted in modifications to wetland mapping on those lots, the wetlands that are mapped on his lot should be removed from the inventory. Testimony ID #331408

**Staff Response:** BES is doing a citywide Wetland Inventory Project. The results of their wetland mapping have been provided to the Ezone Project. Ezones are applied to the mapped wetlands according to existing adopted policy. During the hearings process at the PSC, the PSC voted to apply minimum protections to all wetlands in all resource sites, and to add the results of BES wetland mapping to the Ezone Project natural resource inventory.

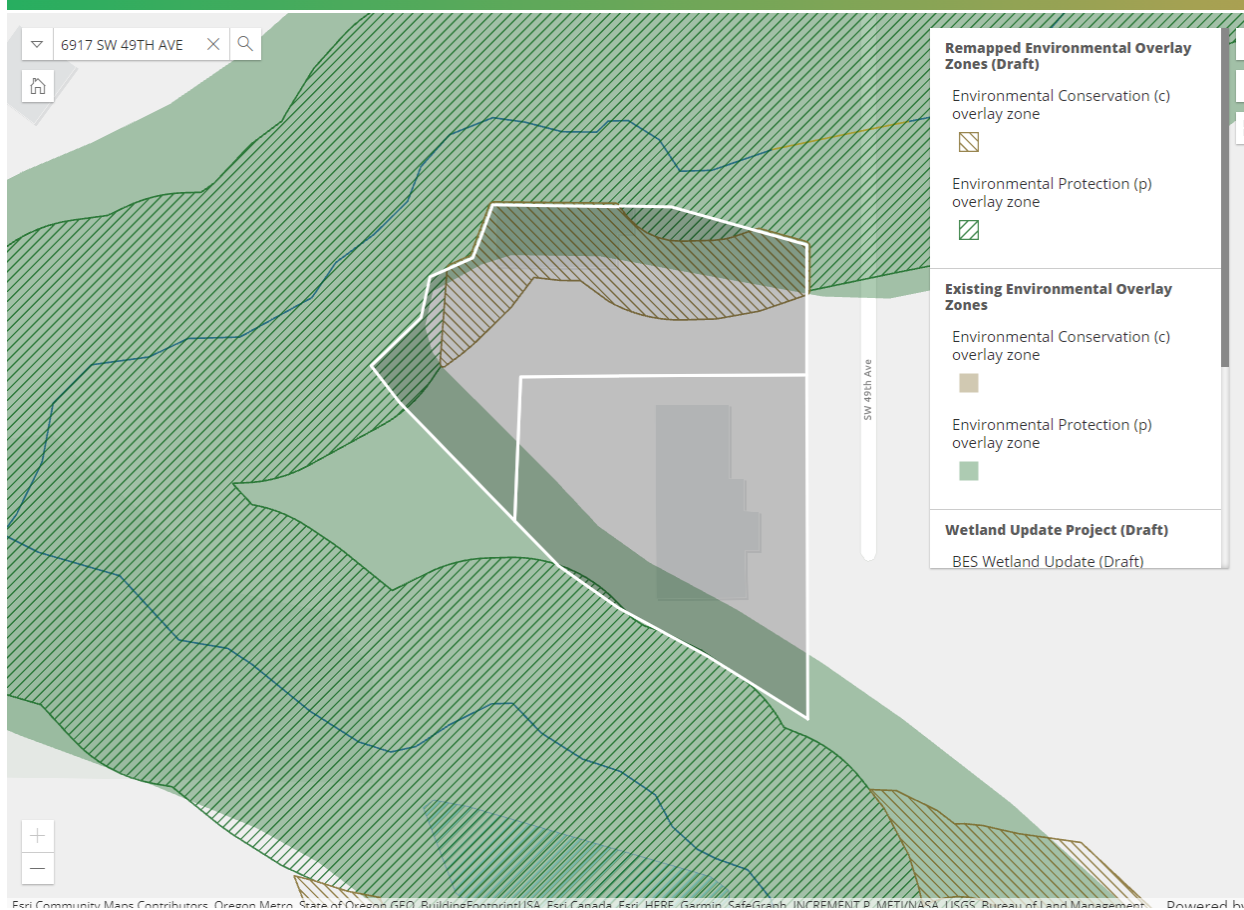
There are multiple streams that run through a natural area to the north of 4919 SW Texas. BES's preliminary wetland mapping showed that there was a large wetland complex that stretched across several different lots in the area around the streams. The wetland on 4919 SW Texas was part of the larger wetland complex.

BES, and their consultants, SWCA Environmental, did a series of site visits in the neighborhood at the request of several different property owners. Each of the site visits looked at different parts of the wetland complex. Some of the draft wetland mapping was confirmed through field verification, while other site visits resulted in the deletion of portions of the wetland complex.

At the request of the property owner, BES employees visited 4919 SW Texas in February of 2022 to review the wetland mapping. The BES employees did not provide a final determination on whether or not the feature is a wetland, but they determined that there are hydric soils and vegetation growing in the area that is capable of surviving in a wetland. Therefore, an additional field verification would be needed before a final decision could be made on the wetland mapping. BES has contracted with SWCA Environmental to do free wetland field verifications at the request of property owners. They will be working between March and June, and they plan to continue to offer free wetland field verifications in future years.

The results of the 2022 wetland mapping work will not be available until later in the year. If a field verification results in deletion of the wetland or edits to the wetland mapping, the ezones can be corrected through a quasi-judicial process that would take place separately from the Ezone Map Correction Project. If a correction is necessary, it will be processed by City of Portland staff through a process that is free to property owners. Property owners may also conduct their own wetland delineations and file the results with the Oregon Department of State Lands (DSL). If the DSL issues a concurrence decision for wetland mapping on any site, the City wetland inventory will be modified to match the results of the wetland delineation, and the ezones will be modified accordingly.

# 6917 SW 49<sup>th</sup> Avenue



**Testifier:** Dominic Corrado

**Property Owner:** Dominic Corrado and Maria Corrado

**Site Visit:** No site visit has been conducted, but project staff have been in communication with the property owner throughout the duration of this project. Staff participated in video chats and phone calls with the property owner, and they communicated by email a number of times. Ezone Project staff also met in 2020 with staff from BDS to research how an approved land use review would apply to Mr. Corrado's vacant lot if he was to ever attempt to build a house on it.

**Wetland Determination:** Yes, conducted by SWCA Environmental on April 17<sup>th</sup>, 2021. Result of wetland determination was the deletion of several wetlands that were mapped on the site and on portions of natural resource tracts that are located to the north and west of the developable lots. These changes in wetland mapping have reduced the extent of the draft ezones that apply to the site.

**Description:** The property owner has four lots on this site. Two are buildable lots: One 8,604 sq ft developed lot with a 3,533 sq ft structure, and one vacant and developable lot that is 8,354 sq ft that contains a 600 sq ft garage, and there are two natural resource tracts that can't be developed. The base zone is R7 and none of the lots can be divided. The property owner has an approved land use review that applies to the vacant lot that vests development on that lot in the

existing code with no expiration date (the fact that the LUR approval contains a clause that explicitly states that there is no expiration date is unusual. Most LUR approvals expire within 10 years, unless otherwise specified).

The proposal for the site is to update the ezones based on current natural resource mapping in order to be consistent with policy proposals throughout the project area. But as long as development complies with the requirements of the approved land use review, no zoning change can impact or restrict development on that lot. The protection policy is to apply a 'p' zone to streams and land within 50 feet of streams and land that is within 25 feet of wetlands. A 'c' zone is applied to land that is between 25 and 50 feet of wetlands. A 'p' zone to 'c' zone conversion has been manually applied by project staff to a portion of the undeveloped lot where future development is likely to occur.

**Testimony:** The property owner expressed disagreement with the proposed changes to the ezones on his lot, and to the methodology and process by which the Ezone Map Correction Project has been undertaken. He disagrees with the video conference format that was used for PSC hearings and with the 2-minute time allotment that is afforded to people that sign up to testify at hearings. He also argued that the resource mapping techniques that are being employed are inaccurate, and that the provisional remote mapping of wetlands places an undue burden on property owners and impacts property values unfairly, even if BES is offering free wetland determinations to verify wetland mapping in the field. He also disputes the wetland mapping on a neighboring lot. Testimony ID #331531, #331532, #331411, #331543

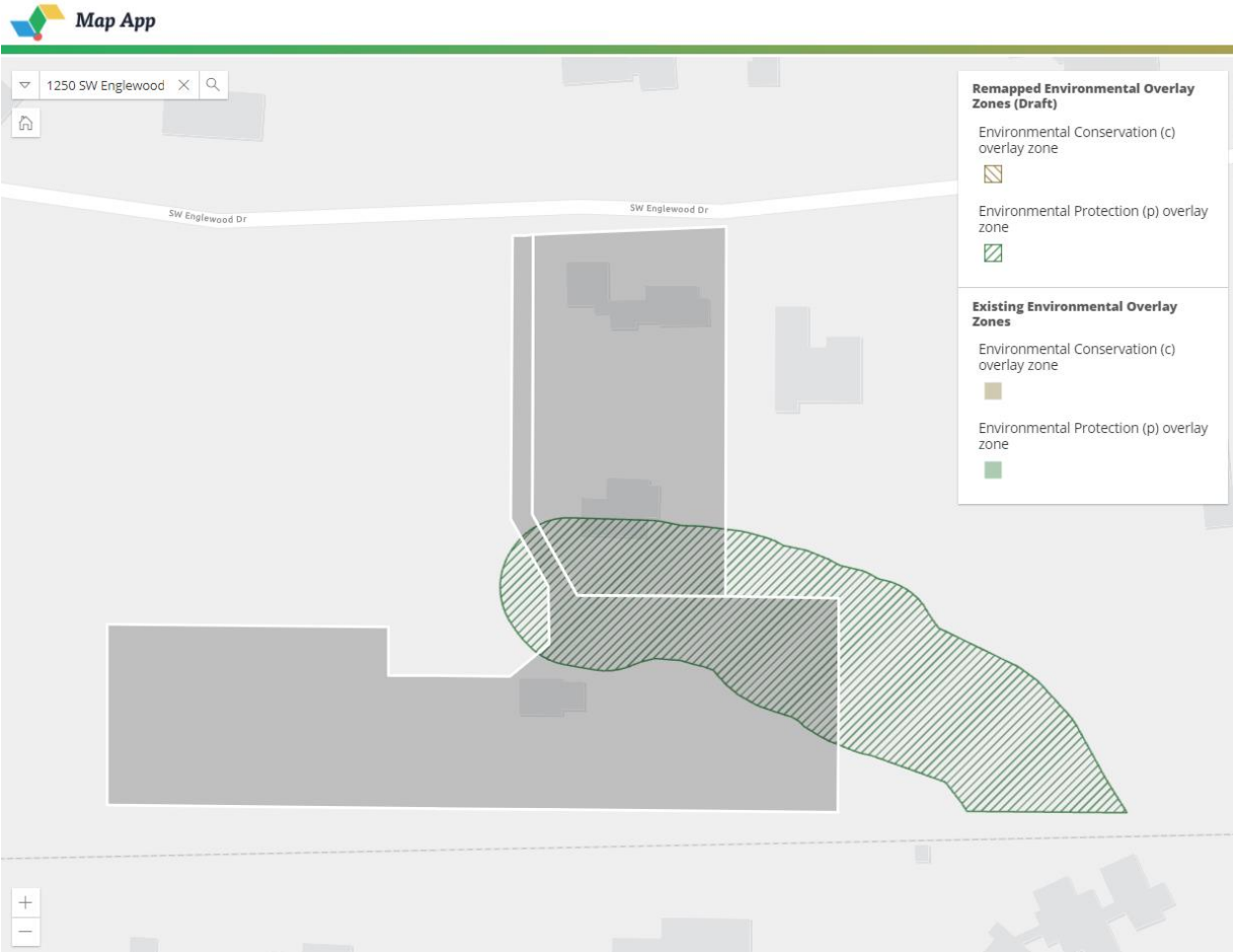
**Staff Response:** The ezone project proposals is to reduce the ezone coverage on the already developed lot. An approved land use review applies to the vacant buildable lot, which vests the lot in the zoning maps that were in place at the time of application for the land use review. The vesting effectively exempts the approved development on that lot from any impacts that would be imposed by changes in zoning on the site. None of the proposed changes to the ezones would have any impact at all on the existing development or future development on the Corrados' lots.

The property owner continues to dispute the mapping of a wetland on a neighbor's lot (4919 SW Texas St). While this wetland is located adjacent to a natural resource tract that is owned by the Corrados, all development on that tract would be prohibited by the terms that were stipulated in the approved land use review that applies to these lots (these conditions would apply regardless of whether ezones were mapped on these lots, and they are in no way conditioned on changes to wetland mapping). Also, all portions of the Corrados' tract that are within 50 feet of the wetland are also within 50 feet of a stream; therefore, portions of these lots would be located within a 'p' zone regardless of whether there was a wetland mapped adjacent to that tract. Under current zoning, the entire resource tract is already encompassed by the 'p' zone. The owner of 4919 SW Texas St has requested a wetland determination. BES or their consultants, SWCA Environmental will visit the site in the 2022 wetland season to verify the wetland mapping (see the site-specific response for 4919 SW Texas Street).

The Corrados make a number of other arguments about Portland's natural resource mapping methodology and the process by which the Ezone Project has been conducted. Project staff

have attempted to be clear and transparent about the process with members of the public, the Planning and Sustainability Commission, and City Council. Staff have attempted to provide the broadest possible public outreach and to make themselves available to review natural resource mapping throughout the duration of the project. The mapping techniques are consistent with methods that were adopted by City Council when the NRI was adopted as the factual basis for future zoning projects and comprehensive planning in 2012, and the mapping techniques are consistent with processes that are used regionally and nationally.

# 1250 SW Englewood



**Testifiers:** Karen Rafnel, Dennis Harris

**Property Owner:** Karen Rafnel and Dennis Harris

**Site Visit:** Yes, 8/24/20

**Wetland Determination:** Consultants from SWCA Environmental conducted a wetland determination in 2021 and verified wetland mapping on the site.

**Description:** The site consists of two lots, both under the same ownership. The northern lot is 0.92 acres (40,073 sq ft) with 4,782 sq ft of existing building area. The southern lot is 1.90 acres (82,764 sq ft) with 660 sq ft of existing building area. The base zone for both is RF. There is a wetland on this site. The protection policy is to apply 'p' zone to wetlands and land within 50 feet of wetlands.

**Testimony:** The property owner contends that the wetland that has been identified, and field verified on the site is not actually a wetland. The owner argues that application of the p-zone in this area will adversely impact their ability to maintain and alter the existing gravel road, loading pad, flag road for the southern lot, and firetruck turnaround. The property owner also contends that they have been unable to review the soil and plant data that were used to make a wetland determination on the site. They also say that they have not received any response in regard to

the testimony that they have submitted previously. If ezones are applied to their site, they argue, it will make development of the vacant lot more difficult. They received permission from Multnomah County to carve off the lot for future development, and they do not believe that it is appropriate to make changes to zoning on that lot that after the land use decision has been rendered. Testimony ID 331471, 331472, 331477, 331478, 331479, 331483, 331584.

**Staff Response:** Project staff visited the site and met with the homeowners in August of 2020. Since the site visit, staff have continued to have email correspondence with the property owners and have responded to all questions and inquiries promptly.

The wetland mapping on the site was field verified by employees of SWCA Environmental in accordance with the protocols that have been employed in the Wetland Inventory Project. At the request of the property owner, Bureau of Environmental Services staff provided data sheets and maps that were produced by SWCA staff to document the onsite wetland determination. These records were transmitted as email attachments to the property owner on July 22, 2021.

The wetland determination data sheets note the existence of wetland hydrology, redoximorphic soil conditions that indicate seasonal saturation, and hydrophytic plant dominance in two of the six study plots that were tested by SWCA staff. The results of the field sampling were used to modify and verify the wetland mapping on the site. Wetland mapping was adjusted or deleted in areas where wetlands were not confirmed to be present, and they were retained in locations where wetland mapping was field verified. The wetland appears to be the headwater of a tributary that flows into Tryon Creek.

Property owners that disagree with wetland mapping that has been field verified may conduct an independent wetland delineation on their property. If the results of a wetland delineation conflict with wetland mapping in the Natural Resource Inventory, and if the Oregon DSL concurs with the results of the delineation, the results will supersede the previous wetland determination and the wetland inventory will be modified accordingly.

Even though existing development is vested on the site, project staff are proposing a manual conversion from p to c zone in the area where there is an existing gravel driveway and vehicle parking area. With a conversion, if paving or other changes are required to the vehicle areas as part of a future development, these improvements would potentially be approvable through the environmental review process.

1250 SW Englewood – Wetland Mapping Before Field Verification:



**THE BUREAU OF PLANNING & SUSTAINABILITY**  
**Environmental Overlay Zone Map Correction Project**

Water Features - January 2021  
 Before Wetland Determination

1250 SW Englewood Dr

**Legend**

- taxlots
- piped stream segment
- open stream channel
- Wetlands
- building footprints

**DRAFT**

July 21, 2021

The information on this map was derived from digital databases. Care was taken in the creation of this map but it is provided "as is". The City of Portland ensures meaningful access to city programs, services, and activities to comply with Civil Rights Title VI and ADA Title II laws and reasonably provides: translation, interpretation, modifications, accommodations, alternative formats, auxiliary aids and services. To request these services, contact 503-823-7700, City TTY: 503-823-6968, Relay Service: 711.

0 65 130 Feet



1250 SW Englewood – Current Wetland Mapping, After Field Verification:



**THE BUREAU OF PLANNING & SUSTAINABILITY**  
**Environmental Overlay Zone Map Correction Project**

Water Features - July 2021  
 After Wetland Determination

1250 SW Englewood Dr

**Legend**

- taxlots
- piped stream segment
- open stream channel
- wetlands\_pdx\_wip\_210713
- building footprints

**DRAFT**

July 21, 2021

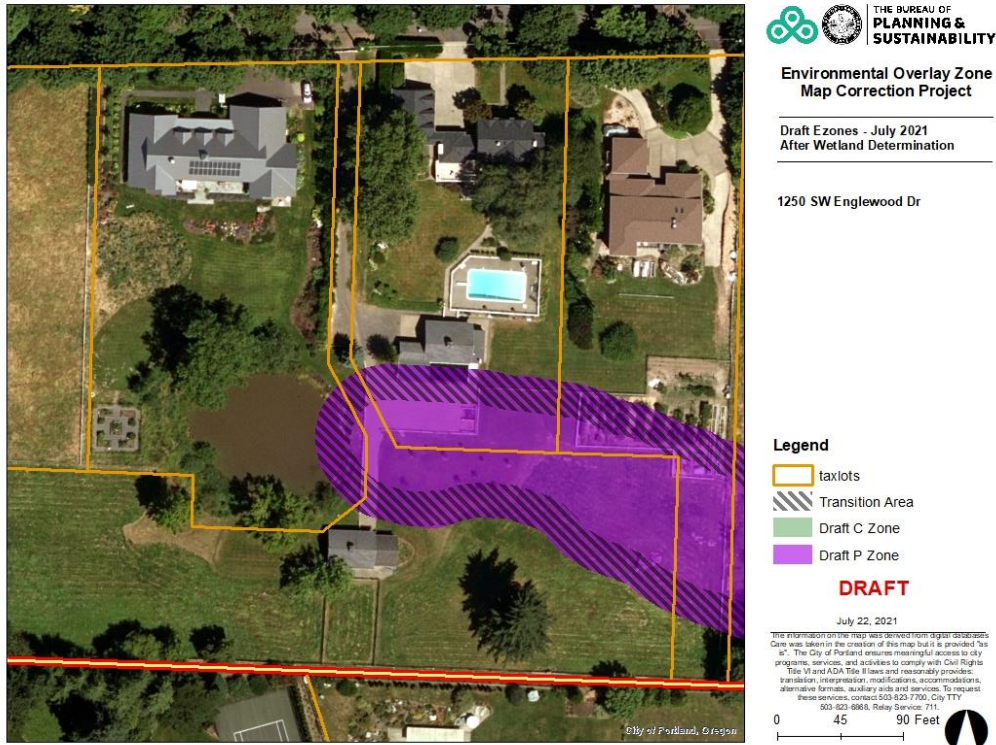
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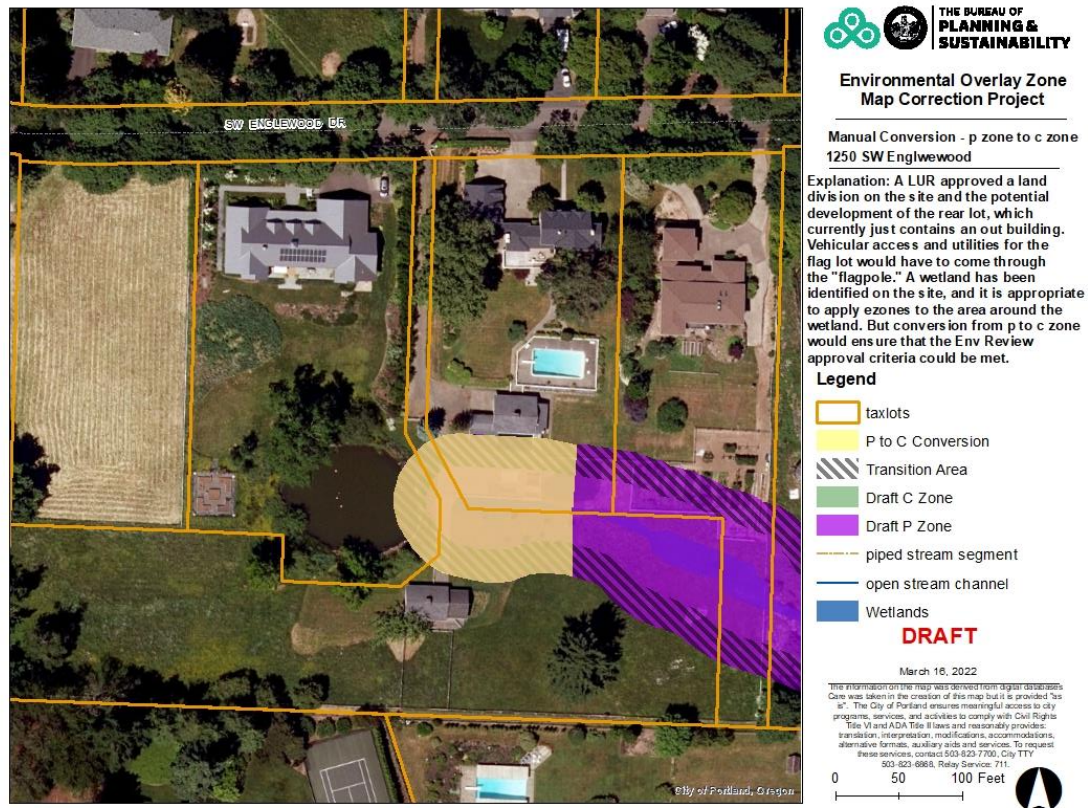




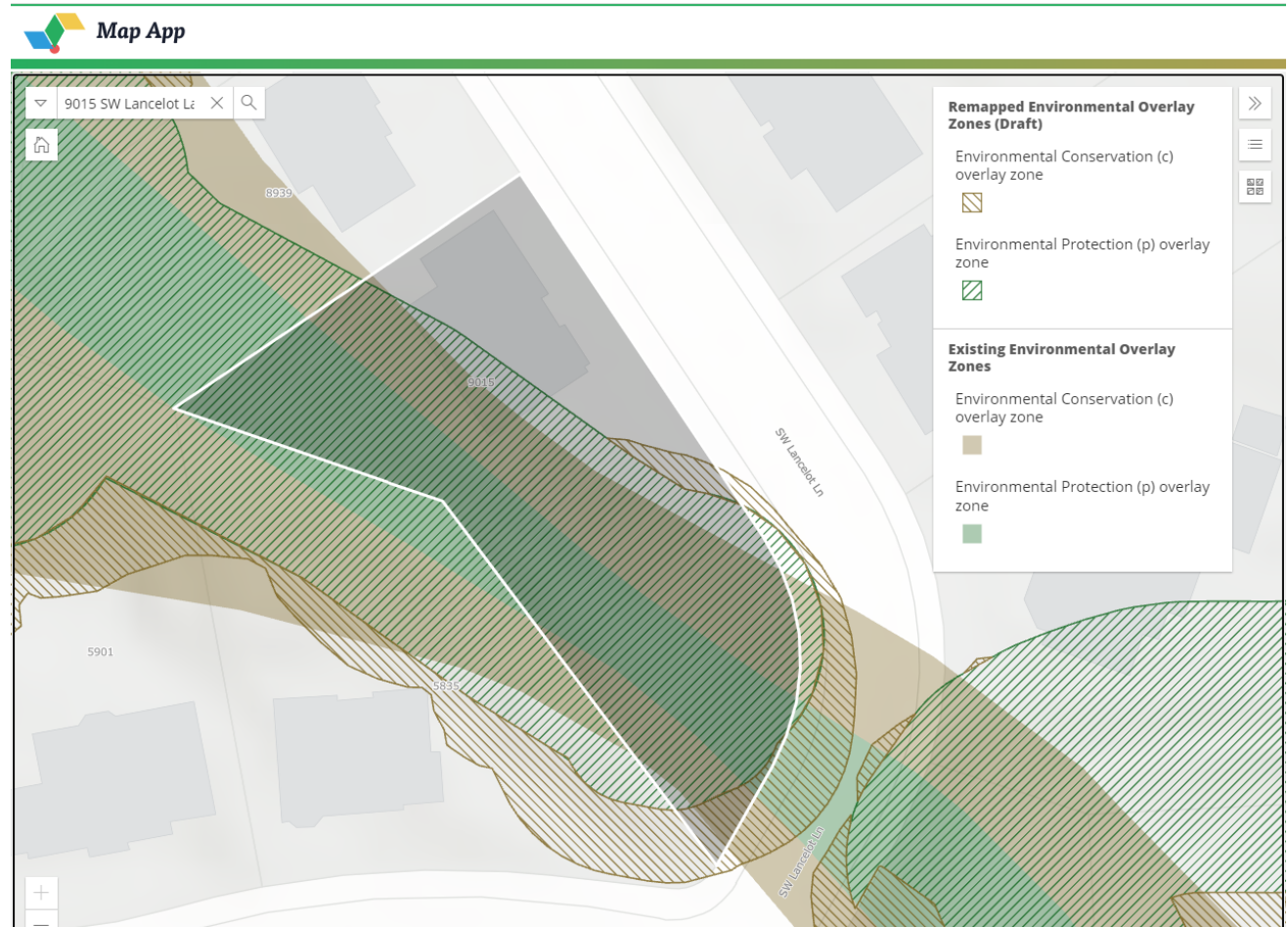
1250 SW Englewood - Draft Ezones, as Currently Mapped:



1250 SW Englewood – Proposed Manual Conversion from p zone to c zone:



## 9015 SW Lancelot Lane



**Property Owner:** Peter Trumbo and Michelle Trumbo

**Site Visit:** BPS staff visited the site on February 17, 2022. After reviewing the proposed ezones, staff are recommending a manual conversion from p zone to c zone on a portion of the lot.

**Description:** The lot is approximately 19,220 sq feet and it is located in the R10 base zone. At maximum density, it could theoretically be divided into two lots.

A stream runs in a deep ravine behind the house, and there are riparian wetlands that are mapped in the area around the stream bed. Protection zone is applied to the stream and land within 50 feet, and to the wetland and land within 25 feet. Conservation zone is applied to land that is between 25 and 50 feet of the wetland.

**Testimony:** The property owners expressed concern that the proposed ezones would prevent additional development on the lot and could prevent them from making additions or alterations to the house, such as the installation of an elevator. Testimony ID 331400.

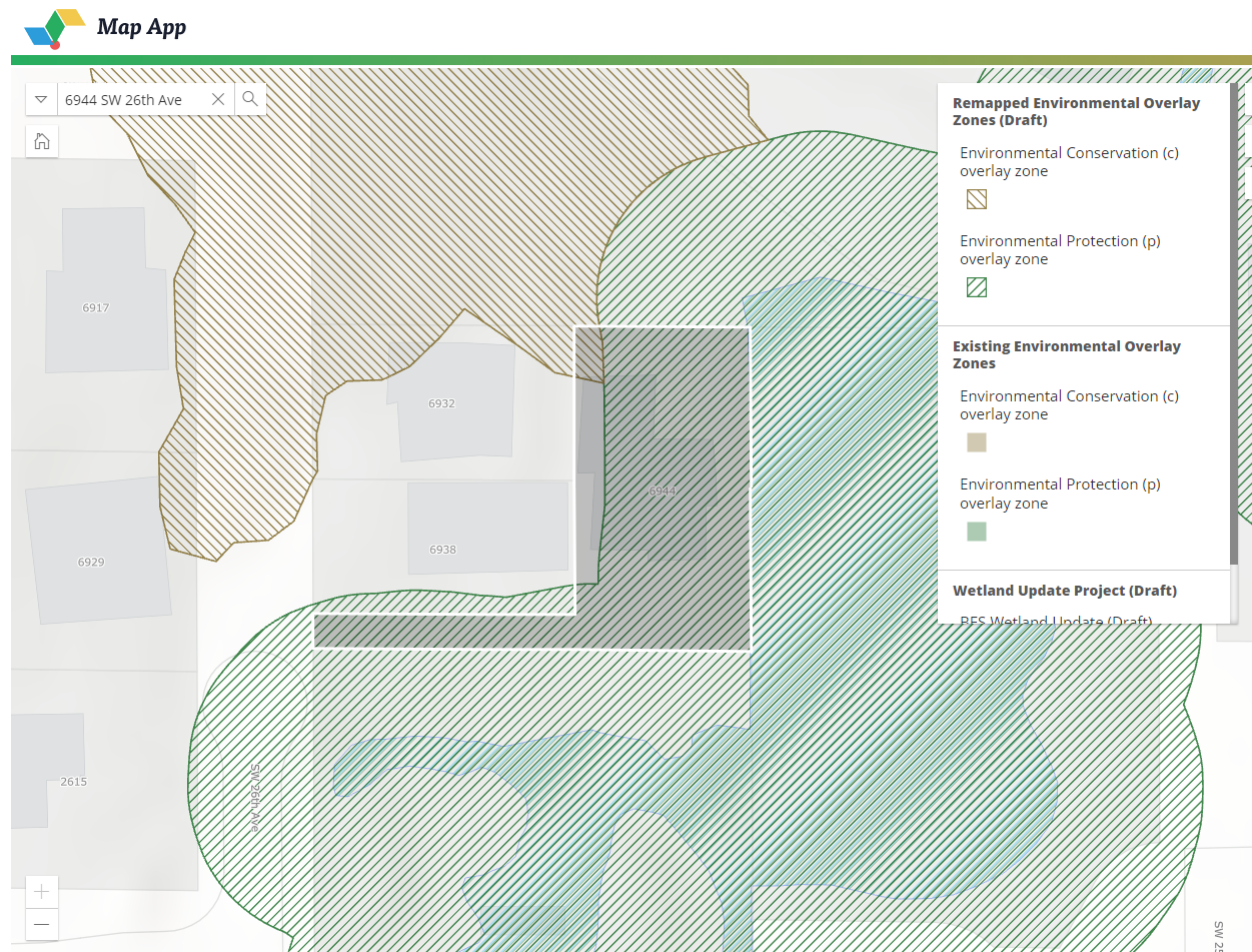
**Staff Response:** When staff visited the site, they concurred that the proposed ezones are highly constraining. Because 70% or more of the lot is covered by draft protection zone, and the lot is dividable, the site qualifies for a manual conversion from protection zone to conservation zone.

A description of the manual conversion methodology is located in Appendix B of Volume 3 of the Ezone Map Correction Project. The converted area could be used for alterations to the existing development or for the addition of an ADU or small second home on the site. The area of the conversion is adjacent to the right of way and near the existing development on the site.

Draft environmental overlays. Area of proposed p to c conversion is highlighted in yellow:



# 6944 SW 26th Ave



**Property Owner:** Stephen Piacentini and Karen Piacentini

**Site Visit:** No

**Description:** The lot is approximately 7,812 sq feet and it is located in the RM1 base zone. The existing building on the lot is 2,360 sq ft. The RM1 base zone is a multidwelling zone. The lot could be redeveloped with building coverage of up to 7,812 sq ft with no limit on the total number of units.

A complex of wetlands wraps around to the east and the south of the lot, a stream is mapped in the southeast corner of the lot, and there is a patch of forest vegetation that is contiguous to the stream and wetland complex. Protection zone is applied to the stream and wetlands and land within 50 feet of the stream and wetlands. Conservation zone is applied to forest vegetation that is contiguous to the stream and wetlands and located more the 50 feet away.

**Testimony:** The property owners expressed concern that the proposed ezones would make it difficult to do alterations to their house. Testimony ID 331419.

**Staff Response:** The lot is highly constrained by the proposed ezones. More than 70% of the lot is covered by the draft protection zone, and because it is located in a multidwelling zone, the lot

theoretically has additional development capacity. Therefore, project staff recommend the application of a manual conversion from protection zone to conservation zone on the entire lot, except for a strip that varies in width between 5.5 and 8 feet along the rear lot line.

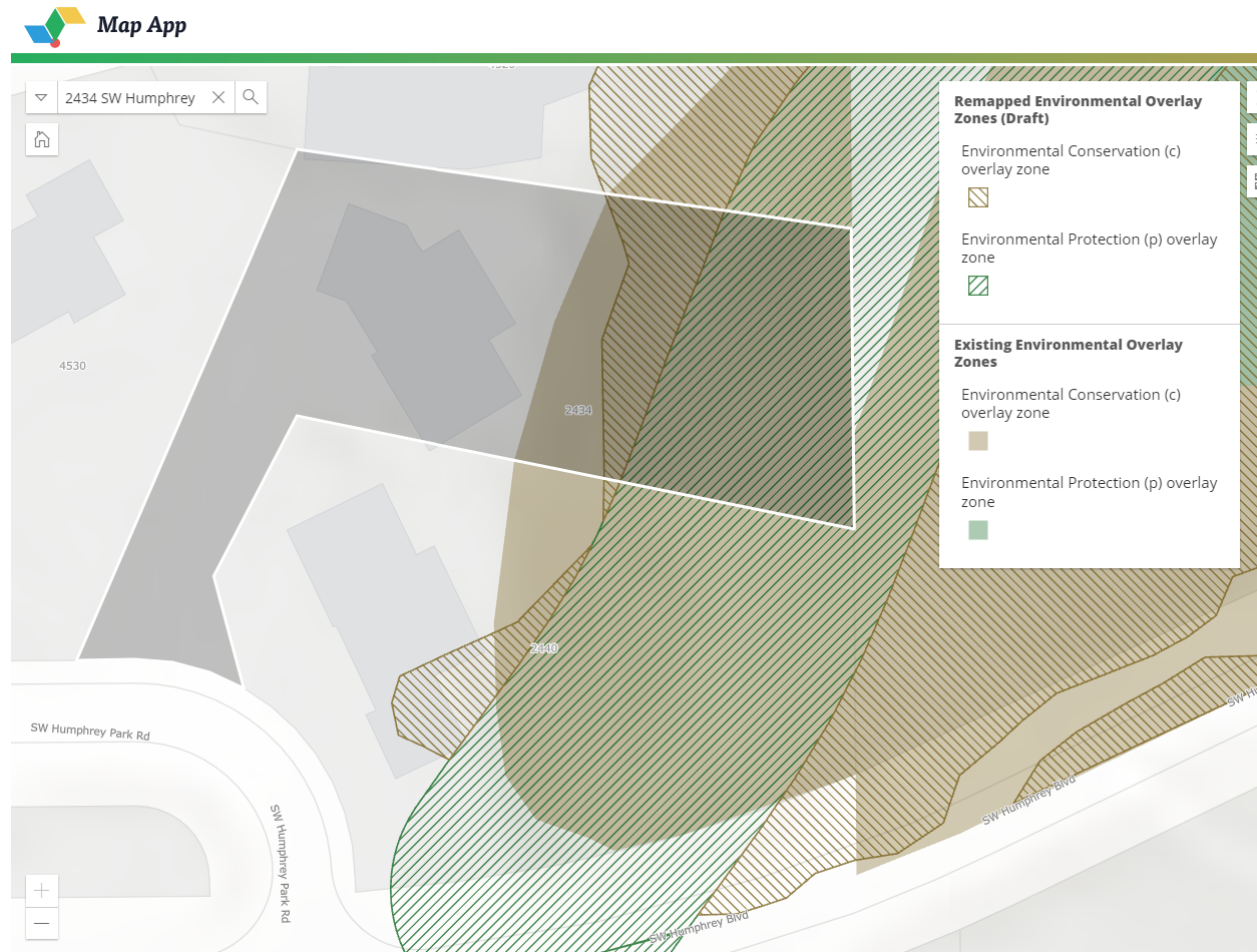
With this conversion, redevelopment or expansion of the development footprint on the lot could happen. Some development activities could be allowed on the site by standards, and the environmental review process would allow activities that could not meet standards. A description of the manual conversion methodology is located in Appendix B of Volume 3 of the Ezone Map Correction Project.

Recommended manual conversion from protection zone to conservation zone:



If the recommended change is adopted, the majority of the proposed protection zone on the site would be converted to conservation zone.

## 2434 SW Humphrey Park Rd



**Property Owner:** Ryan Quinn

**Site Visit:** No

**Description:** This is a developed residential lot. There is a stream that runs through the eastern half of the lot, and forest vegetation surrounds the stream. Under current zoning, the eastern half of the lot is covered by conservation zone. The Ezone Project is proposing to apply a protection zone to the stream and land within 50 feet of the stream, and a conservation zone to forest vegetation that is contiguous to the stream. If the draft ezones are adopted as proposed, the total ezone coverage on the lot would be reduced from what it is under current zoning.

**Testimony:** Expressed concern about the potential impact that the proposed changes to ezones could have on the neighborhood. Worried that ezones will prevent neighbors from maintaining their homes and properties. Says he wants to make sure that neighbors can maintain their properties in "top shape." Worried that permitting and maintenance costs will increase as a result of the ezone project. Testimony ID 331420.

**Staff Response:** The testimony did not make any specific mention about the draft ezones that would apply to this specific lot, nor did it question the veracity of the natural resource mapping

or the draft ezones that are mapped on the site. The main concern that was expressed seemed to be that people should be able to maintain their existing development in the neighborhood.

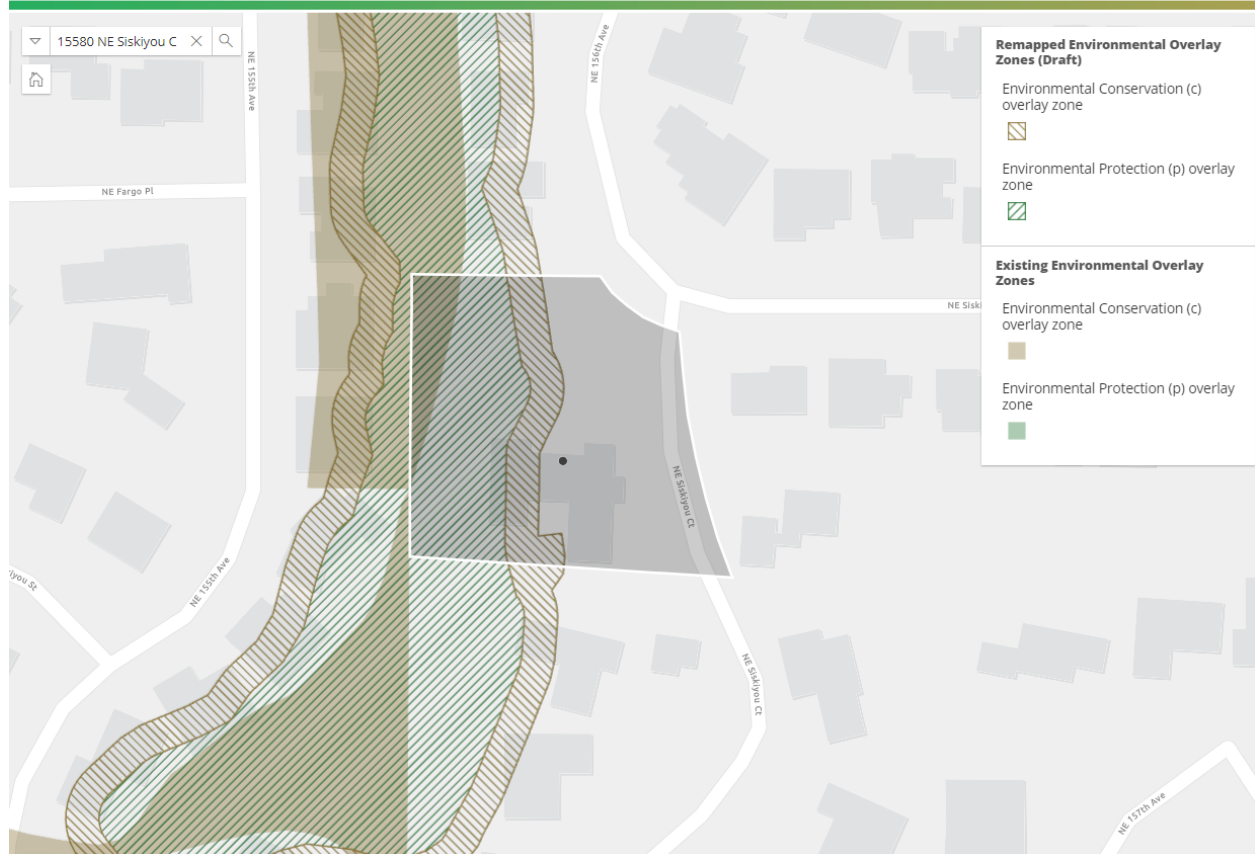
Maintenance of existing development is categorically exempt from the code that applies to the ezones. There are specific exemptions that allow for the maintenance of existing lawns, gardens, and landscaped areas. Because these activities are exempt, there are no special permitting requirements that apply to continued maintenance of existing disturbance areas.

There are also specific exemptions that allow for the continued maintenance, repair, and replacement of existing homes, buildings, structures, paved areas, and other types of development. The ezones do not impose any additional burdens or restrictions on the maintenance and upkeep of existing development that would apply in any other part of the City of Portland.

There are, however, limitations that apply to expanding development into previously undeveloped areas. Creation of new disturbances in areas that were not previously developed or maintained as part of existing development would be subject to permitting requirements, and would either have to meet standards or be approved through the environmental review process.

The concerns and fears that were raised in the testimony seem to be founded in a misunderstanding of how the standards and exemptions apply to the ezones on developed lots. The Ezone Project isn't proposing any changes to the code that would increase the difficulty or complexity of the permitting process, and the mapping of the draft ezones is based on improved natural resource mapping and is intended to be consistent with previously adopted ezone mapping policies.

# 15580 NE Siskiyou Ct



**Testifier:** Donald Bowerman on behalf of the property owners

**Property Owner:** William and Margret Bitar

**Site Visit:** Yes, 9/28/20. While on site, project staff observed that the mapped top-of-bank appeared to extend too far onto the property. Staff made edits to the natural resource inventory data to realign the top-of-bank with a clearly observable retaining wall, which bounds the low-lying area around the stream. Despite the fact that staff made this edit to the mapped top-of-bank, the property owner still contends that the stream is not mapped correctly on the site.

**Wetland Determination:** Yes, SWCA Environmental conducted a wetland determination at the request of the property owner in the spring of 2021. They verified that there is a riparian wetland in the low-lying depression around the stream. The area where the wetland has been verified to be located covers the majority of the area that is bounded by the mapped top-of-bank of the stream.

**Description:** The site is 1.07 acres (46,609 sq ft) in size, with an existing 5,778 sq ft house. The base zone is R7 and the site is potentially dividable. There is a stream and a wetland on the site. The protection policy is to apply a 'p' zone to the wetland, stream, and land within 25 feet; and a 'c' zone to land between 25 and 50 feet of the wetland and stream. On this site, the 'c' zone is the transition area and can be further developed if the standards of 33.430.140 are met. The mapping of the wetland on the site has been field verified. The wetland is located within an area that is bounded by the top of bank of the stream.



**Testimony:** There are two primary issues that are raised by Donald Bowerman on behalf of the property owners: 1. They dispute the mapping of the top of the stream bank. 2. They dispute the wetland mapping. The testimony points out that there are already a number of zoning restrictions that apply to the site, and that the Ezone Project is proposing to apply additional restrictions based on updated natural resource mapping. Testimony ID 331421, 331575

**Staff Response:** The standard application of 'p' zones to wetlands and streams is consistent citywide policy to protect water storage and flow, which is particularly important for Wilkes Creek which is the only remaining open cold-water input to the Columbia Slough. The existing house and associated structures can stay, be maintained and repaired, and be replaced in the current footprint. This site is large enough to be divided and there is sufficient space outside of the proposed ezones for residential development if the lot was divided to create one or more new lots fronting NE 156<sup>th</sup> Ave. It would also be possible to build an ADU or other structure in the area to the north of the existing house that is outside of the proposed protection zone without a land division.

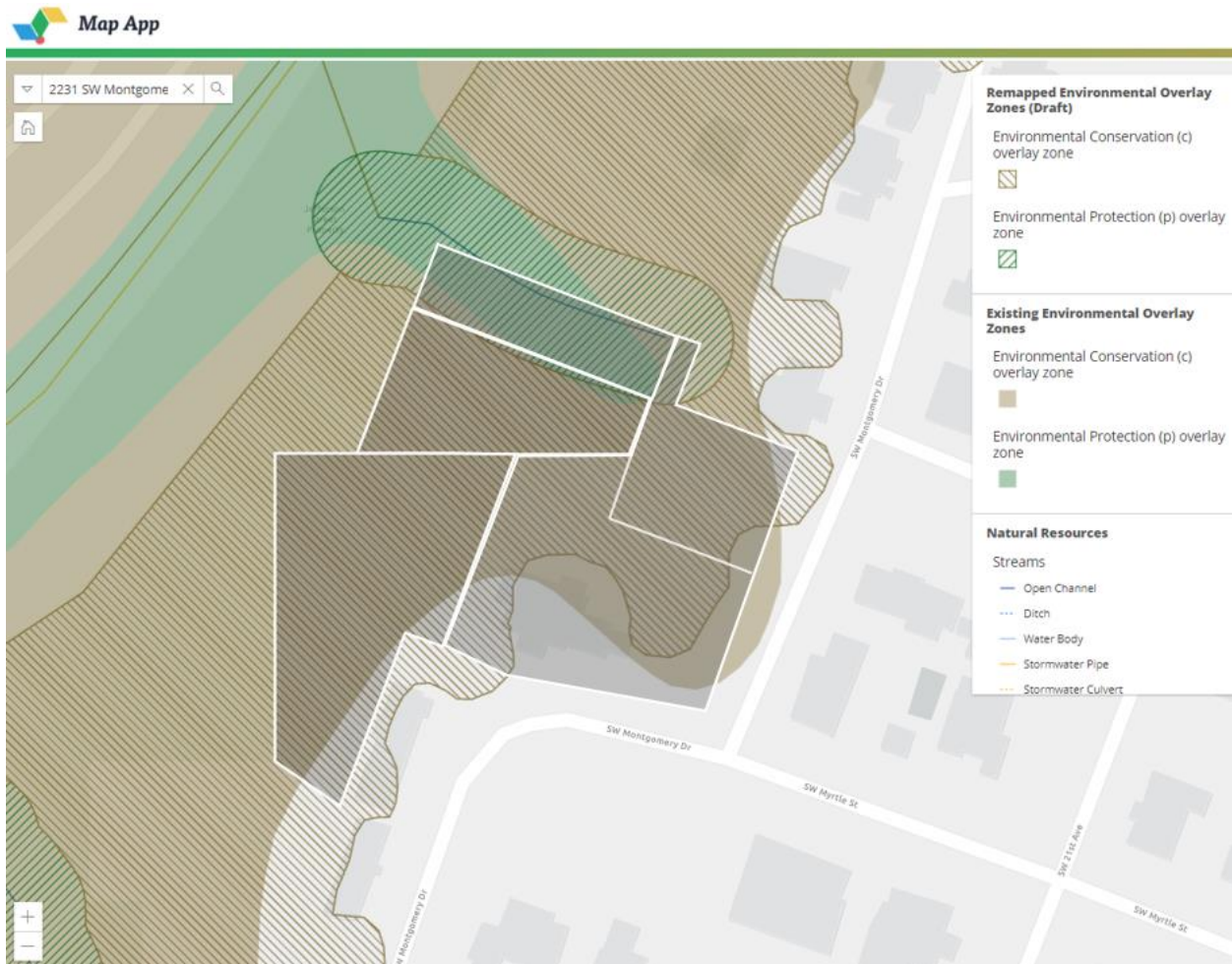
The mapping protocols that apply in resource site EB15 apply the 'p' zone to all streams and land that is within 25 feet from the top-of-bank, and they apply the 'c' zone to land between 25 and 50 feet of the top-of-bank. The same mapping protocols apply to wetlands on the site. Whichever feature extends further onto the site, the mapped stream or the mapped wetland, will determine how far the proposed ezones extend onto the site.

Both the stream bank mapping and the wetland mapping are subject to verification, and they can be corrected if they are found to be in error. The wetland has been field verified by staff from SWCA Environmental, who visited the site at the request of the property owner in the spring of 2021. If the property owner contends that the wetland mapping is still not correct, they may hire a private consultant to conduct a wetland delineation on the site. If the results of a wetland delineation conflict with the results of the SWCA wetland determination and the Oregon DSL concurs with the delineation, the results will supersede the WIP wetland mapping.

The top-of-bank of Wilkes Creek has been mapped by Bureau of Planning and Sustainability GIS staff through the application of a computer model to LiDAR terrain mapping. If the property owner independently conducts a stream bank survey and follows approved methodology that is defined in Portland Zoning Code (33.930.150), the survey results will supersede the mapped top-of-bank on the site. The proposed ezones can be adjusted to reflect any changes to wetland or stream bank mapping, either by amendment at City Council hearings, or by using the Map Error Correction process (33.855.070.A) after the Ezone Map Correction Project has concluded.

If property owners provide stream bank mapping or wetland delineation results that conflict with the data that is being used to map the ezones, City staff will process map error corrections for free through a quasi-judicial land use review process.

## 2231 SW Montgomery Drive



**Testifier:** John Rabkin

**Property Owner:** John Rabkin

**Site Visit:** September 2, 2021. Project staff confirmed the forest canopy mapping and determined that the stream that was thought to be located on the site does not actually exist. The stream was deleted from the natural resource inventory, and the draft ezones have been updated to reflect this change.

**Description:** The site is 0.35 acres (15,246sq ft) in size, with an existing 6,262 sq ft structure. The base zone is R10. The lot is not dividable. The protection policy is to apply a 'c' zone to forest vegetation contiguous to but more than 50 feet from the top-of-bank of streams. The conservation zone is being remapped on the site to follow the edge of the forest canopy. The proposed changes to the 'c' zone would not result in a significant increase in the amount of lot that is covered by ezones. The property owner also owns 4 additional vacant lots that are contiguous to the existing, developed lot.

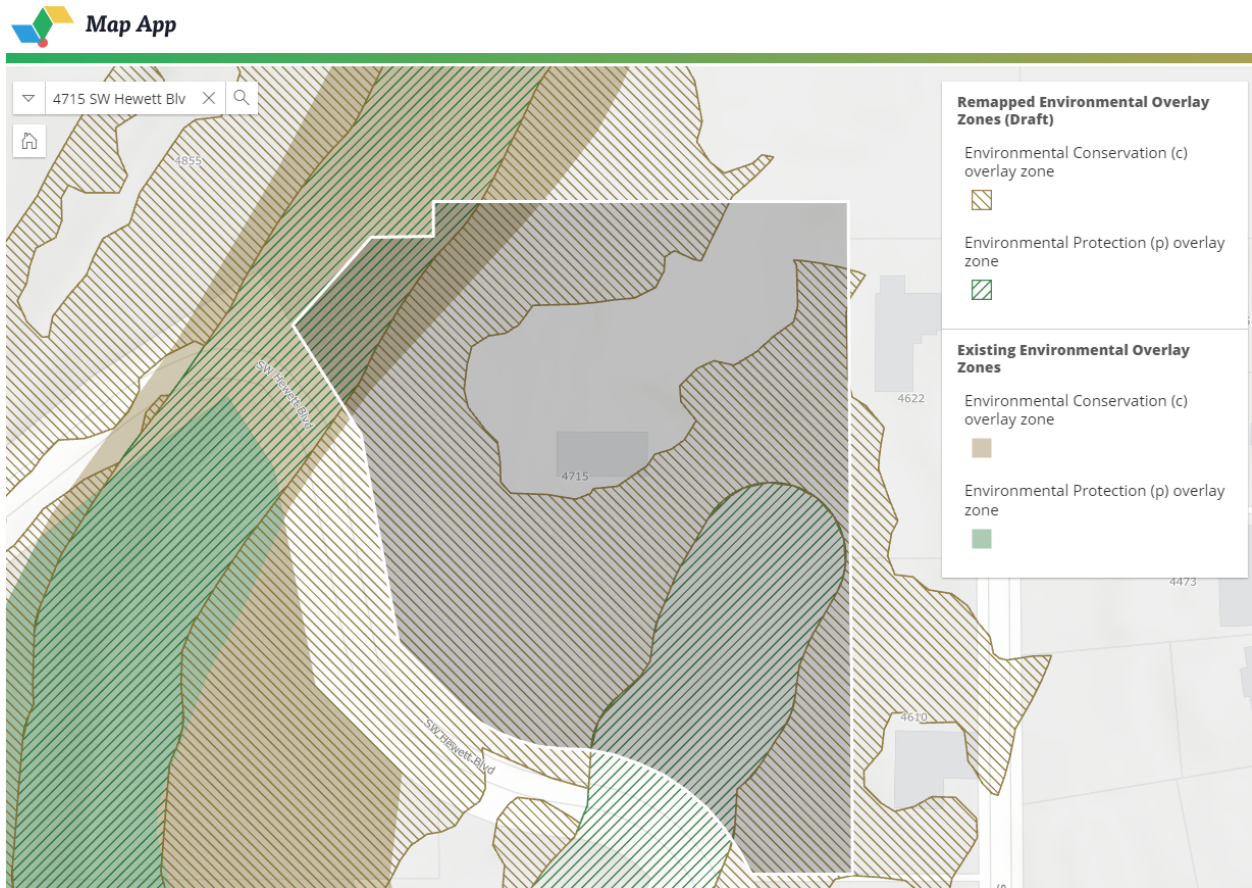
**Testimony:** The property owner does not agree with the methodology that is used to map the 'c' zone and does not think that it should be applied to portions of lots that are developed and/or being maintained by property owners. He also argues that the methodology that is used to apply the conservation zone to forest canopy incentivizes people to remove trees. Testimony ID 331549

**Staff Response:** The location of the 'c' zone is based on forest canopy mapping. Because the mapping methodology adopted in 2012 in the Natural Resources Inventory uses tree canopy, it does not matter what is under the canopy. The reason why the canopy is used is because it is a proxy for the root zone, which, if impacted by development, could hurt or kill the tree, and because the canopy is providing a number of important functions like attenuating rainfall, reducing the risk of landslides and erosions, cooling the air, reducing heat island effect, and providing habitat.

There are exemptions in the code that apply to the ezones that allow for the continued use, maintenance, and replacement of existing development, such as buildings, structures and lawns. Expansion of buildings or disturbed areas on the lot would be allowed without restriction on portions of the lot that are outside of the ezones or in the transition area (with mitigation). Within the resource area of the ezones, new disturbance area or building expansion would either have to meet standards and be mitigated or be subject to environmental review.

Project staff conducted a site visit with the property owner on September 2, 2021. They reviewed the natural resource mapping on the developed lot and 4 contiguous lots that are under the same ownership. Staff confirmed that the forest canopy was mapped correctly, though some of the mapped forest does encompass portions of the understory that are landscaped, as well as existing retaining walls and other structures. While onsite, staff also reviewed the water feature mapping on the site. Staff found that a stream that was mapped on one of the undeveloped lots does not actually exist. The stream will be deleted from the NRI. Three of the five lots have no access to the right of way and are located on extremely steep slopes. The vacant lots likely could not be developed as currently configured. But a lot line adjustment could allow for the lots to be reconfigured to allow several houses to be built on portions of the lot that is currently developed and on portions of one of the vacant lots that is reasonably flat, and which has direct access to the right of way. The ezones that are mapped on the site would not prevent a lot line adjustment or additional development on the site.

## 4715 SW Hewett Blvd



**Testifier:** Robert Torch and Susan Torch. James Howsley also submitted testimony on behalf of the property owners.

**Property Owner:** Robert Torch and Susan Torch.

**Site Visit:** Yes, 2-18-2022 and 3-2-2022. Project staff made edits to stream mapping and vegetation mapping. Site visit resulted in a substantial reduction in the area that is covered by the draft ezones on the site.

**Description:** Developed residential lot. Site is around 3 acres in size and could be divided into up to six lots. Lot is located in resource site FC2. The mapping protocol in FC2 is to apply p zone to streams and land within 50 feet and to apply c zone to forest vegetation that is contiguous to streams and located between 50 and 200 feet of streams.

**Testimony:** Property owners argue that the proposed changes to the ezones on the site would restrict their ability to divide the site and do additional development. They expressed concern over whether the ezones were mapped correctly on the site and whether they would be able to continue to maintain the development on the site, including buildings, driveway, and vegetation management, if the proposed ezones are adopted. 331555, 331474, 331475, 331540, 331494

**Staff Response:** Staff visited the site two times and are proposing several significant changes to the natural resource mapping:

1. Staff located the headwater of the stream in the southeast corner of the lot. On the basis of the field observations, the stream mapping will be edited, and the length of the stream segment that is located in the southeast corner of the lot will be reduced. This proposed edit will reduce the amount of p zone that is proposed in that area of the lot.
2. Staff are proposing to reclassify the vegetation patch that intersects with the southeast corner of the lot. The vegetation classification was previously "forest." It is now being reclassified as "woodland." The difference between the forest and the woodland classification is the amount of canopy coverage in a mapped vegetation patch. If the tree canopy covers between 30-60% of the patch, it is classified as woodland. If the tree canopy is >60%, it is classified as forest. There were areas of the patch in which the trees appeared to be sparse, and the canopy coverage was incomplete. The c zone is applied to forest vegetation that is contiguous to streams, but not woodland vegetation.
3. Staff are proposing to make edits to the remaining forest vegetation that is mapped on the site. Staff observed that several large trees were isolated and not contiguous to the larger forest patch. They also found that the forest patch included some areas of low structure and shrubby vegetation, which should not be included in the mapped forest based on the established protocol. These areas and the isolated trees were excluded from the forest patch.

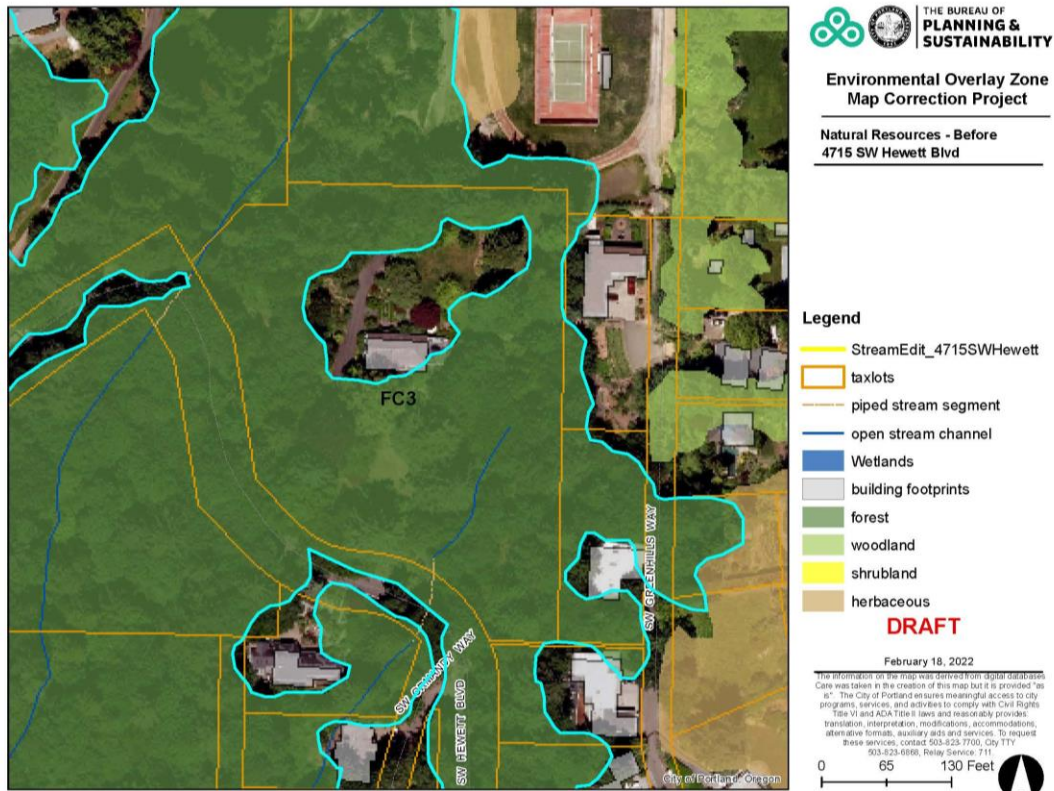
The result of the edits that staff are proposing would be significant reductions in the draft ezones that are proposed for the lot. If the amendments to the natural resource mapping are adopted, there will be less draft conservation zone and less draft protection zone on the site than there was prior to the site visits. But the proposal will still be an increase in the overall ezone coverage on the site compared to the existing ezones.

If the draft ezones are adopted, the site would still be dividable into up to six lots. Further development would possible on the site.

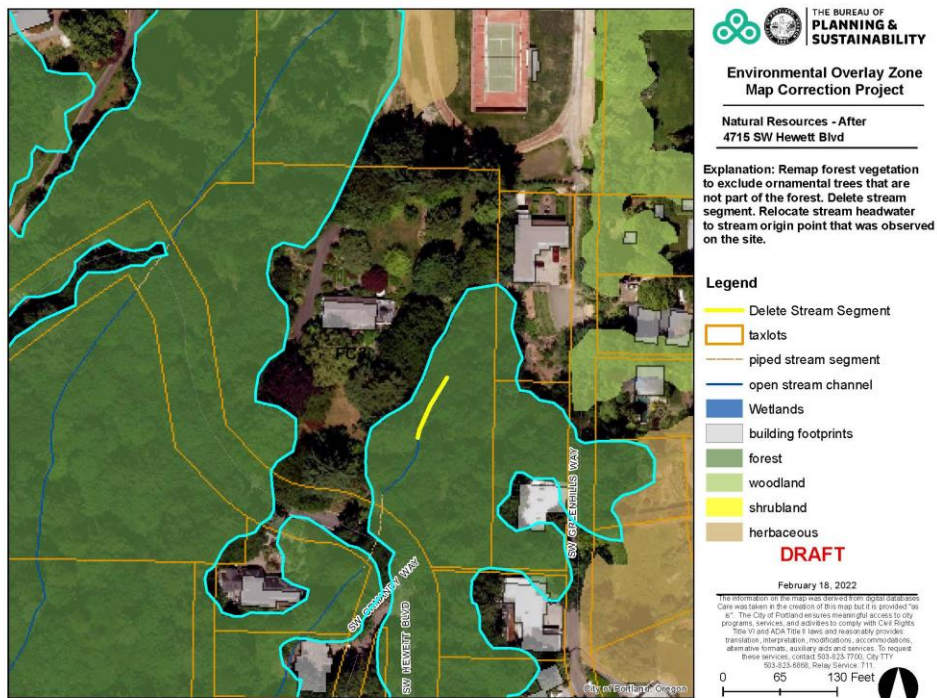
Staff believe that many of the concerns that were raised in the testimony regarding permitting requirements, cost that would be required to produce documentation as part of permit applications, and fears that the ezones would prevent the property owners from continuing to maintain buildings, structures, driveways, landscaping, and remove invasive vegetation are unfounded or arise from a misunderstanding of the code that applies to the ezones. Staff has made a concerted effort to correct these misunderstandings through conversations with the property owners.

While plan checks are required to ensure that permits for development on sites with ezones meet standards, the documentation for these plan checks can, in many cases, be met by scaling the lines on zoning maps. Full site surveys are not necessarily required, as the property owners contend, but they may be submitted as supplemental information at the discretion of the applicant. And the ongoing maintenance of existing, lawns, landscaping, gardens, buildings and other development is categorically exempt from the ezones.

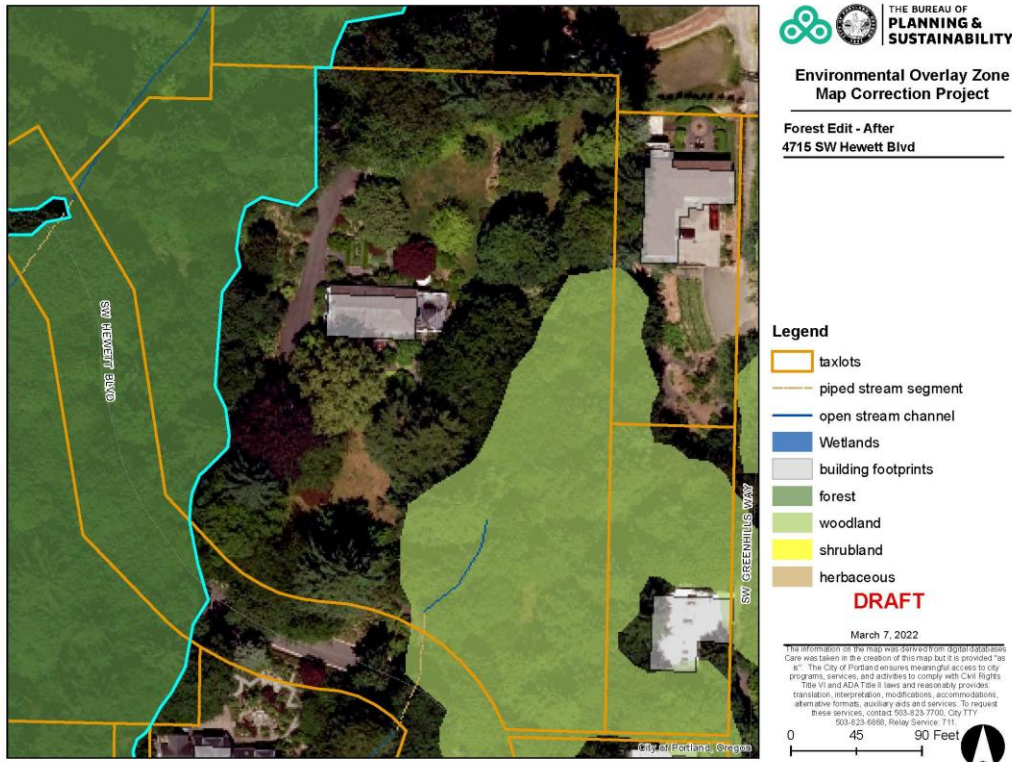
Natural resource mapping before the first site visit:



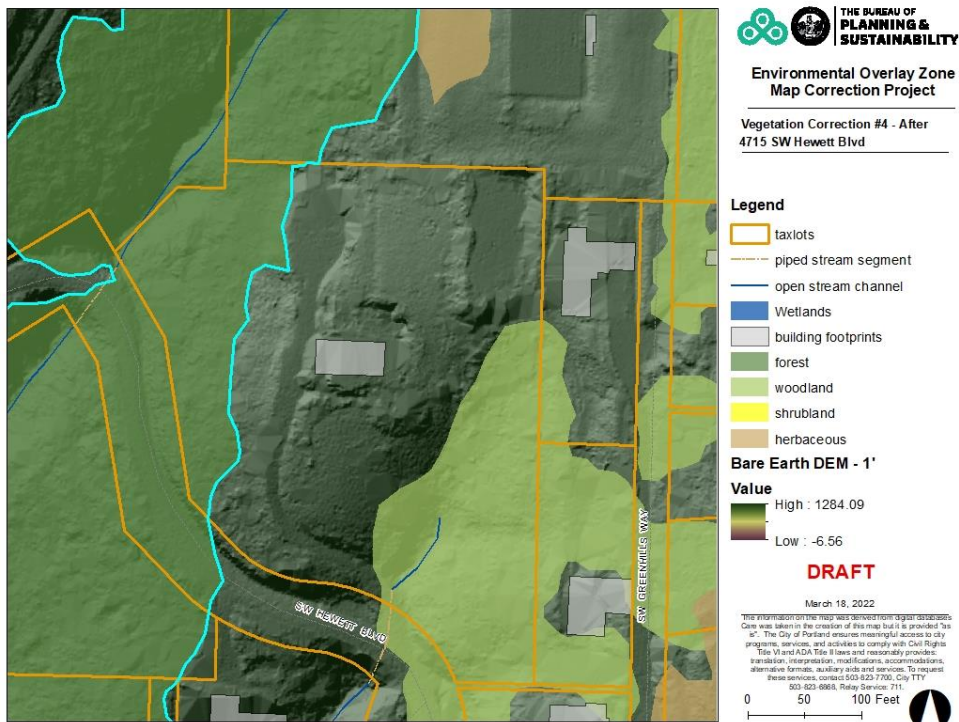
Natural resource mapping after first site visit:



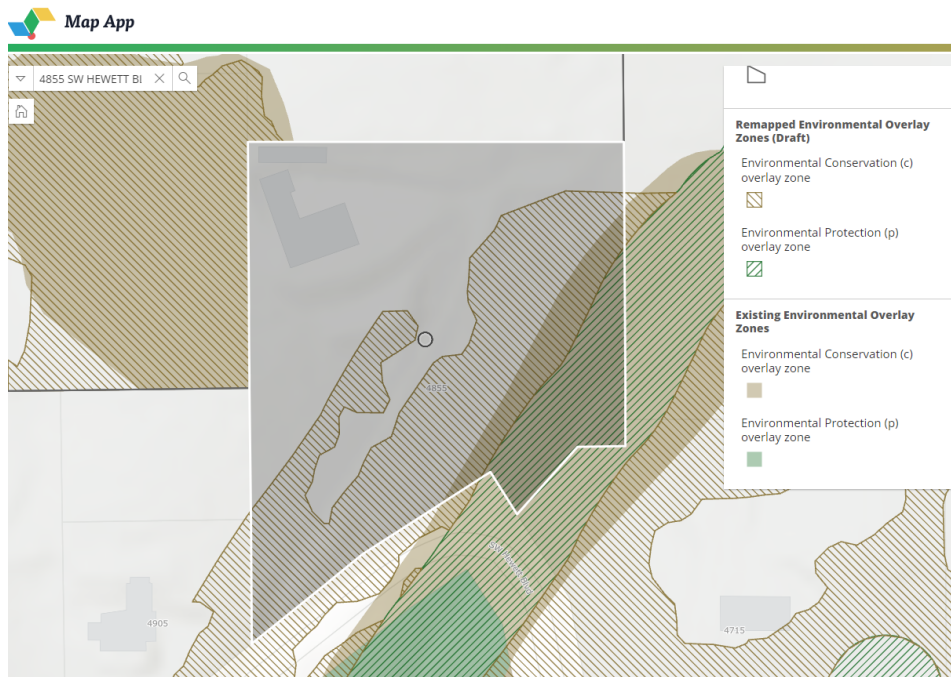
Natural resource mapping after second site visit:



Additional proposed correction made after additional communication with property owner:



## 4855 SW Hewett



**Property Owner:** Kimberly Malek and Dr. Mike Axley

**Site Visit:** Yes, 2/18/2022 and 3/15/2022 Staff made edits to the forest vegetation mapping on the site and the stream mapping on the adjacent site, to the northeast. If the proposed edits are adopted, the draft ezone coverage on the site will be reduced.

**Description:** Developed, dividable, residential lot. A stream runs along the southeast edge of the lot, and there is forest vegetation that surrounds the stream. 'P' zone is applied to the stream and land within 50 feet of the top-of-bank of the stream, and 'c' zone is applied to forest vegetation that is contiguous to the stream and land that is between 50 and 200 feet of the stream.

**Testimony:** The property owners expressed concern that the proposed ezones could make it difficult to divide the lot or do additional development on the site. They said that they were worried about the cost of permitting for new development on sites with ezones. They also expressed concern about how the proposed ezones could impact the value of the property. Testimony ID 331480, 331583

**Staff Response:** Staff visited the site and found that the vegetation mapping appeared to have some errors on the site. Staff are proposing edits to reduce the coverage of the mapped forest canopy on the site. If the changes to the vegetation mapping are adopted, the amount of area that would be covered by the draft ezones would be reduced.

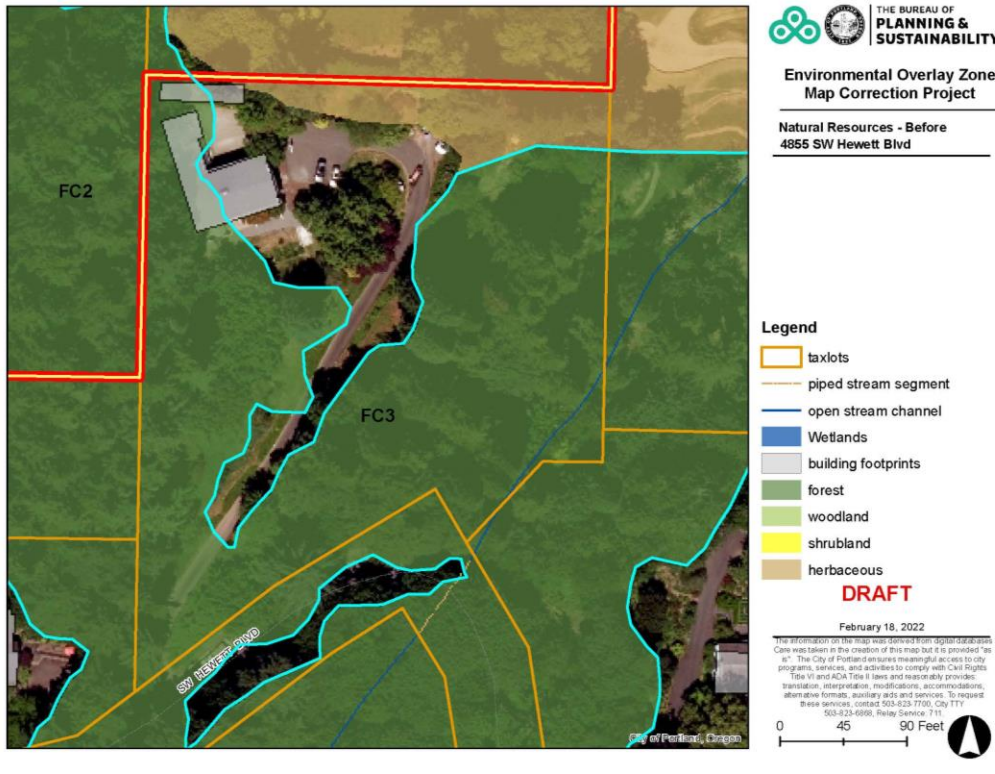
In many cases, the amount of documentation that is required and the complexity of permitting for development on sites with ezones is not significantly greater than it is for sites without ezones. There are clear and objective standards that allow development on sites with ezones, and development that cannot meet standards can be approved through environmental review. For development activities that can meet standards, no special review or additional scrutiny is required that wouldn't be required for any other permit. Documentation that demonstrates that



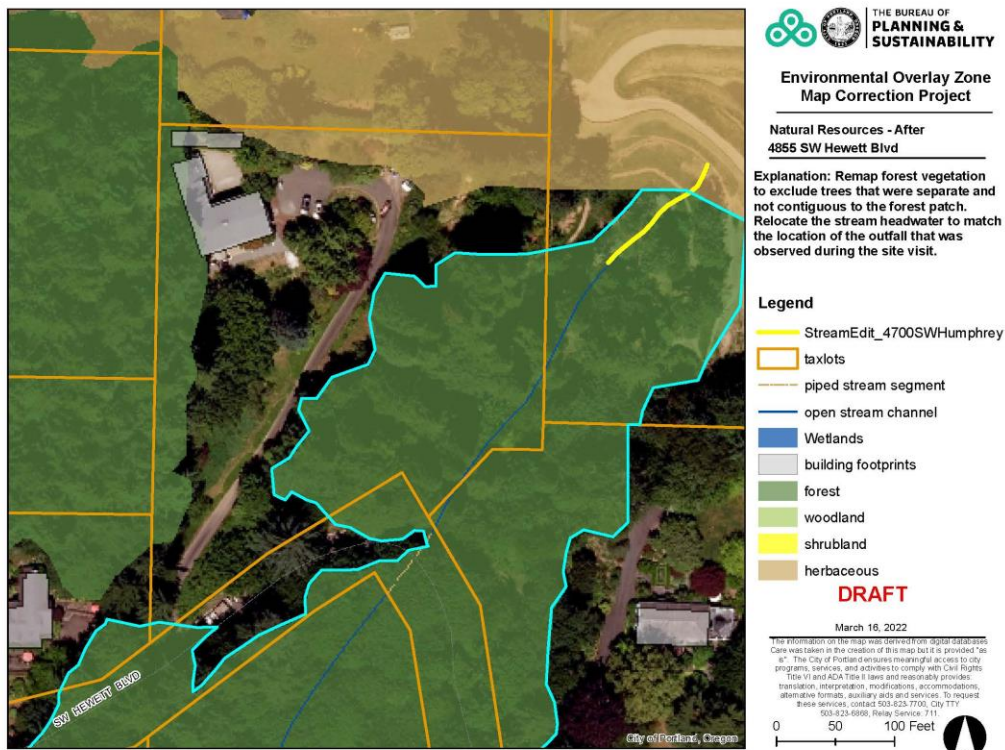
development can meet standards typically does not need to include a site survey, though some applicants choose to include surveys as supplementary information. Plan checks do not significantly increase the time, cost, or complexity of permitting, and they are not unique to sites with ezones. They are a normal step in the permitting process in general.

Land divisions or subdivisions on sites with ezones do require more extensive information, such as land surveys. But cadastral surveys are generally required for all types of land divisions and property line adjustments, and this is not a unique requirement that applies to sites with ezones.

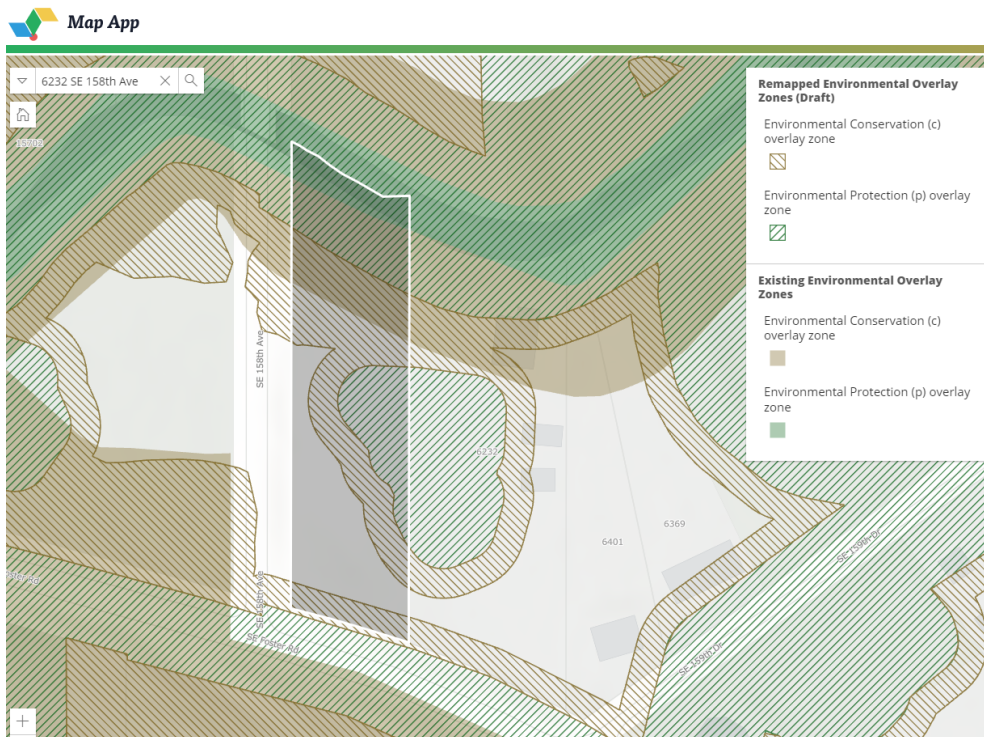
4855 SW Hewett - Natural resources before site visit:



4855 SW Hewett - Proposed edits to natural resource mapping:



## 6232 SE 158th Ave



**Property Owner:** Linda Bauer

**Site Visit:** Yes, 3/4/2022

**Description:** Site consists of two dividable lots that are developed with existing homes and buildings. The site also has residential agricultural uses. Johnson Creek runs along the north lot line, and there are mapped floodplains and wetlands on the site. P zone applies to streams and land within 50 feet of the stream top of bank, and to wetlands and land within 25 feet of wetlands. C zone applies to land that is between 50 and 75 feet of streams and to land that is between 25 and 50 feet of wetlands. C zone also applies to forest vegetation that is contiguous to and greater than 50 feet from streams.

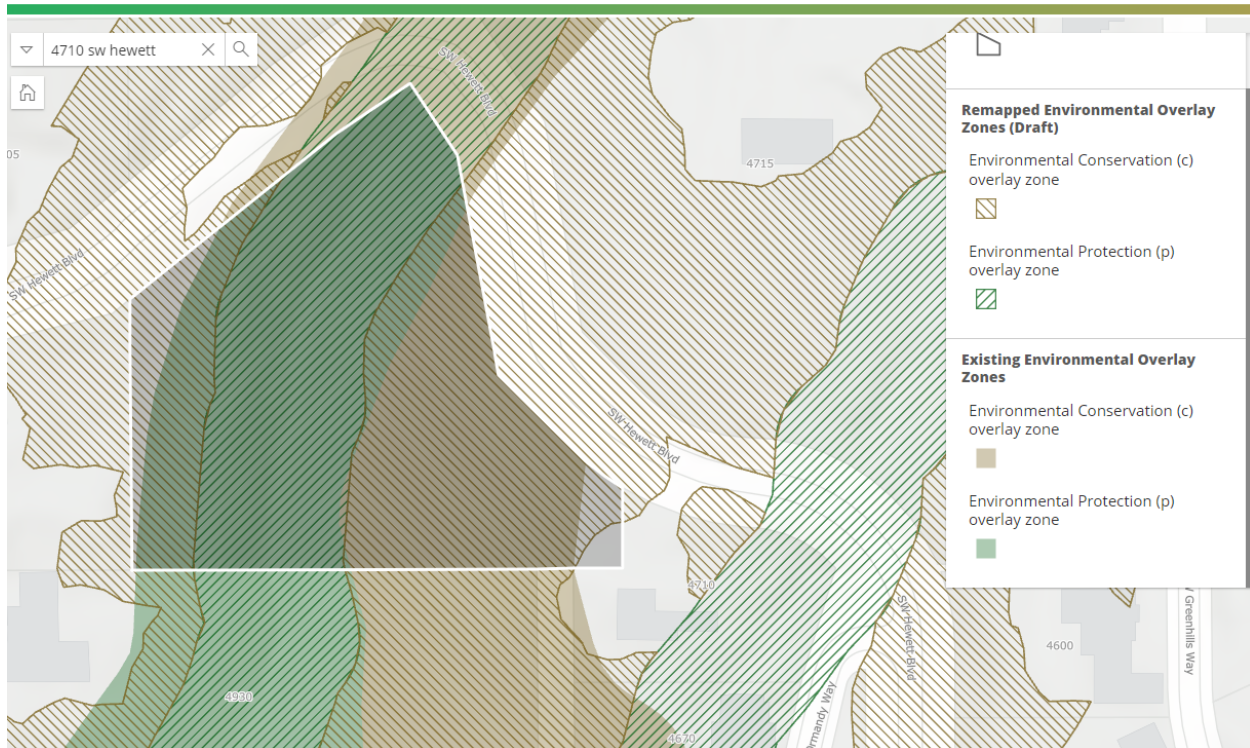
**Testimony:** The property owner stated that stormwater is discharging onto the site, and she asked that someone from the City of Portland come out to investigate the situation. 331482, 331544

**Staff Response:** Project staff visited the site and noted that there was a considerable amount of water flowing from an indeterminate location in the southeast corner of the lot. Staff could not locate a pipe or an outfall, but the water was coming out of the ground at the base of the SE Foster Rd right of way. It is unclear where exactly the water is coming from. The City Stormwater System mapping does not show that there are any storm sewer outfalls in that general area. Flow was observed during non-rainy conditions; therefore, it is not stormwater runoff from SE Foster Rd. Project staff forwarded information about the discharging water to staff in the Bureau of Environmental Services who will follow up to investigate further.

The remote wetland mapping on the site is based on aerial imagery, topographic information, and soil data that all predate the current situation, in which an unexplained water discharge has

been documented. Remote wetland mapping is subject to confirmation through field verification, and BES is working with a consultant to provide free wetland determinations at the request of property owners. Project staff have offered to add the property to a list of sites that have requested wetland determinations, but the property owner stated that they would prefer to wait until after the immediate issues of the water discharge has been remediated. BES will continue to offer wetland determinations in future years, and if a field verification conflicts with the wetland mapping in the Natural Resource Inventory, the ezones that apply to the wetlands can be corrected free of charge through a quasi-judicial process that would be initiated by city staff.

## 4710 SW Hewett



**Property Owner:** Scott Terrall

**Site Visit:** Yes, 3/3/2022 Project staff made edits to the forest vegetation mapping on the site. If these edits are adopted, the area that is covered by the draft conservation zone on the developed lot will be reduced.

**Description:** The site consists of two lots under the same ownership. One of the lots is a developed, undividable residential lot. The other is a vacant lot that is around 1.5 acres in size. The vacant lot could be divided into up to three buildable lots. P zone is applied to the stream and land within 50 feet of the top of bank of the stream. C zone is applied to forest vegetation that is contiguous to the stream and located between 50 and 200 feet of the stream.

**Testimony:** The property owner expressed concerns about rules and regulations that apply to managing trees and vegetation in the environmental overlays. They said that they thought that the protection zones were mapped correctly on the site, but they were worried about the accuracy of the conservation zone mapping. Testimony ID 331561

**Staff Response:** The ezones would not prevent the division and development of the vacant lot, but they could potentially constrain the area where development could occur. Development would need to be concentrated on the eastern half of the vacant lot, away from the stream. The lot could potentially be developed at the maximum density that would be allowed by the land division code that applies to the R20 base zone, but the lots sizes might need to be reduced to achieve maximum density. Other provisions in the zoning code, building code, or requirements for public improvements that have nothing to do with ezones could also impact the ability of property owners to subdivide and develop to the maximum allowed density.

While on site, staff observed that there were some gaps in the forest canopy that weren't accurately reflected in the vegetation mapping. Staff are proposing some edits to the natural resource mapping that were made as a result of these observations. The edits primarily apply to the developed lot. If these edits are adopted, the extent of the draft conservation zone on the site would be reduced.

4710 SW Hewett - Natural resources before site visit:



**THE BUREAU OF PLANNING & SUSTAINABILITY**

**Environmental Overlay Zone  
Map Correction Project**

**Natural Resources - Before  
4710 SW Hewett Blvd**

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**Legend**

- taxlots
- piped stream segment
- open stream channel
- Wetlands
- forest
- woodland
- shrubland
- herbaceous

**DRAFT**

March 4, 2022

The information on this map was derived from digital data. Care was taken in the creation of this map but it is provided "as is". The City of Portland assumes no liability for errors in this map. The City of Portland assumes no liability for errors in this map. Title VI and ADA Title II laws and reasonably provides: translation, interpretation, modifications, accommodations, alternative formats, auxiliary aids and services. To request these services, contact 503-823-7700, City TTY: 503-823-6868, Relay Service 711.

0 50 100 Feet

4710 SW Hewett - Proposed edits to vegetation mapping:



**THE BUREAU OF PLANNING & SUSTAINABILITY**

**Environmental Overlay Zone  
Map Correction Project**

**Natural Resources - After  
4710 SW Hewett Blvd**

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**Legend**

- taxlots
- piped stream segment
- open stream channel
- Wetlands
- forest
- woodland
- shrubland
- herbaceous

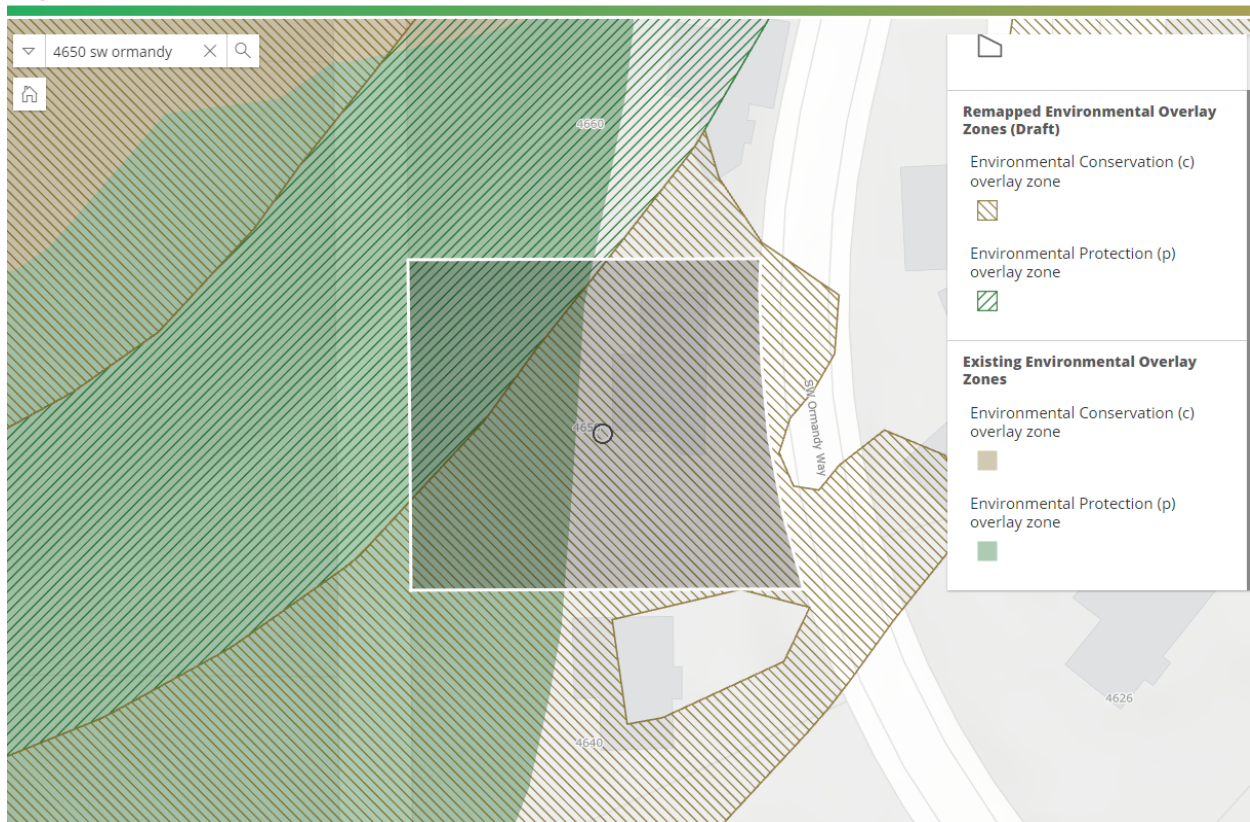
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March 4, 2022

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0 50 100 Feet

## 4650 SW Ormandy Way



**Property Owner:** Tessa Dover

**Site Visit:** Yes, 3/3/2022 As a result of the site visit, project staff are proposing edits to the forest vegetation mapping, which, if adopted, would reduce the draft conservation zone coverage on the lot.

**Description:** Developed 1/3-acre R10 lot. Land division code that applies to the base zone would not allow lot to be divided.

**Testimony:** The property owner testified that there is already a protection zone that applies to the lot and that they feel the proposed conservation zone is too expansive. They are concerned that the proposed ezones would make it too expensive to remove dying trees that are near the house. Testimony ID 331550

**Staff Response:** After visiting the site, project staff concur that the forest vegetation mapping on the site covered too much area. Staff are proposing to reduce the area that is mapped as forest on the site.

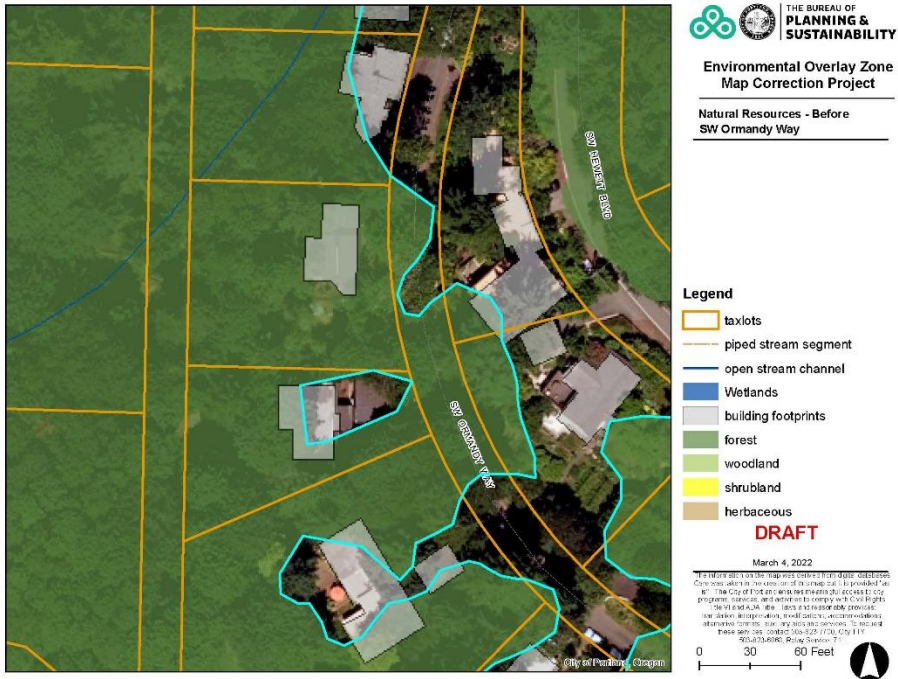
Staff disagree that the removal of trees that are dead or dying and dangerous or located near houses would be any more expensive or complicated in areas that are covered by ezones. There are exemptions in the code that applies to the ezones that exempt the removal of trees that are located within 10 feet of buildings or attached structures and trees that have been determined to be hazardous by a certified arborist or the City Forester. These exemptions are written almost



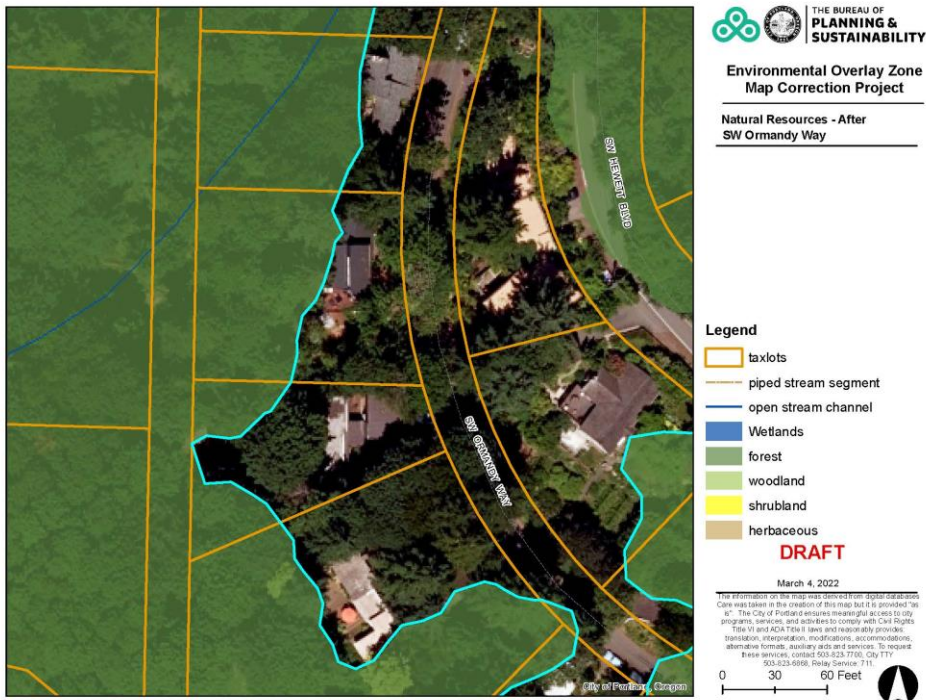
identically to the exemptions for these categories of trees that are contained in the Tree Code which applies to all trees in the City of Portland. Any tree that would qualify for an exemption to be removed under the Tree Code would also qualify for an exemption to be removed under the code that applies to the ezones.

The cost of obtaining a permit for removing trees in the ezones is the same as the cost of obtaining permits to remove trees outside of the ezones. The mitigation requirements for the discretionary removal of trees in ezones are higher than they are outside of the ezones (such as in development situations). But when a tree is removed that meets an exemption, the tree replacement that is specified is just one for one for native trees, and there is no mitigation requirement for non-native trees that are removed by exemption.

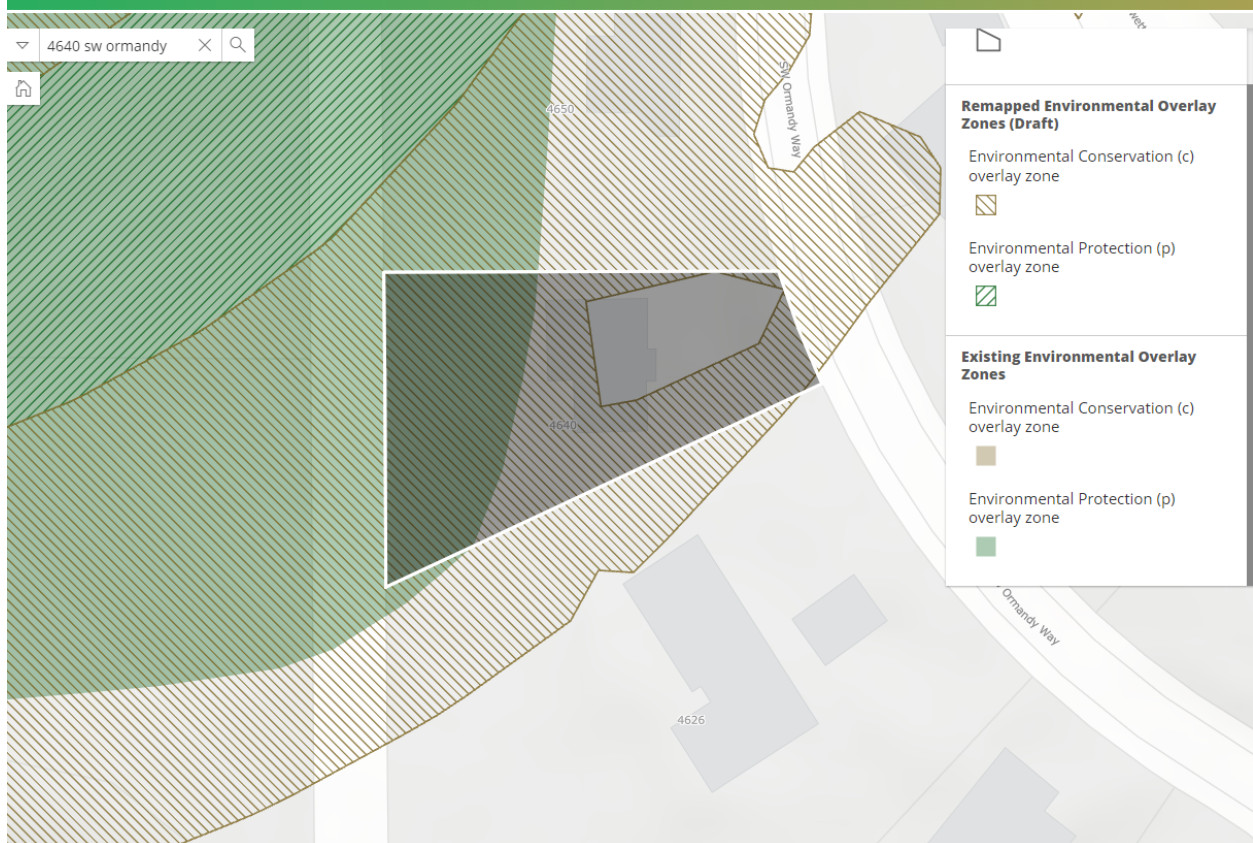
4650 SW Ormandy – Natural resource mapping before site visit:



4650 SW Ormandy - Proposed edits to natural resource mapping:



## 4640 SW Ormandy Way



**Property Owner:** Kevin Ebner and Marisa Ebner

**Site Visit:** Yes, 3/3/2022 Project staff observed that the forest vegetation mapping covered too much of the site. Staff are proposing edits to the vegetation mapping on the site that, if adopted, would result in a reduction in the amount of draft conservation zone that would apply to the site.

**Description:** Site is a developed R10 lot that could not be divided according to the land division code that applies to the R10 base zone. In resource site FC3, protection zone is applied to streams and land with 50 feet of streams and conservation zone is applied to forest vegetation that is contiguous to streams and located between 50 and 200 feet of streams.

**Testimony:** Property owner refers to a recent modification that was made to the house in an area that is outside of the existing environmental overlay that required a complicated permitting process. They are concerned that future alterations to the house could also be complicated, and they are worried that proposed ezones could impose additional complications that they did not face in previous permitting processes.

The property owner also expresses concern that the owners of other lots that are large and dividable may face difficulties doing land divisions or building ADUs on their sites if ezones are applied to their sites.

They also express concerns about the cost of maintaining trees that hang over houses or that are located near power lines, and they quote prices of permitting and mitigation fees that would be required to remove dead or dying and dangerous trees, or trees that are located near their house. Testimony ID 331573, 331574, 331430, 331431, 331469

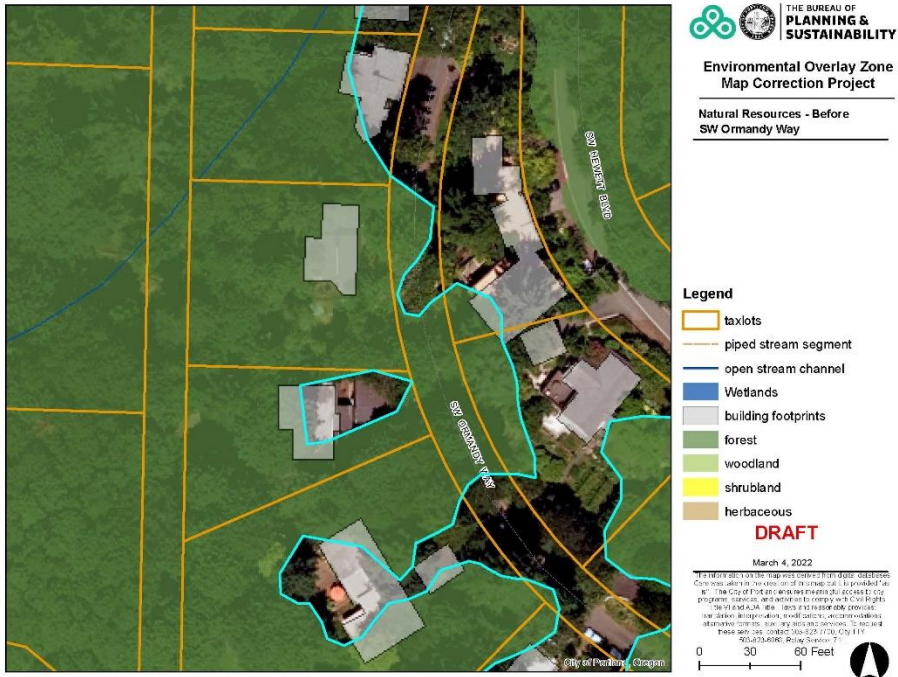
**Staff Response:** Project staff visited the site and determined that it would be appropriate to make edits to the forest vegetation mapping. If the proposed edits are adopted, the draft ezones will be reduced on the site.

The permitting process that was described by the property owner had nothing to do with ezones and there is no reason to assume that the conditions of approval or the permitting process would have been any different if ezones had applied to the area in question.

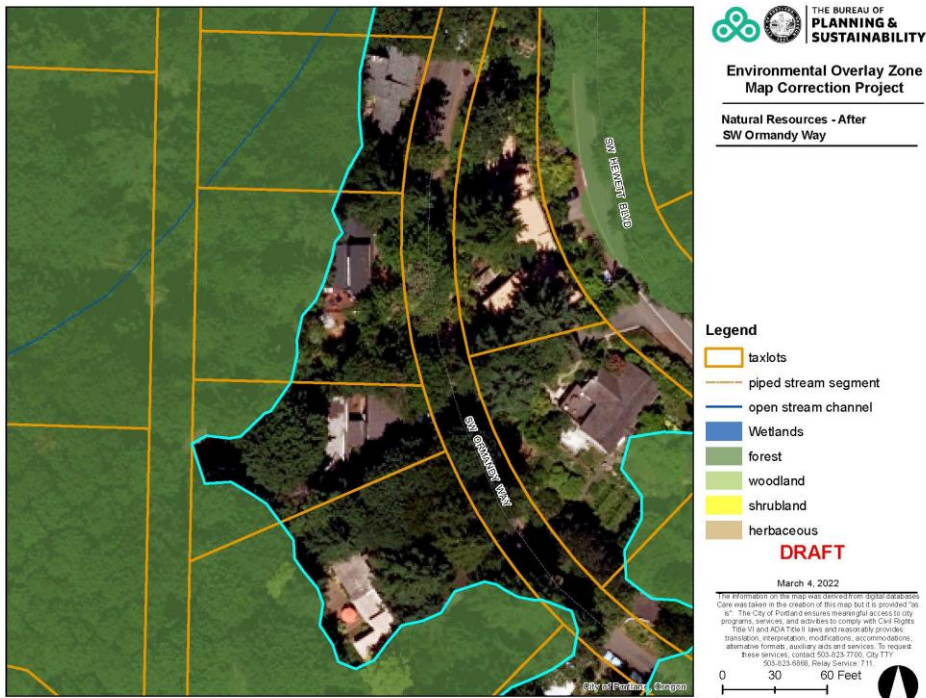
Regarding the property owner's concerns about neighbors being able to divide lots or build ADUs on sites with ezones, these activities are allowed. In many cases, development can meet the standards that apply to the ezones by avoiding or minimizing impacts to natural resources. In situations where development cannot meet standards, environmental review is required.

Trees that hang over houses can be pruned and trimmed without any permitting requirements. Any branch or part of a tree that is within 10 feet of a house or that overhangs a house can be removed by exemption. No permit is required for trimming and pruning that meets this exemption. If the trunk of a tree is located within 10 feet of a house or attached structure, the entire tree can also be removed by exemption (though a permit would be required). If there are dead or dying trees that are deemed to be dangerous by a certified arborist or the City Forester, they may also be removed by exemption. Trees in ezones that meet exemptions for removal do require mitigation if they are native trees. But the mitigation requirement is replacement with a single tree elsewhere on the site for each tree that is removed. The fees and mitigation costs that were cited by the property owner would only be relevant if the trees didn't meet an exemption, and if the proposed removal of the trees was discretionary or part of a development process.

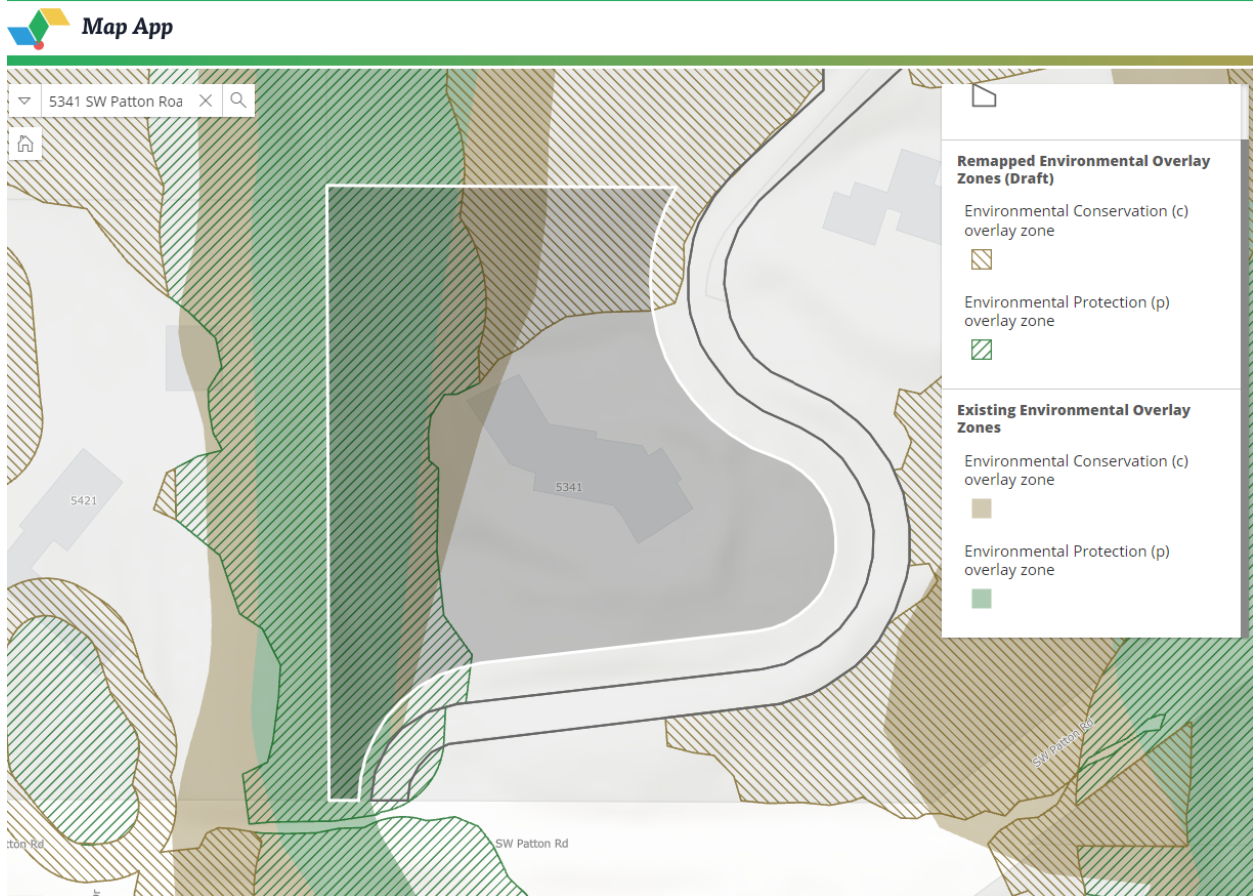
4640 SW Ormandy – Natural resource mapping before site visit:



4640 SW Ormandy - Proposed edits to natural resource mapping:



## 5341 SW Patton Road



**Property Owner:** Lesli Owens

**Site Visit:** No

**Description:** Developed R20 lot that is around 2 acres in size. Lot could be divided into 4 lots. P zone is applied to streams and land within 50 feet of streams and to forest vegetation that is contiguous to and between 50 and 100 feet from streams. C zone is applied to forest vegetation that is contiguous to streams and greater than 200 feet from streams.

**Testimony:** Property owners have other property elsewhere in the Willamette Valley on which resources are protected. They don't believe that the resources on this site are of equivalent value. The property owner states that they believe that the existing overlay that is mapped on the site is sufficient, and that a change is not necessary. The property owner says that they wish to remove invasive species from the site. They say they did not receive adequate notification of the project. Testimony ID: 331577

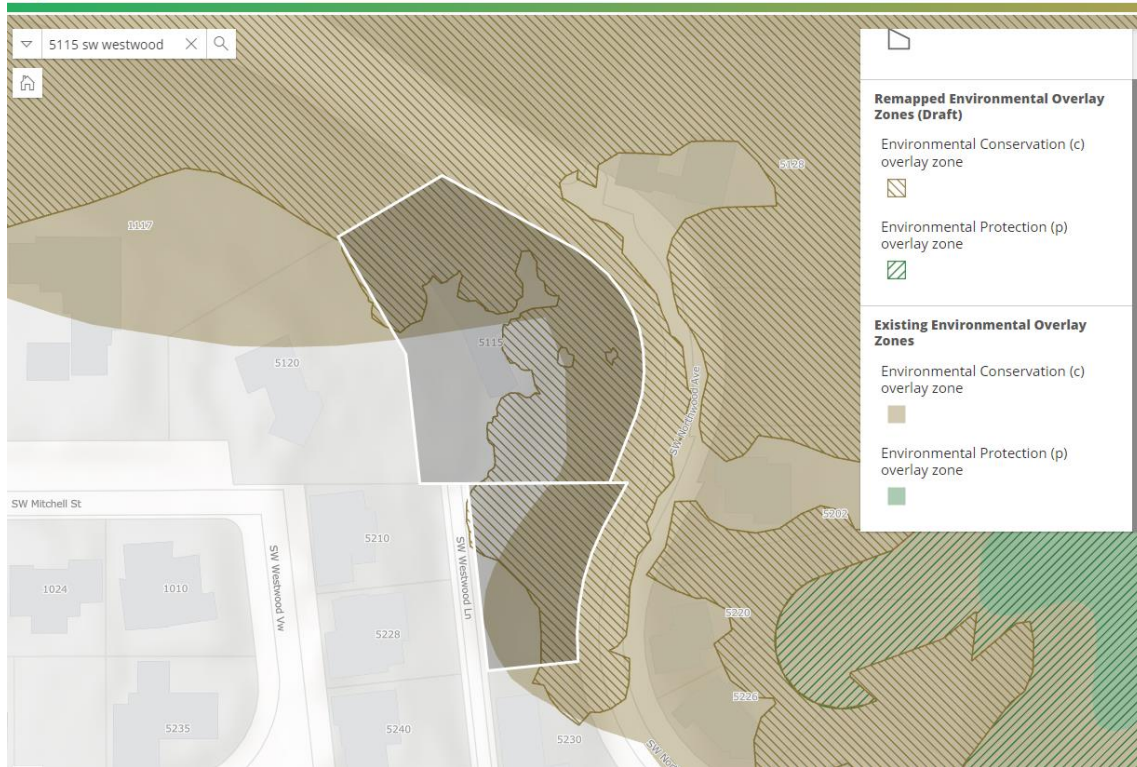
**Staff Response:** The ezones that are proposed for the site are consistent with existing adopted policy. There are proposed areas of expansion and reduction of ezones on the site which follow the mapped natural resources.

Not only is invasive species removal allowed in the ezones, but it is also strongly encouraged. Any plant that is listed as a nuisance species in the Portland Plant List may be removed by

exemption, which means that it may be done without permits or the need to seek permission. The exemption covers the most widespread invasive species in the Portland area, including ivy, clematis, laurel, and blackberries. Trees that are invasive and greater than 6 inches in diameter meet exemptions in the ezone code, but tree removal and replanting permits are still required.

Multiple mailings were sent to this property to notify the owners about the Ezone Project. The earliest mailing was sent in March of 2019. A second notice was sent in December of 2019. A notice was also mailed in June of 2020, prior to the start of public hearings at the Planning and Sustainability Commission.

## 5115 SW Westwood Ln



**Property Owner:** Chris Gedrose

**Site Visit:** Yes. 3 site visits. The most recent was 3/11/2022. Staff made edits to vegetation mapping to follow the dripline of the forest canopy and to exclude areas of sparse trees and low structure vegetation from the mapped forest canopy.

**Description:** Two undividable residential lots. One is developed with an existing house. The other is vacant and buildable. C zone is applied to forest vegetation that is contiguous to streams.

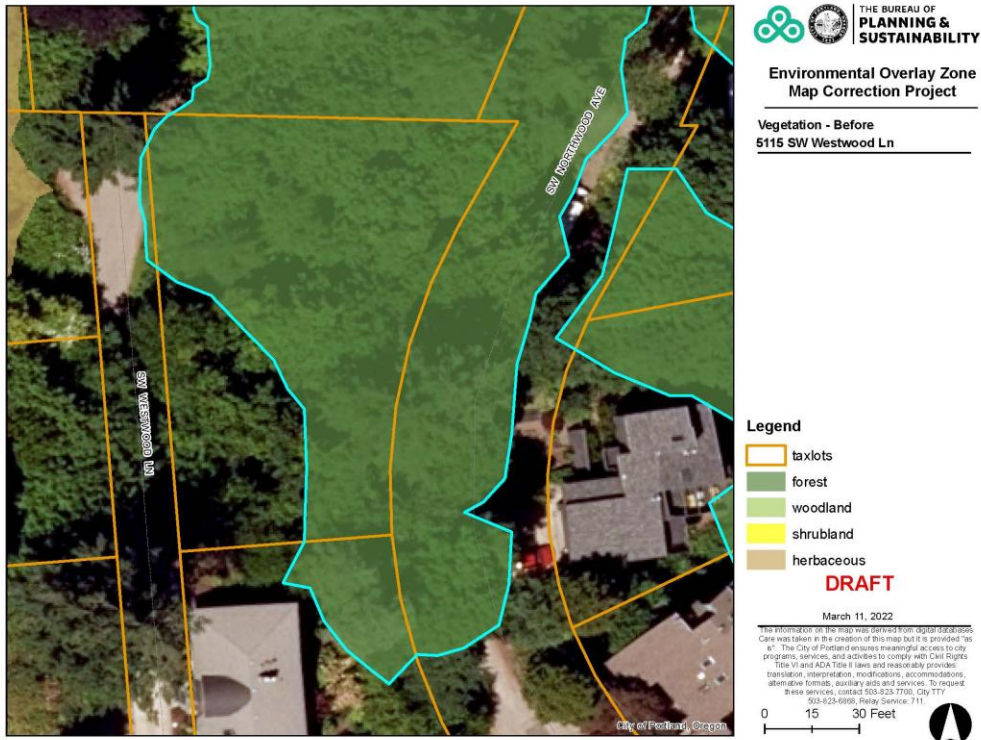
**Testimony:** Lots on all sides of the vacant lot have already been built out. There isn't anything special about the forest vegetation on the lot. Remove the ezones from the vacant lot to make it easier to develop. Ezones proposed on the site make the lot uniquely challenging because a strip of transition area wrapped all the way around the lot. Because of this, the standards were almost impossible to meet on the site and any potential development on the site would likely trigger environmental review.

**Staff Response:** After the first site visit, staff reviewed the vegetation mapping on the site and they deleted areas from the mapped forest canopy where there were gaps between the trees and areas of lower structure vegetation. After the second site visit, staff identified an area in the southwest corner of the vacant lot where there were only dead trees and no observable forest canopy. They deleted this area from the mapped forest patch. After the final site visit, staff found that the dripline of the forest patch that overhangs SW Northwood Ln appeared to extend too far into the right of way. The edge of the forest patch was edited to match what was

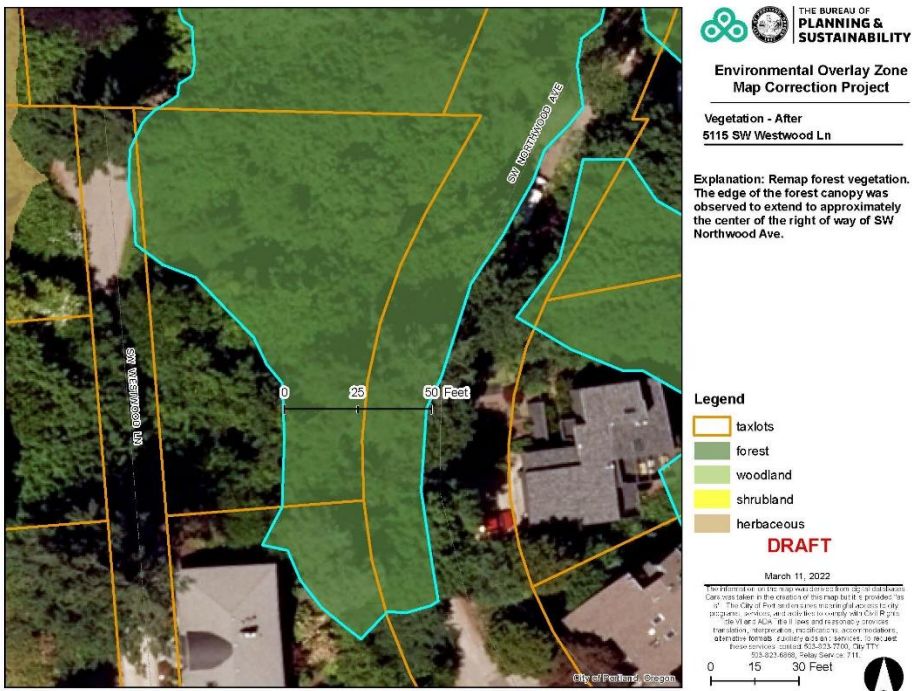


observed on the site, which is that the forest patch only extends to roughly the center of SW Northwood Ln.

5115 SW Westwood – Natural resources before site visit:



5115 SW Westwood – Proposed edits to natural resource mapping:



## Various Sites and Process-related Testimony

**Testifier:** Lynne Chao, Robin Vesey, and 34 cosigners

**Site Visit:** Yes, 4/8/2021. Project staff conducted a site visit with the testifier at a vacant lot that is adjacent to their home. While on site, staff found a new stream that was not mapped previously. The stream was added to the natural resource inventory.

**Description:** Lynne's testimony applies to several specific resource sites.

**Testimony:** Lynne Chao submitted a lengthy document that contains testimony regarding several different sites in different neighborhoods around the Ezone Project area. The issues that are raised vary quite a bit from resource site to resource site. But generally, Lynne argues against any reductions in the area covered by conservation zones or protection zones. Lynne also argues that it is important to increase the protections around stream headwater areas. And finally, she makes a number of claims and raises concerns about the technical data and methodology that is used to map natural resources. Lynne poses 13 requests that range from policy requests to technical data related issues. Lynne's testimony is cosigned by 34 Portland residents. Testimony ID 331553, 331438, 331423

**Staff Response:** The Ezone Map Correction Project must, by its very nature, result in both increases and decreases in the area that is covered by ezones. Project staff are proposing to use a more consistent and objective methodology to determine where to apply conservation and protection zones. Past resource protection plans used less precise mapping methodologies to determine where ezones should be applied. Changing from a relatively subjective mapping methodology to an objective methodology means that there will necessarily be some changes to the area that is covered by the ezones.

The testimony included 13 specific requests. In the section below, project staff respond to each of these requests in brief. The *italicized text* is quoted directly from the testimony. Staff responses follow in plain text:

1. *Process: Collect new computer LiDAR mapping data for Portland Metro, Metro West, Portland Hills. The computer model is incomplete. The Ezone Map Correction Project's mapping data is outdated with inventory from 12-17 years ago. We are remapping our natural resources with outdated data. Do not approve this project without new updated LiDAR data to reflect changes and development to natural resources from 2005 thru 2022.*

Portland works with regional partners to obtain regularly updated LiDAR data. The most recent LiDAR dataset that Ezone Project staff have access to is from 2019. Staff also have access to LiDAR data from 2007 and 2014. Each iteration of the LiDAR data is more detailed and accurate than previous iterations.

The existing stream data in the NRI was originally mapped using LiDAR data in the early 2000s. This data was then refined over decades through site visits, and additional information has been incorporated at the recommendation of Bureau of Environmental Services staff, who have specific neighborhood level knowledge of particular stream

systems, and through edits that have been made to reflect the location of pipe and culvert infrastructure that is mapped by the Bureau of Environmental Services.

While starting from scratch with a brand new stream dataset might allow for slightly improved spatial accuracy of some stream channel mapping, it would take years of refining and editing to produce a stream dataset that would reflect all of the human knowledge and refinements that are incorporated into the existing stream dataset. It is not likely that doing a new citywide stream delineation with new LiDAR data would result in a significantly more accurate stream dataset than the one that is contained in the NRI.

Similarly, the vegetation mapping is based on aerial imagery. The vegetation mapping dataset was started in the early 2000s, but it was refined iteratively over two decades as new aerial imagery became available. The most recent aerial imagery that project staff have access to is from the summer of 2021.

- 2. Process: Collect new computer LiDAR mapping data. The computer model is incomplete and missing vertical slope assessment data. Slope assessment is key to applying computer algorithms to protect our streams. Do not approve this project without new updated LiDAR data which includes slope assessment data.*

Slope and elevation can be inferred from any of the LiDAR datasets that project staff have access to (2007, 2014, and 2019). The LiDAR digital elevation models and slope measurements are three dimensional datasets. In those resource sites in which steep slopes are a criterion that is used to determine where ezones should be applied, the steep slope data is derived from LiDAR.

- 3. Request that Portland adopt Metro policies regarding applying natural resource protections in areas around streams.*

Metro has acknowledged that the City of Portland's existing natural resource protection plans are in substantial compliance with Metro's adopted regulations. Because the Ezone Project is remapping natural resources in a way that is consistent with existing policy, Portland's natural resource protections will remain in compliance with Metro requirements. Ezone Project documents demonstrate that the Recommended Draft ezones are consistent with Metro Title 13 recommendations and are therefore also in compliance with Statewide Land Use Planning Goal 5.

- 4. Policy: Apply a minimum of a full "HORIZONTAL 50 feet" protection P zone in riparian areas. If the steep slope is right next to a stream, the Ezone Map Correction Project is applying 50 feet straight up on a vertical steep slope and NOT a FULL HORIZONTAL 50 feet. A FULL HORIZONTAL 50 feet will ensure there is a standard distance of protection.*

Protection zones are mapped horizontally from the top-of-bank of streams and the edge of wetlands, as are all setbacks that are listed in the code that applies to the ezones. Project staff are using mapping methodologies that are completely consistent the request to map ezones horizontally in relation to water features.

The Ezone Project mapping protocols are intended to be consistent with existing adopted policy. In most resource sites, a 50-foot protection zone was applied to streams. But in some resource sites, protection zones were wider than 50 feet or narrower than 50 feet. In a small number of resource sites, previous natural resource protection plans only applied conservation zone to streams.

During their hearings process on the Ezone Project, the Planning and Sustainability Commission voted to adopt an amendment that would apply a minimum of 25 feet of protection zone and conservation zone between 25 and 50 feet in all resource sites in which previous policy was to not apply protection zones to streams. The request to apply 50-foot protection zones to all streams would be a deviation from existing policy and would also deviate from the recommendations of the PSC.

5. *Policy: Protect isolated forests with ½ acre or more. Isolated forests have no environmental protection at all (no P zone and no C zone) and construction can follow in that forest. With no size limit, this affects forests strategically being carved away in riparian areas. If a neighbor isolates a forest on his property from the riparian forest, it will take off the environmental protection to his property and potentially his neighbors' properties. This also applies to a break in tree canopy. Please consider this very important issue. This happened in the Ezone site visit and remapping. See section.*

In general, existing policy is to not apply ezones to isolated patches of forest vegetation. There are mapped vegetation patches that are scattered throughout northwest and southwest Portland. Conservation zone is typically applied to forest vegetation that is located near water bodies, and it is typically not applied to forest vegetation that is not near waterbodies. If conservation zone was applied to all forest vegetation, it would not be consistent with adopted policy. There are some resource sites in which adopted policy is to apply conservation zone to specific forest patches that are not contiguous to water features. In these resource sites, the Ezone Project is proposing to follow adopted policy by continuing to apply the conservation zone to those specific forest patches.

Regarding concerns that were raised about the effects of new development breaking connections between forest patches and riparian corridors, the code that applies to subdivisions is intended to prevent this from happening as much as possible. When lots that have ezones are subdivided, all portions of the resource area of the ezones that are not part of approved disturbance area are required to be put into a conservation tract, in which future development will not be allowed, and in which the natural resources are required to be protected, regardless of whether ezones are applied.

6. *Adopt the six existing adopted natural resource conservation plans (and their maps) that have been redacted from 33.430.020 Environmental Reports that applies to remapped areas...*

The Ezone Project is superseding and replacing several existing, adopted, natural resource protection plans. Each of the resource sites and natural resource protection decisions that were contained in those plans is being replaced by a corresponding

resource site and resource protection decision. The original plans are not being redacted, they are being superseded and replaced.

7. *Process: Cross-check that known streams, water resources and wetlands on the existing maps are found, mapped, and not missed on the Ezone's proposed computer maps. This is important since this is a new mapping model being applied.*

Ezone Project staff have been undertaking the very process that is requested for 3.5 years. More than 600 site visits have been completed to confirm and correct natural resource mapping, and staff have applied extra scrutiny in locations where there are existing linear protection or conservation zones that do not align with any mapped natural resources. Additional delay in the project is not likely to reveal additional resources that have been missed up to this point. And if streams or wetlands are identified in the future that have not yet been added to the inventory, a quasi-judicial process can be used to apply ezones to these features.

8. *Policy: Adopt the Goal 5 Administrative Rule. "The new rule established substantive and procedural requirements for the protection of resources that the City of Portland had not followed in formulating its Comprehensive Plan. Inventory methods, forms of analysis, and protective measures were the most obvious examples."*

*Policy: Adopt Fanno Creek and Tributaries Conservation Plan - 1993 and Fanno Creek Watershed - 1999 to comply with Oregon State's review that natural resources of Fanno Creek need to be included for Statewide Planning Goal 5 to be complete. (See documentation H)*

It's not really clear what is being requested here. The Fanno Creek and Tributaries Plan is being superseded and replaced by the Ezone Project. The Ezone Project is consistent with Metro Title 13 and Statewide Planning Goal 5.

9. *Process: Establish process for future parks to give them full protection P zones as other parks*

Acquisition and planning for future parks is a process that is carried out by the Parks Bureau. The Bureau of Planning and Sustainability regularly coordinates with other bureaus and agencies that acquire park land, such as the Parks Bureau, the Bureau of Environmental Services, or Metro. If a park is created in the future and it would be appropriate to apply a protection zone to the park, a quasi-judicial process could be used to do a Map Error Correction or an Environmental Zone Map Modification at that time. Mechanisms already exist in the code to allow this to happen when and if it would be consistent with adopted policy to make such a change.

10. *Policy & Site Specific: Include Terwilliger Parkway as a significant park in SW10's written criteria due to Terwilliger Parkway's recent elevated status. On March 1, 2021, Terwilliger Parkway is now registered on the National Register of Historic Places as a significant public park deserving of greater preservation and environmental protection.*

The ezone mapping protocols that apply to resource site SW10 are intended to be consistent with existing adopted policy. Volume 2C of the Recommended Draft of the Ezone Project has a chapter that is devoted to resource site SW10. The natural resource description in that chapter already describes the historic nature of Terwilliger Blvd and mentions the importance of the street and surrounding parks as a civic and cultural institution. The existing resource protection policies are crafted with the intention of preserving the natural resources that contribute to the visual experience of traveling on Terwilliger Blvd through a forested environment with views of the greater Portland area and important geological features, such as Mt Hood and Mt St Helens. The existing ezone mapping policies that apply to the site already take into account the considerable and important historic context of Terwilliger Blvd. The draft ezones that are proposed by the Ezone Project are consistent with the existing policy, and therefore, they also take into account the historic nature of Terwilliger Blvd.

- 11. Apply consistent policy to ALL significant public parks throughout ALL resource sites. Apply FULL protection P zone for all forest vegetation throughout ALL resource sites including Terwilliger Parkway and Marquam Park in SW10.*

This would not be consistent with adopted policy. Past resource protection decisions for different parks were highly variable. In some parks, protection zone was applied to all forest vegetation. In others, such as Mt Tabor, conservation zone was applied to some forest patches, but not to others. If this request was adopted, it could have significant impacts on the overall amount of protection zone that is applied to parks throughout the city, and it could have unintended consequences for park management plans and policies in some locations.

- 12. Policy: Apply Environmental Overlay Zone Maps Correction Project's written reports definition of steep slopes criteria: 25% or greater slope to all designated resource areas criteria where steep slope is mentioned. There is a confusion that 40% is being applied. Please confirm that the 25% or greater slope is being applied per written Ezone reports.*

The criteria for designation as a steep slope is 25% slope or greater, unless otherwise specified in the mapping protocols that apply to the resource site. In a handful of resource sites, ezone mapping protocols use 40% as the steep slope criteria. But generally, steep slopes are considered to be those that are 25% or greater. The mapping protocols that are used to determine where ezones should be applied in each resource site are spelled out in Volumes 1 and 2 of the Environmental Overlay Zone Map Correction Project.

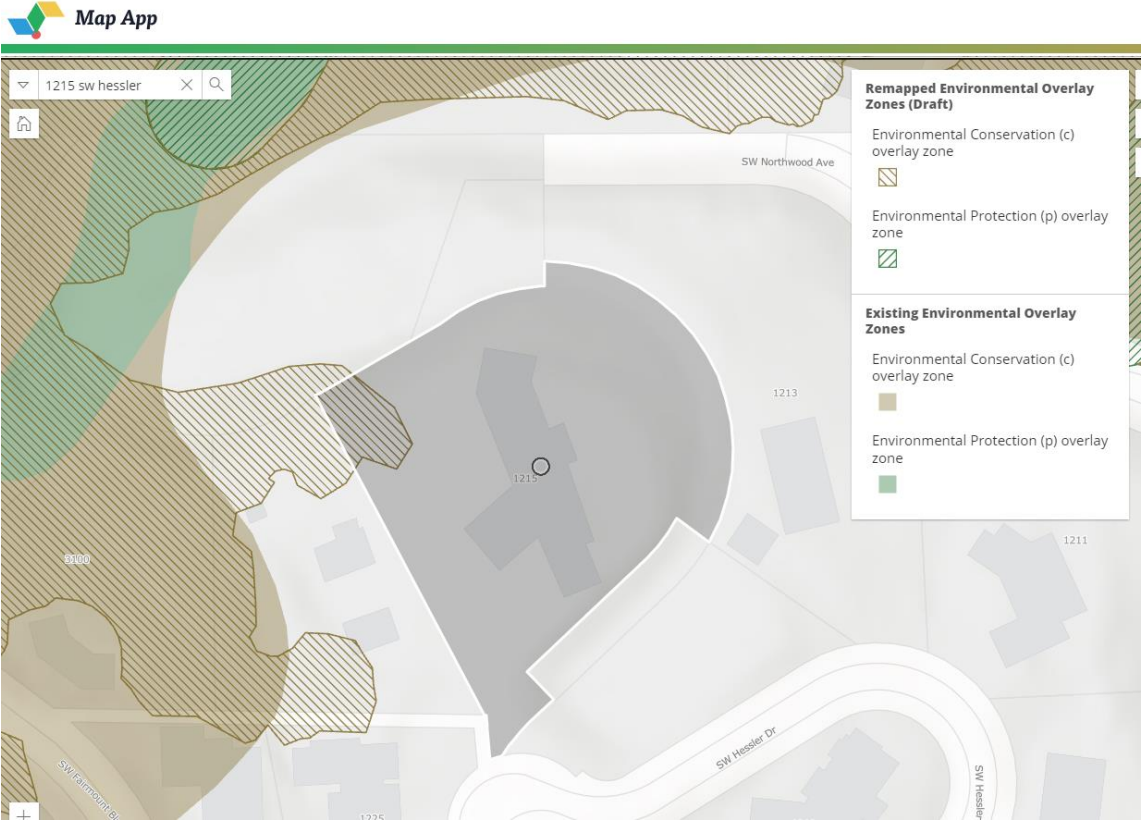
- 13. Process: Continue to inventory natural resources when discovered through regular field work after project's completion with City Council. Quarterly periodic review of the inventory would inform future updates and/or amendments to the mapping project. Update Ezone computer mapping to the new data including upcoming slope data.*

The Natural Resource Inventory (NRI) data is regularly updated administratively. Updated natural resource mapping data can be used to make Map Error Corrections (PCC 33.855.070) which are typically processed administratively by city staff. The NRI is re-

adopted periodically to confirm the latest updates to the natural resource data. The interval between re-adoptions of the NRI is usually a matter of years, rather than months.



# 1215 SW Hessler Dr



**Property Owner:** Jordan Schnitzer

**Site Visit:** Yes, 2/1/2022 Vegetation mapping was updated as a result of the site visit.

**Description:** The site consists of several lots that are under the same ownership that are located between SW Hessler Dr and SW Northwood Ave. Protection zone is applied to streams and land within 50 feet of streams and conservation zone is applied to forest vegetation that is contiguous to streams.

**Testimony:** Testifier claimed to have been unaware of the Ezone Project and questioned whether adequate notice was provided of hearings on the Ezone Project. The testifier raised several issues regarding how ezones impact properties: The testifier questioned whether ezones would impact property values or restrict property owners' abilities to do new development on their lots.

Four specific requests were made: 1. Delay the approval of the project 6-12 months; 2. Allow property owners to hire private consultants to draw up individual natural resource protection plans for their lots; 3. Allow project staff to work with homeowners to balance development and natural resource protection decisions; 4. Allow staff, City Council, and the mayor to engage in negotiations with individual property owners one on one to decide where ezones should be applied. Testimony ID 331462, 331580

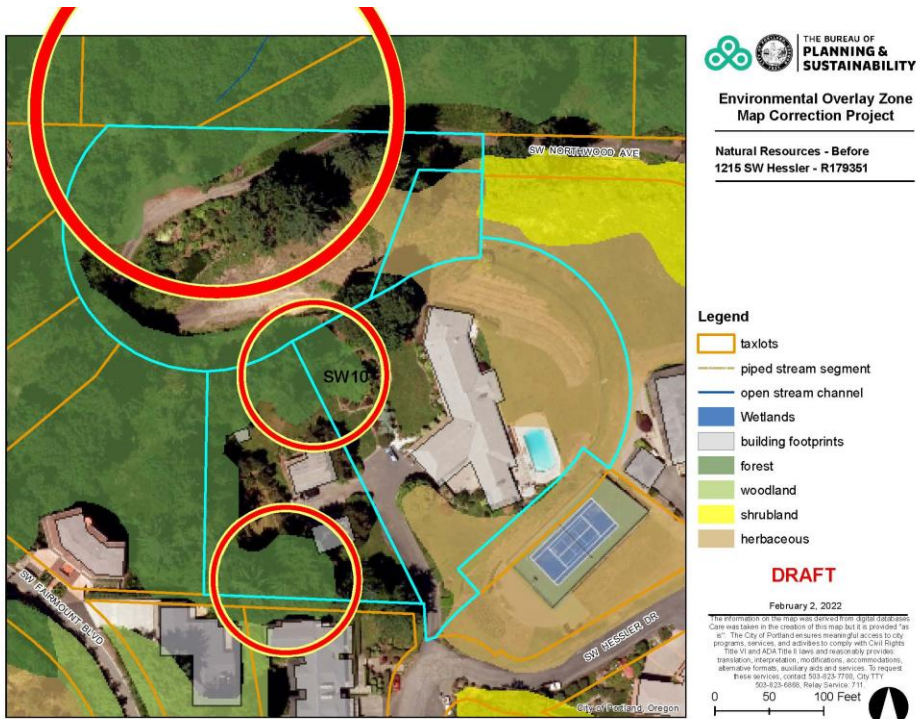
The property owner did not raise any specific questions about the accuracy of the natural resource mapping on the site or the methodology that is used to determine how to apply natural resources. The testimony was entirely process related. However, Craig Kiest, who was working for the property owner, requested a site visit. Craig Kiest questioned whether it was appropriate to extend the conservation zone into developed portions of the lot on the basis of forest canopy mapping.

**Staff Response:** The Ezone Project has been ongoing for 3.5 years. During that time, a series of mailings were sent out to all impacted properties, and project staff hosted open house meetings and attended neighborhood association meetings that were attended by hundreds of Portland residents. The mailing address that is associated with several properties that are owned by Mr. Schnitzer was sent mailings in 2019 and 2020. Project staff also posted an online map that would allow property owners to review the proposed changes to the ezones on their sites. The Ezone Map App has been online for public review since August of 2018.

During the time that the Ezone Project has been ongoing, project staff have visited hundreds of sites and worked with hundreds of property owners to ensure that natural resources and draft ezones were mapped correctly on their sites. The type of outreach and site-specific work to refine ezones on individual sites that was requested in this testimony is exactly what project staff have been doing for several years.

Project staff met with Craig Kiest to conduct a site visit on the lots that are located at SW Hessler. Craig's main concern was that the draft ezones would cover more of the site than the existing ezones do. The site is located in resource site SW10. With this resource site, protection zone is applied to streams and land within 50 feet of streams. Conservation zone is applied to forest vegetation that is contiguous to streams. Project staff confirmed that there was a forest patch that covered portions of the site, and that the forest patch intersects with a stream. But they found that there were several large Douglas fir trees and some smaller ornamental trees that were located near the forest patch but were not part of the forest patch. Staff proposed several edits to the forest vegetation mapping on the site to exclude those trees from the area that was mapped as forest vegetation. These edits were consistent with vegetation mapping protocols that have been employed throughout the Ezone Project. Generally, if a tree is standing off by itself, and the branches are not interleaved with the rest of the forest patch, or if there is a single line of trees that is connected to a forest patch, these areas are excluded from areas that are mapped as forest vegetation. On the basis of the site visit that staff conducted on the SW Hessler site, staff are proposing edits to the natural resource mapping. If these edits are adopted as amendments to the natural resource mapping, the draft ezone coverage will be reduced on the site compared to what it was prior to the site visit.

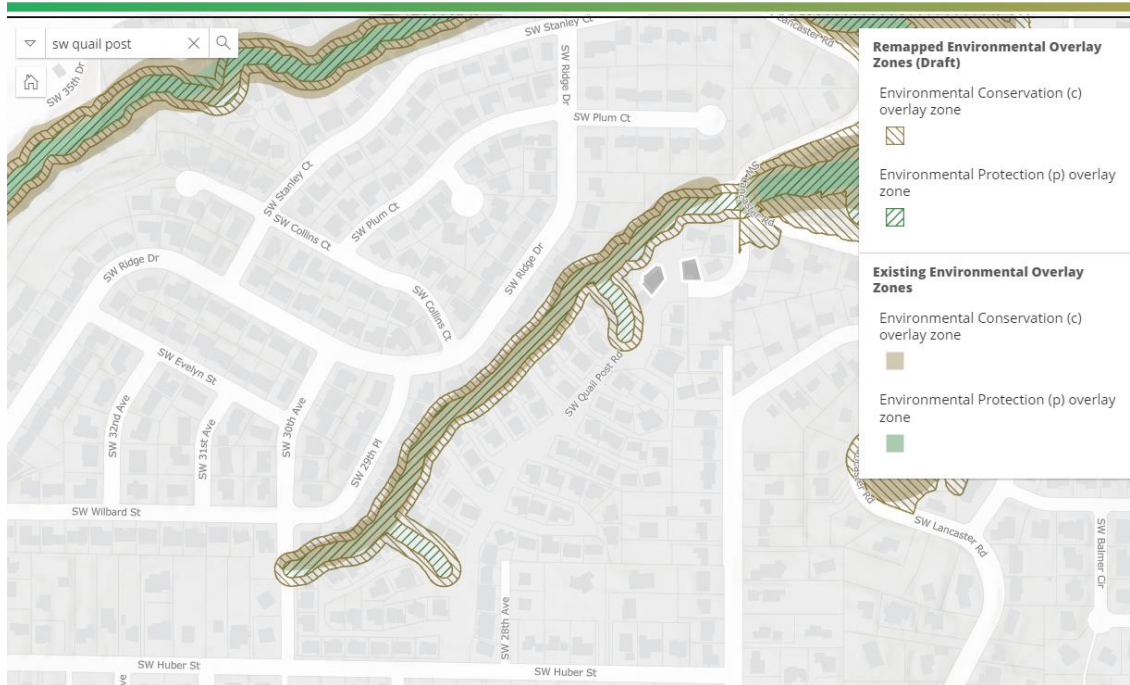
# 1215 SW Hessler - Natural Resources Before Site Visit:



# 1215 SW Hessler - Proposed Edits



# Quail Park Subdivision



**Property Owner:** John Gibbon

**Site Visit:** Yes, two site visits between 2019 and 2021.

**Description:** This is a 1970s subdivision that consists of duplexes and detached houses. Common areas, private drives, stormwater infrastructure, and a semi-public pedestrian trail near the stream are all maintained by a homeowners association.

**Testimony:** Testimony states that the development has been in place for decades. At the time of development, the builders were granted permission to significantly alter and relocate stream systems to facilitate site development. Streams run under streets and in close proximity to existing homes. The HOA manages the streams, and they are concerned that plans to improve the community trail, manage vegetation, and prevent erosion will be hampered by the proposed ezones. They ask that the side channel streams be excluded from the natural resource inventory and that a p zone not be applied to the streams on the site. Testimony ID 331556, 331455, 331499

**Staff Response:** Ezone Project staff visited the site to review the natural resource mapping two times. Staff have concluded that there are three features on the site that meet the natural resource inventory definition of streams (please refer to Volume 3 of the Ezone Project Recommended Draft for definitions of streams, vegetation, and wetlands). We understand that all of the streams on the site have been heavily modified by development in one way or another in the past. All of the streams are piped for some distance. The largest and longest of the three streams is the one to which the conservation zone is currently applied. This feature is denoted as "Quail Creek." That stream emerges from a pipe in the southwest corner of the lot and then it continues as an open channel for several hundred feet before it passes through two more pipes:

one is a culvert that runs under Quail Post Rd, and another culvert runs under SW Lancaster Rd. After another stretch of open channel, the stream flows into Tryon Creek.

There are two other features that fit the definition of streams that flow into Quail Creek from the south. Both of these streams also emerge from pipes, but like Quail Creek, they are open channels with defined beds and banks that appear to have significant flow for periods of weeks or months in any given year, including periods of time that are more than a day or two after the conclusion of precipitation events. At both of the site visits that were conducted by Ezone Project staff, the lateral streams were observed to be flowing on days when it was not raining, which suggests that there is a significant natural flow, and that the lateral streams are not just features that were constructed with the intention of capturing surface runoff.

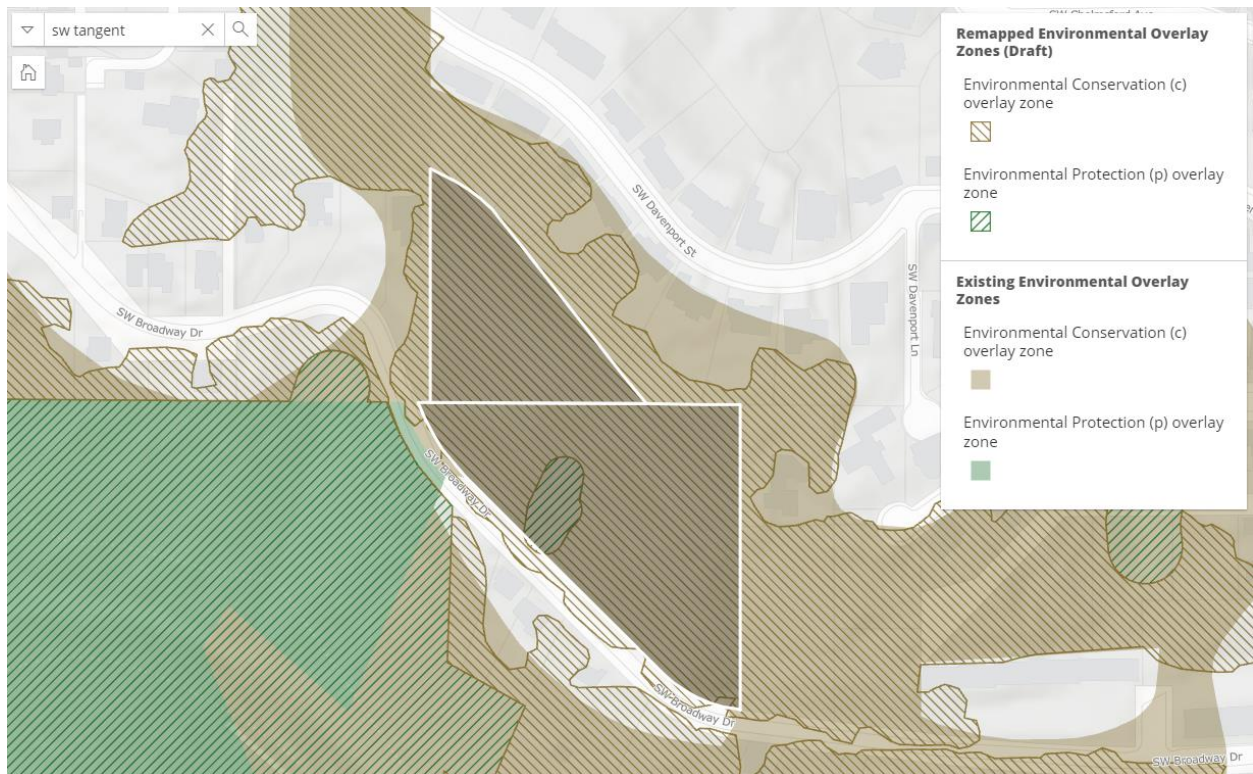
Ezones have been applied to open channels of streams that are located in developed neighborhoods for as long as there have been ezones. It has always been understood that most streams in Portland have been significantly altered by development to one extent or another. Channels have been diverted, culverts and pipes have been installed, and banks have been hardened. Despite the often-significant alterations that have been made to many streams, existing adopted policy is to apply ezones to them because these streams still have important functions, provide habitat, and provide ecosystem services.

Staff understand that the streams on the site are located in very close proximity to occupied buildings, pathways, streets, public sewers, and other existing development. Maintenance, repair, and replacement of any structures, infrastructure, or other forms of development is fully exempt from the code that applies to the ezones provided that the footprint or type of development is not changed. These exemptions apply to both the protection zone and the conservation zone.

Within the resource area of an ezone, it would be impossible for any new development or alteration to existing development that changed the development footprint to meet standards if the impacted area is located within 30 feet of a stream. This is true of both the protection zone AND the conservation zone. Therefore, it doesn't matter what type of ezone is applied to the streams that run through the Quail Park subdivision. No matter what, new development activity within 30 feet of streams would trigger environmental review.

When it comes to environmental review approval criteria, it does matter what kind of ezone is applied. New private development or discretionary alterations to existing private development within a p zone could not be approved. But necessary changes to public trails, public infrastructure, or alterations to private development that are required to protect structures for life safety purposes are things that can meet the environmental review approval criteria in the p zone. Development that provides a public good, is allowed within the resource area of the p zone if impacts to the resources are minimized and mitigated, and if it is the only reasonable place for the development to occur.

## SW Tangent PUD



**Property Owner:** Ken Guenther

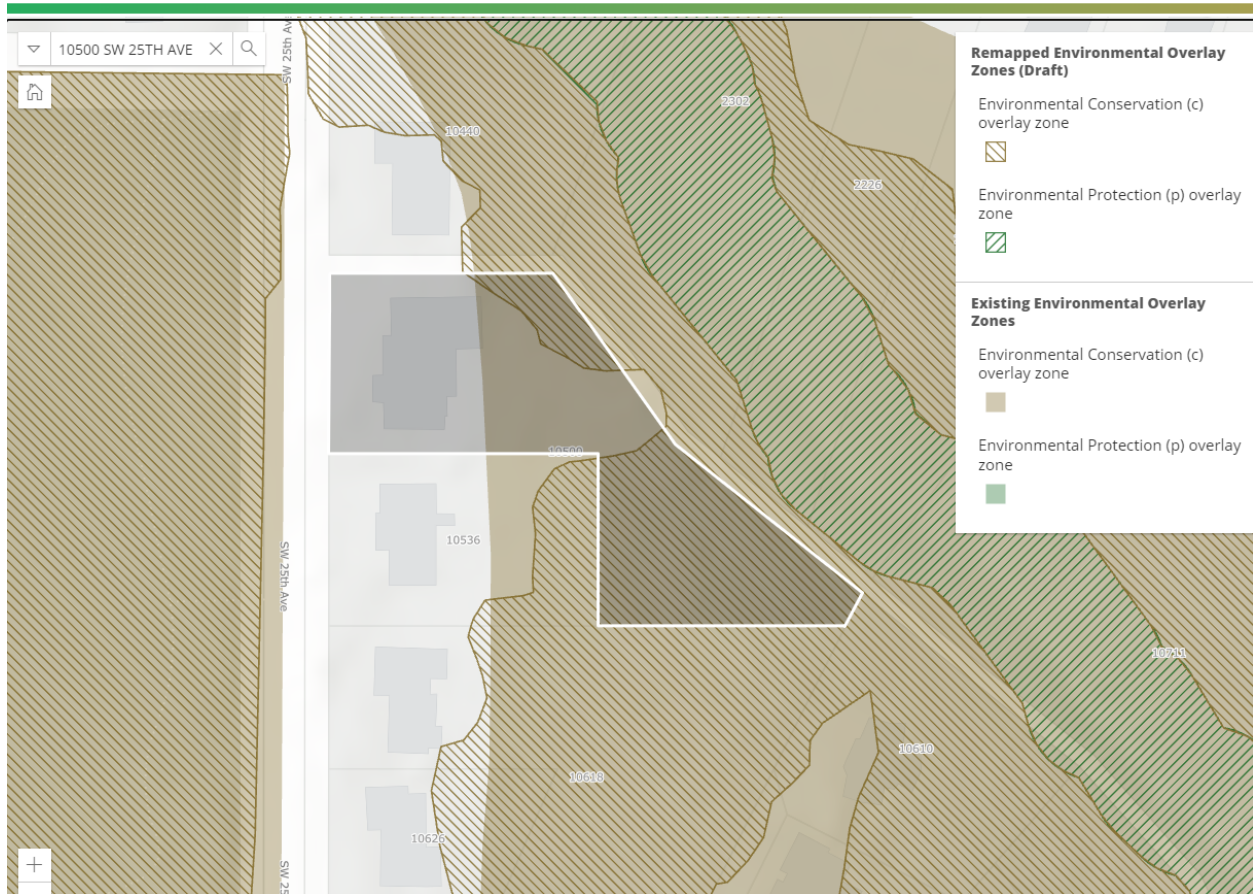
**Site Visit:** Yes. Project staff visited the site in October of 2019. They confirmed that the natural resource mapping on the site is correct.

**Description:** Protection zone is applied to a wetland and land within 25 feet of the wetland. Conservation zone is applied to land that is between 25 and 50 feet of the wetland. Conservation zone is applied to forest vegetation that is contiguous to streams and wetlands..

**Testimony:** Testimony refers to a recently approved land use review that applies to the site. The land use decision would allow the creation of a 20 unit planned unit development. Conditions of approval include the construction of a public walkway that would connect SW Tangent St to SW Broadway Dr, and the dedication of a natural resource tract, which would contain portions of the lot that are outside of the approved development footprint. The testimony requests that changes be made to the terms and conditions of approval of the land use decision (18-119056). The testimony requests an increase in the number of units from 20 to 30, and they request that additional development be allowed on the dedicated natural resource tract. Testimony ID 331451

**Staff Response:** It would not be within the scope of the Ezone Project to make changes to past land use decisions. The property owners have the right to move forward with their development, provided that they comply with the terms and conditions of their land use review decision. Staff have confirmed that the natural resource mapping appears to be correct on the site. The lot is almost completely covered by forest canopy, and there is a delineated wetland that is located along the southwest edge of the site. The property owner's request to remove the conservation zone from the site would not be consistent with adopted policy.

# 10500 SW 25th Ave



**Property Owner:** James Harries

**Site Visit:** Yes. Two site visits. Most recent site visit was 7/7/2020. Vegetation mapping was edited as a result of the site visit.

**Description:** Developed residential R20 lot, approximately 34,000 sq ft in size. Lot is not dividable. There is a stream that runs through a natural area on private property to the northeast of the lot. Protection zone is applied to the stream and land within 50 feet of the stream top of bank. Conservation zone is applied to the forest vegetation that is contiguous to the stream.

**Testimony:** Property owner testified that the back yard of the house was clear cut at some point in the past, and that the existing trees on the site are invasive holly and cherry trees. He argues that it is not appropriate to apply an environmental overlay to the site because many of the trees are non-native. Testimony ID 331416.

**Staff Response:** Species composition is not necessarily a determining factor to decide if an ezone should or should not be applied to a site. When staff visited the site, they determined that there is, in fact, forest vegetation on the site, and that the forest vegetation is contiguous to a stream. Therefore, the forest patch that intersects with the yard meets the criteria for the application of the conservation zone.

Trees and forest canopy provide important ecosystem services, such as filtering pollutants, reducing stormwater runoff, improving infiltration into the soil, providing habitat for wildlife, and shading, which helps to cool surrounding areas, improving nearby stream habitat, and reducing heat island affect in neighborhoods. Native trees obviously provide more ecosystem benefits than invasive species do, and the code that applies to the ezones does require that when mitigation plantings are required, they must be native species. But forest patches aren't disqualified from being in ezones just because they contain non-native vegetation. In fact, the overwhelming majority of Portland forests have at least some invasive species.

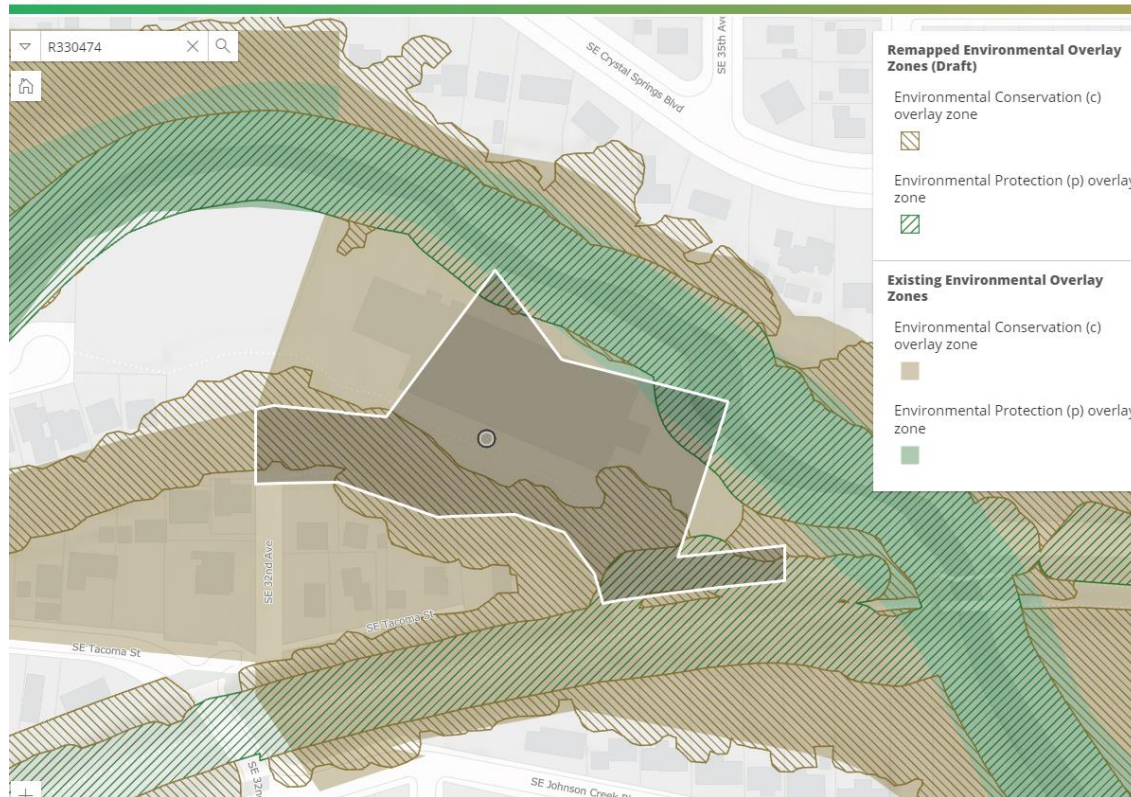
At the second site visit, staff observed that there were gaps in the forest canopy. Staff made edits to the forest vegetation mapping on the site to exclude these gaps from the mapped forest patch. As a result of these edits, if the Ezone Project is adopted, the new ezones on the site will cover less of the site than the existing ezones do. But it would not be appropriate to remove all of the ezones from the site, as was requested in the testimony. That would not be consistent with the mapping rules that are employed in the Ezone Project, and it would not be consistent with adopted policy.

The property owner contends that the site had previous agricultural uses, and that is why there are a number of non-native trees in the forest patch that is mapped on the site. While this may be the case, any agricultural uses appear to have ceased decades ago, and it does not appear that there are any ongoing agricultural uses of the site.

There are categorical exemptions in the ezone code for preexisting agricultural uses of sites in ezones. If the property owner can provide documentation that demonstrates that the site is currently being used as a commercial agricultural site, the continuance of these practices would not be prohibited, and the maintenance of vegetation for agricultural purposes would be exempt. However, agricultural uses would not exclude the site from the possibility of the application of ezones. Under existing zoning, ezones are applied to a number of sites around Portland on which there are ongoing agricultural operations. If natural resources are located on sites with agricultural uses that meet the ezone mapping criteria, it is consistent with existing policy to apply ezones to those resources.



## Eastmoreland Racquet Club



**Testifier:** Pat Ferguson

**Site Visit:** Yes. Staff visited the site with the property owner and representatives in 2020.

**Description:** Developed commercial lot in a single dwelling residential zone. The existing land use is non-conforming. The combined site area is more than eight acres. It could potentially redevelop into a subdivision composed of up to several dozen houses. The protection zone is applied to streams and land within 50 feet of stream top of bank, and to wetlands and land within 50 feet of wetlands. The conservation zone is applied to forest vegetation that is contiguous to streams.

**Testimony:** The testifier requested that the conservation zone be retained on the buildings on the site. They do not want to see a reduction in the ezone coverage. Or they request that there should be a 15-foot conservation zone buffer around the edge of the protection zone to ensure that any potential site redevelopment would avoid impacts to Johnson Creek. Testimony ID 331410.

**Staff Response:** Under current zoning, a conservation zone covers the athletic building and a number of developed lots in the adjacent neighborhood. There are no known natural resources mapped in the areas where many of these buildings or houses are located. The Ezone Project proposal is to reduce the coverage of ezones on the site, and to only apply ezones to areas where natural resources are known to be located or in riparian areas around streams or wetlands.

## 3300 SW Evergreen Ln



**Property Owner:** Claudia Cameron

**Site Visit:** Yes. Staff visited the site with the property owners on 2/18/2022. Edits were made to the forest vegetation mapping on the site.

**Description:** Developed, dividable R7 lot. There is an existing house on a steeply sloped lot. P zone is applied to streams and land within 50 feet of stream top-of-bank. C zone is applied to forest vegetation that is contiguous to streams.

**Testimony:** The testimony questioned the use of aerial imagery to map forest vegetation and asked for more time to allow property owners to work with Ezone Project staff to make sure maps are accurate. Testimony ID 331465.

**Staff Response:** The draft conservation zone covers a relatively small area in the southeast corner of the lot. Because the ezones don't extend very far onto the lot, the majority of the recommended conservation zone would just be transition area.

Transition area is defined in the code that applies to the ezones as a 25-foot-wide strip that runs along the outer edge of the ezones (mapped from the outer edge of the ezone inward). Within the transition area, there are few restrictions or regulations that apply to new development. The draft ezones would have minimal impact on future development or expansion of development on this site.

During the site visit, project staff reviewed the natural resource mapping and proposed edits to the mapped forest vegetation. If these edits are adopted, the draft conservation zone will shrink slightly on the site.

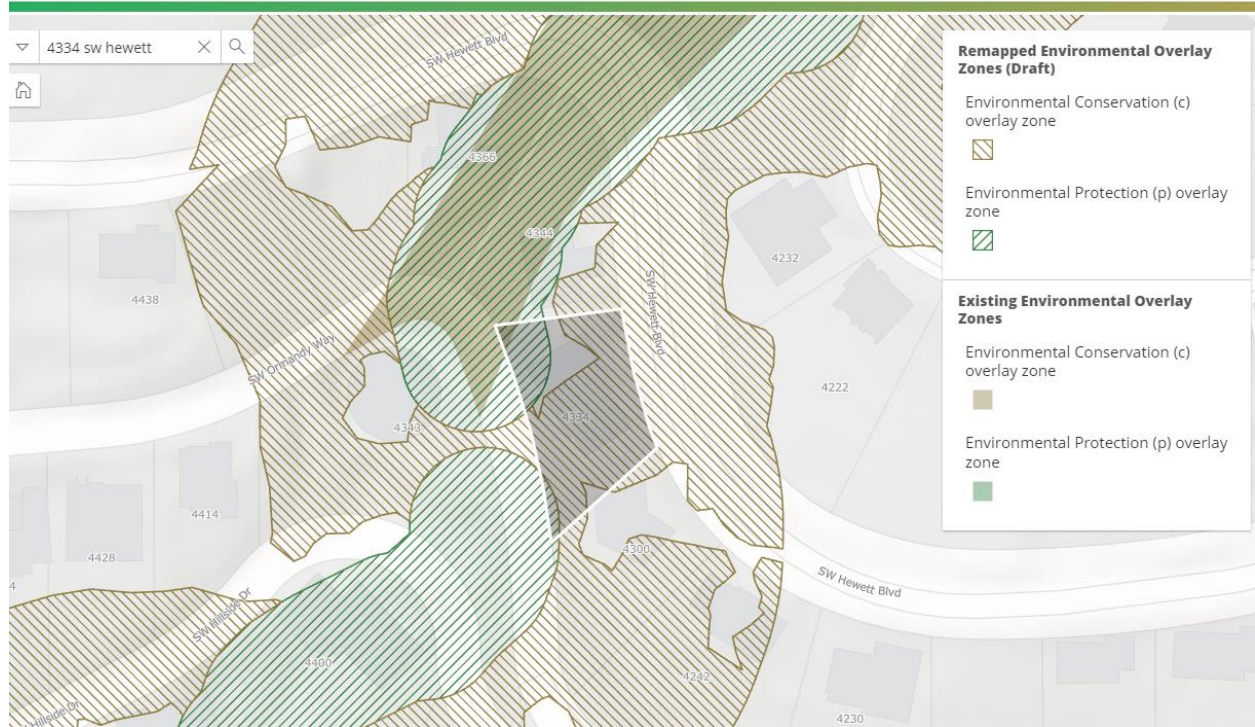
3300 SW Evergreen Ln – Natural Resource Mapping Before Site Visit:



3300 SW Evergreen Ln – Proposed Edits to Natural Resource Mapping:



## 4334 SW Hewett Blvd



**Property Owner:** Rob Bush

**Site Visit:** Yes. Staff visited the site at the request of the property owners on 2/11/2022. Edits were made to the forest vegetation mapping on the site.

**Description:** Developed, undividable R10 lot. Protection zone is applied to streams and land within 50 feet of stream top-of-bank. Conservation zone is applied to forest vegetation that is contiguous to streams and located between 50 and 200 feet from streams.

**Testimony:** The testimony stated that the creek runs through a pipe in the area behind the house, and that the creek is not actually located on the lot. Also questioned why the proposed conservation zone encompasses the house on the site. Testimony ID 331407.

**Staff Response:** Project staff conducted a site visit at the request of the property owner. They confirmed that the stream is mapped correctly. The stream does not run onto 4334 SW Hewett, but it does wrap around the lot. While onsite, staff also reviewed the vegetation mapping. Staff are proposing edits to the mapped forest canopy on the site. If the edits are adopted, the proposed conservation zone will be reduced on the site.

4334 SW Hewett Blvd – Natural Resources Before Site Visit:



**THE BUREAU OF PLANNING & SUSTAINABILITY**

**Environmental Overlay Zone Map Correction Project**

**Natural Resources - Before**

4334 SW Hewett Blvd

**Legend**

- taxlots
- piped stream segment
- open stream channel
- Wetlands
- building footprints
- forest
- woodland
- shrubland
- herbaceous

**DRAFT**

February 11, 2022

The information on this map was derived from digital databases. Care was taken in the creation of this map but it is provided "as is". The City of Portland ensures meaningful access to city programs, services, and activities to comply with Civil Rights Title VI and ADA Title II laws and reasonably provides translation, interpretation, modifications, accommodations, alternative formats, auxiliary aids and services. To request these services, contact 503-823-7700, City TTY: 503-823-6999, Relay Service: 711.

0 40 80 Feet

4334 SW Hewett Blvd – Proposed Edits to Vegetation Mapping:



**THE BUREAU OF PLANNING & SUSTAINABILITY**

**Environmental Overlay Zone Map Correction Project**

**Natural Resources - After**

4334 SW Hewett Blvd

**Explanation: Remap forest vegetation to exclude trees that are not part of larger forest patch.**

**Legend**

- taxlots
- piped stream segment
- open stream channel
- Wetlands
- forest
- woodland
- shrubland
- herbaceous

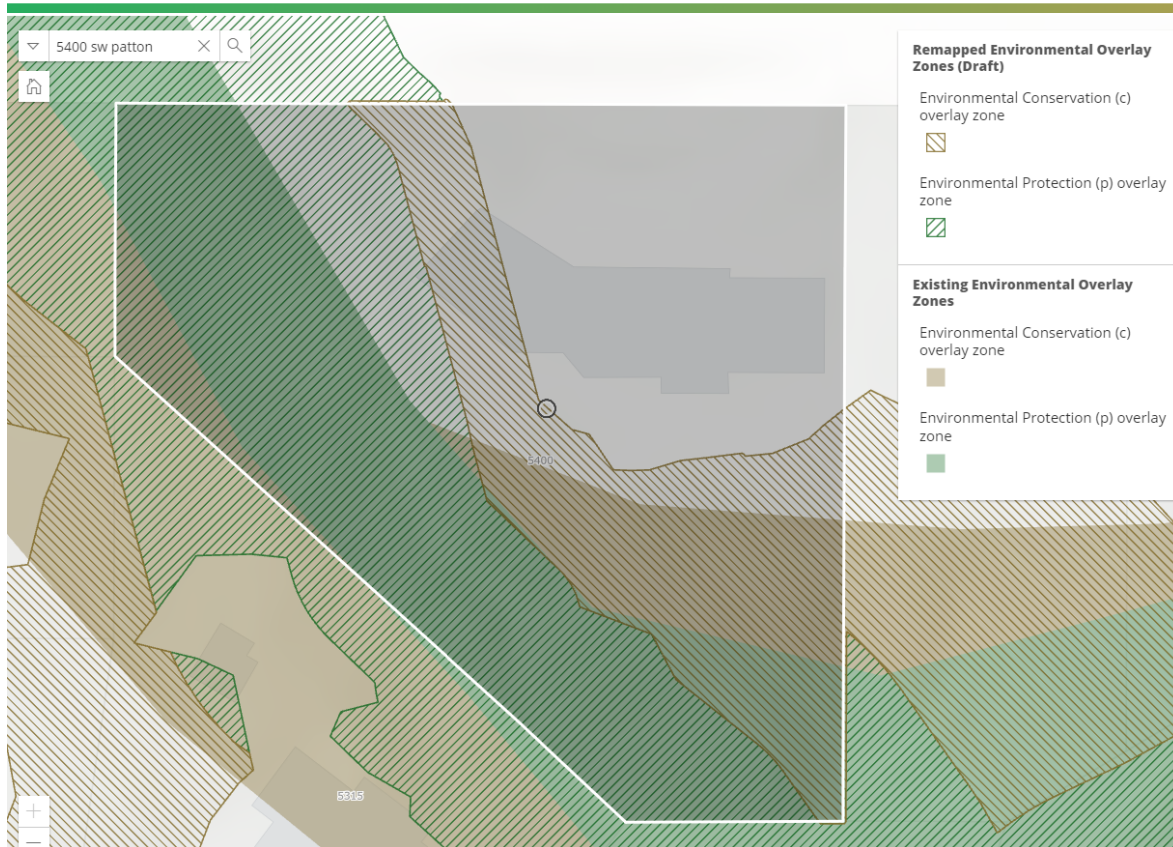
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## 5400 SW Patton Rd



**Testifier:** Scott Simmons

**Site Visit:** Yes. Staff visited the site two times, in 2020 and again on 3/15/2022.

**Description:** Developed, dividable residential lot. Protection zone applies to stream and land within 50 feet of the stream top-of-bank, and to forest vegetation that is within 100 feet of the stream. Conservation zone applies to contiguous forest vegetation that is more than 100 feet away from the stream. Because the lot has additional development capacity and the majority of the lot would be covered by a protection zone, a manual conversion from p zone to c zone is applied to create additional site area outside of the protection zone.

**Testimony:** Testifier noted that most of the lot is covered by ezones, and that the draft ezones run right through portions of the house. He expressed concern that the ezones could prevent expansion of development on the site. Testimony ID 331557.

**Staff Response:** Project staff believe that the ezones are mapped appropriately on the site. There is a stream that is located approximately 25 feet away from the house on the western side of the lot, and the ezones follow the edge of the forest canopy. At the second site visit, project staff proposed to make some edits to the forest mapping in the area behind the house on the east side of the lot. If these edits are adopted, the area covered by draft conservation zone would be reduced.

5400 SW Patton – Natural Resources Before Site Visit:



5400 SW Patton – Proposed Edits to Natural Resource Mapping:

