

July 28, 2020

Dear members of the Planning and Sustainability Commission:

In order to ensure my voice has been "heard" in this virtual testimony format I am asking for a short personal email response from everyone on the Commission that reads this written testimony to confirm. My email address is dans@symonsengineering.com

Specific Testimony to my site at [R178532](#) :

I purchased 2 acres in this fine City in the beginning of the 1990's, it was zoned R10 which would imply that it could be divided into 8 parcels. I had no intention of logging it and putting up 8 homes but instead wanted to build a home for my family in the woods, be a good steward of the land, and preserve a second building site as retirement income. I went through my first Environment Review to be able to build my home and found that due to the slopes the maximum density for all 2 acres would only be 2 lots.

A few years later the City proposed E-zone mapping changes similar to the exercise that is occurring now. The proposed mapping was horrible, it was to run the P-zone line right through the middle of my house and yet did not include P-zone protection for the drainage that runs along the east edge of my property. I contacted the staff planner, provided them with site specific topography and helped them correct the map so that my home and the immediate area surrounding the house was not in P-zone, including a small knoll to the NE of my driveway that was to be preserved for a second homesite. The result of this cooperative effort is the Existing Environmental Overlay Zones you see on the map today.

The map changes that are proposed today give no respect to that effort and agreement, I feel that the staff planner at the time and I have been betrayed. While the proposed mapping extends the C-Zone much further north on my property, that area is down a steep pristine slope, would be more impactful to develop, and should remain P-zone as currently mapped. The small knoll that had been preserved in C-zone for a second dwelling on the current map is proposed to be truncated by 50'-60' to the west making it far less than ideal than the map that is currently approved. I contacted staff about this last year and they justified it with newer technology being able to them a better alignment of the drainage along the east edge of my property and that a 50' P-zone setback is required. I forwarded the site specific survey along with the history to staff assigned for this exercise but the proposed maps have not changed materially, my concerns fell on deaf ears.

Staff is also giving preferential treatment inconsistently to existing development versus my existing development rights. This is easily proven by the fact that the proposed P-zone setback from the same drainage is to be 50' on my side of the drainage where I had previously preserved a building site with City approval. but only 25' on the opposite side of the drainage adjacent to my neighbor's house directly to the east. My neighbor's house and front yard to the northeast won't have any E-zone overlay even though their structure is nearly sitting in a mapped drainage. Portions of my driveway are proposed to be in the new P-zone. The mapping technology doesn't seem to have advanced much beyond tracing the edges of tree canopies from satellite imagery and what is proposed for my property and many, many others is inequitable. The City is proposing to penalize me for being a good steward and allowing tree canopy growth to extend over my roof and driveway.

I am requesting no map changes as it would only make a second residence much more difficult to approve and construct. As proposed I won't be able to build even the modest structure I had planned to get some return on investment, let alone the 8 lots of the base zone, and that is clearly a taking.

Had I developed the extra lot 20 years ago, there would have been no requirement for frontage improvements, now there is LTIC at \$600 per l.f. of frontage and with 300' of frontage on my property that is a massive \$180,000 hit to my retirement goal. That certainly feels like a taking too.

General Testimony about the Process

I believe staff wants citizens to forget about Measures 37 and 49, the voter's response to similar re-zoning projects that affected the development potential for thousands of Oregonians. This current "public process" look like it meets the intent of involving the public in policy making but it in no way protects our development rights. The loss of development rights is considered a taking, a taking that should be compensated for. Those ballot measures attempted to balance environmental protection with development rights in an effort to compensate or appease the voters. It was and is not an equitable balance.

As a registered civil engineer here in Portland for the last 28 years I've been involved in numerous M37/M49 and Environmental Review applications all around the Metro area. The City at one time had offered density transfer rights for property owners affected by environmental overlay but that is in no way to be construed equitable compensation. Density transfer is nearly impossible to achieve and creates an unbelievable amount of additional and expensive bureaucratic burden for a property owner to even attempt. It's still a taking. If the compensation of density transfer for example is going to be equitable then it should be as painless for the property owner to realize that type of compensation as it is to lose the development rights that this latest re-mapping exercise proposes. Otherwise for the good of the public's environment the City should compensate property owner's directly in cash for the diminished property rights, it should not come out of the development proceeds a property owner has a right to. A person has more rights to diminished value in this town when somebody wrecks their car than when the City wrecks the development potential of their land.

The Environmental Review process that is now required to build anything in the C-zone has become a monster and is the most expensive entitlement process and obstacle to development in any jurisdiction I've ever obtained permits in. I've seen it literally kill projects entirely and maybe that is staff's goal in the name of environmental protection but if you think about the development rights the property owner had before the map change, its really just another taking. It also makes affordable house unaffordable.

The response to takings won't be on the ballot in the future, Portlanders now take matters into their own hands and while responsible property owners won't be setting fire to the elk statue or the federal courthouse over this, we will rally and form a class action suit against the City with the demand to be compensated in cash for any further takings that get approved. Doesn't this City have better things to use their resources on than for this current exercise to further diminish property owner's development rights? As I look around at this tattered and trashed town I truly think so.

Respectfully,

Dan E. Symons, PE