

# Dominic Corrado

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## Testimony to **Portland City Council** on the **Environmental Overlay Zone Map Correction Project, Recommended Draft**

I bought my property in 1990 and since then I have been under near constant attack from the Portland Planning Bureau. These environmental zones have been enacted over the years by stealth and on the flimsy, conclusory allegations that they are needed to protect “public safety.” While specific features such as steep slopes, flood areas and stream beds do require special management, these features only exist on a small fraction of the area encompassed by these overlays. If these infringements on the use of property are truly necessary for the “health and safety” of the entire region, then let the ENTIRE REGION vote to tax itself, similar to recent Green Space initiatives, to create a fund to compensate affected property owners. According to the Planning and Sustainability website, “... since the early 1990s, the City’s environmental overlay zones were applied using relatively “low-tech” methods.” What this tells me is that 48% of my property was taken from my control and put into an environmental zone based on faulty and inaccurate information. Once a property is improperly drawn into these overlays, it is nearly impossible to correct the error without a lengthy, difficult battle relying on expensive consultants and land use attorneys. The planning bureau understands this and intentionally applies these e-zones with an indiscriminately broad brush, knowing that most property owners, if they are even aware of the overlays, won’t have the time or financial resources to fight back. Now we are told that new mapping technologies like “...LiDAR can be used to accurately and consistently map topography, streams, wetlands and vegetation – even the height of individual trees.” However, I have spotted inaccuracies imbedded in these new proposed maps on my own property. After recently completing a rigorous Type III Land Division with Environmental Review, these new maps attempt to expand restrictions onto portions of my newly created building lot that were previously determined to be free from these “resources”. Additionally, a new wetlands overlay was placed on my property in areas where no wetland was detected during the environmental review conducted during the land division just five years ago. Nonetheless, the wetland overlay was destined to be applied if I didn’t challenge it with a wetlands delineation. I arranged for the environmental consulting firm SWCA to conduct a wetlands survey that, unsurprisingly, uncovered no wetlands. The wetland designation was lifted from my property and the parcel to the west, but not entirely from the adjacent lot to the south. I believe this is another mapping error resulting from aerial surveys that have been proven by SWCA’s wetland surveys to be inaccurate. However, as it stands right now, this inaccurate map is on track to be embedded in city code with potentially disastrous consequences for the property owners and any adjacent properties within 50 feet of the erroneous “wetland boundary”. This can be particularly damaging at

the time a property is put up for sale, as ORS 105.464 requires the disclosure of "... any governmental studies, designations, zoning overlays, surveys or notices that would affect the property." The new maps indicated wetlands on all four of my parcels and on the parcels immediately west and south of me. A wetlands delineation has proven that five of the six parcels in question are free from wetlands, an EIGHTY PERCENT ERROR RATE in the maps that would have become law if not challenged. The status of the sixth parcel is in question, but since the wetland designation has been lifted from the surrounding parcels, this is most likely a mapping error as well. However, this can't be determined until a new wetland survey can be conducted in the spring. If an erroneous wetland designation isn't apparent until, say, a construction permit is denied, there is no way for a property owner to challenge it until a wetland delineation can be performed the following winter or spring. This could delay a project for up to a year, all because the city rushed through erroneous maps. These wetland overlays are brand new and it is disingenuous to include them in a MAP CORRECTION PROCESS. These wetland designations should be presented and discussed as NEW overlays with potentially disastrous consequences for property owners. The Ezone Map Correction Project has followed the predictable pattern of previous zoning initiatives (The Fanno Creek and Tributaries Conservation Plan, Portland Healthy Streams, Metro's Goal 5 Environmental Overlays — the last two going down in flames because of robust and widespread opposition). Those, too, were notorious for late and incomplete notifications and a tin ear to the cries of pain from property owners who are once again being shut out, ignored and deliberately deceived. The promoters of the Ezone Map Correction Project have received an enormous gift in the form of the Covid Epidemic, which has given the Planning and Sustainability Commission cover for sidestepping robust open meetings, where property owners can gather and formulate the kind of cohesive opposition which effectively shut down previous attempts at property control and confiscation. The fact that the city is moving forward with this unconscionable power play is a disgrace. A 90-second opportunity to comment during a Zoom meeting is not a legitimate substitute for the kind of fair and open public meeting debate that these proposals demand. Ninety seconds is not a good faith invitation to participate in the discussion. It is an insult, designed to discourage fair and open debate. A huge percentage of the affected property owners have neither the equipment nor technical expertise to participate in this process. In the name of fairness to property owners, I urge the Portland City Council to prevent another colossal blunder by the Bureau of Planning and Sustainability and to reject this most recent half-baked plan. Vote to suspend this project altogether until a truly equitable and inclusive approach can be devised.

Testimony is presented without formatting.