



City of Denton

City Hall
215 E. McKinney Street
Denton, Texas
www.cityofdenton.com

AGENDA INFORMATION SHEET

DEPARTMENT: Department of Environmental Services and Sustainability

ACM: Christine Taylor, Assistant City Manager

DATE: September 26, 2023

SUBJECT

Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas approving an Alternative Environmentally Sensitive Areas Plan on approximately 14.176 acres of land generally located on the southwest corner of Hickory Creek Road and FM 2499 in the City of Denton, Denton County, Texas; adopting an amendment to the City's official environmentally sensitive areas map; providing for a penalty in the maximum amount of \$2,000.00 for violations thereof; providing a severability clause and an effective date. The Planning and Zoning Commission voted [6 - 1] to recommend approval of the request. Motion for approval by Commissioner Smith and second by Commissioner Anderson. (AESA22-0004b, Cyrene at Hickory Creek, Christi Upton).

BACKGROUND

The applicant, Jared Helmburger, on behalf of Justin Pasternak of Curve Development, has requested an Alternative Environmentally Sensitive Areas (AESA) Plan to remove a total of 0.66 acres of a complex of Environmentally Sensitive Areas that includes both Undeveloped Floodplain and Riparian Buffer. The application is proposing to improve ecological conditions on the remainder of the Environmentally Sensitive Areas (ESAs) and open space, for a total of 1.234 acres. The proposed ESA Restoration Plan is provided as Exhibit 3.

Denton designates and provides regulations that limit land-disturbing activities to protect water quality, provide habitat, provide critical wildlife corridors, and other ecological services that are offered by ESAs. Areas identified on the official ESA map are assessed as part of the development process. If a property owner wishes to disturb an ESA beyond the limited scope of permitted activities specified in the Denton Development Code, approval of an AESA Plan must first be obtained.

A more detailed explanation of the ESAs found on the subject property as well as a full Staff Analysis of the requested AESA Plan are provided in Exhibit 2.

PLANNING AND ZONING COMMISSION

The Planning and Zoning Commission held a public hearing for the request at their September 13, 2023 meeting. No members of the public spoke at the meeting. The Planning and Zoning Commissioners requested more information about the connectivity of the green space created by the HOA property (Teasley Harbor) to the south of the subject property and this project. A trail is intended to create a connection and continuity across both properties, then dedicated to Parks and Recreation Department in coordination with the Trails Master Plan. Other questions were related to the City of Denton drainage criteria, which the project has demonstrated meeting.

OPTIONS

1. Recommend Approval
2. Recommend Approval subject to conditions.
3. Recommend Denial
4. Postpone item.

RECOMMENDATION

Staff recommends approval of the request with the following conditions as the project does comply with the criteria in Section 2.4.5.E of the Denton Development Code (DDC) for approval of all applications, and Section 2.8.4.D. of the DDC for approval of an alternative ESA plan.

1. Land disturbances within Environmentally Sensitive Areas are limited to the Development Impact Area, as described in **Exhibit “A”** and depicted in **Exhibit “B”**.
2. The two-phase mitigation plan, as described in **Exhibit “E”**, will commence during the winter months of December of the same year or January of the subsequent year in which the development has received permission from the City to clear and grade for development. The development shall achieve initial planting goals within the mitigation area prior to the issuance of any building permits.
3. Temporary land disturbances of up to 10 percent (0.123 acres) of the remaining Environmentally Sensitive Areas, as described in **Exhibit “C”** and depicted in **Exhibit “D”**, may be proposed by the applicant to satisfy any remaining drainage design requirements and may be approved by City Staff, provided that the disturbed land be restored by following the mitigation plan.
4. Notwithstanding the limited administrative approval in Condition 3, the City reserves the right to require approval by ordinance any amendments or alternations to the Alternative ESA Plan.
5. Following the installation and inspection of the revegetation, the Property owner shall submit an annual report to the Environmental Services and Sustainability Director during the first three (3) years describing the cumulative mitigation work performed and the survivability of the plantings and existing trees for staff review and inspection, as described in **Exhibit “E”**. Within 30 days of approval of the report by staff, the applicant shall replace any plants that were identified in the report as removed, destroyed, or dead; and mitigate at the applicable ratios in DDC Section 7.7.4 for any existing trees that were removed, destroyed or dead.
6. The Property owner retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the AESA Property, and the responsibility to implement and enforce the requirements of the Alternative ESA Plan, and cure any defaults of the Alternative ESA Plan.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

Date	Council, Board, Commission	Request	Action
6/22/2022	Planning and Zoning Commission	Preliminary Plat	Approved
9/13/2023	Planning and Zoning Commission	Alternative ESA Plan	Recommended Approval with Conditions

PUBLIC OUTREACH:

Seventy (70) notices were sent to property owners within 200 feet of the subject property, and 163 postcards were mailed to current residents within 500 feet of the subject property. As of the writing of this report, the City has received no favorable responses and 4 responses in opposition to the mailed notices (4.45%). A copy of the responses is provided in Exhibit 4.

A notice was published in the Denton Record Chronicle on 9/10/2023.

A notice was published on the City's website on 9/7/2023.

Eight (8) signs were posted on the property on 3/12/2023.

The applicant held one neighborhood meetings on 3/21/2023. Four (4) community members attended the meeting. Questions related to the project were focused on a trail that will extend to the neighborhood to the south, Teasley Harbor. Other questions were related to how infrastructure to support the development may affect the community members.

DEVELOPER ENGAGEMENT DISCLOSURES

No developer contact disclosures have been provided to staff from members of this body as of the issuance of this report.

EXHIBITS

1. Agenda Information Sheet
2. Staff Analysis
3. AESA Restoration Plan
4. Notification Map and Responses
5. Ordinance
6. Staff Presentation

Respectfully submitted:

Michael A. Gange

Director of Environmental Services and Sustainability

Prepared by:

Christi Upton

Environmental Compliance Coordinator