



# City of Denton

City Hall  
215 E. McKinney St.  
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## Legislation Text

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**File #:** ADP16-0002c, **Version:** 1

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### Planning Report

**ADP16-0002c / Buc-ee's Travel Center**

**City Council District 4**

**Planning & Zoning Commission**

**March 23, 2016**

### REQUEST:

Hold a public hearing and consider making a recommendation to City Council regarding an Alternative Environmentally Sensitive Area Plan to allow for commercial development to encroach into an existing Environmentally Sensitive Area (ESA). The approximately 37 acre property is generally located on southbound I-35E and approximately 2200 feet south of Lillian B Miller Parkway. The subject property is within a Regional Center Commercial Downtown (RCC-D) District. (ADP16-0002c, Buc-ee's Travel Center, Julie Wyatt)

### OWNER:

John Pearson

### APPLICANT:

David S. Ratcliff with Ratcliff Engineering Services, LLC

### BACKGROUND:

The applicant is requesting an Alternative Environmentally Sensitive Area Plan to allow for a commercial development to encroach into an existing Environmentally Sensitive Area (ESA). The proposed commercial development would be anchored by a Buc-ee's Travel Center and include peripheral development sites along I-35E.

To facilitate internal vehicular circulation within the development and to permit access to the peripheral development sites, the applicant proposes a private road between the smaller commercial parcels along I-35E and the anchor site. Water, wastewater, and storm sewer infrastructure for the development would be located under the private road and within a public utility easement. As proposed, the alignment of this private road and public infrastructure would impact approximately 13,134 square feet of an existing ESA Riparian Buffer.

Riparian Buffers include areas 50- or 100-feet from the centerline of a stream on both sides, depending on the size of the area that drains from the watershed to the stream, and areas along the wetted perimeter of ponds and lakes. Buffers are the "last line of defense" for capturing pollutants, sediments and excess nutrients before these materials become water borne. Riparian Buffers are also effective pathways for wildlife movement.

Section 35.17.8 of the Denton Development Code (DDC) prohibits development activities within ESA Riparian Buffers and Water-Related Habitats, including the following:

- Land disturbing activity not authorized by a Corp Section 404 Permit or Letter of Permission or

approved as part of the ESA review.

- Uncontained and contained areas of hazardous materials handling areas for the receiving and storage of hazardous waste.
- Any structures, including storage sheds, garages and carports, located within the area mapped as Riparian Buffer and Water Related Habitats.

Land disturbing activity is defined in Subchapter 23 of the DDC as “Alteration of the land surface by: any grading, scraping, excavating, dredging, transporting or filling of land; any clearing of vegetation; any construction, rebuilding, or alteration of a building, road, driveway, parking area, or other structure, not including routine maintenance such as painting, repair, or reconstruction of existing structures or surfaces; and any substantial activity or use which may result in soil erosion from water or wind and the movement of sediments into waters or lands protected by this Chapter.”

The construction of the proposed private road is considered a land disturbing activity as defined by Subchapter 23 of the DDC, and thus, would be prohibited within an identified ESA Riparian Buffer. However, Section 35.17.12 of the DDC provides the option to address these regulations through a flexible discretionary process known as an Alternative ESA Plan. Through this zoning amendment procedure, which includes two public hearings, a recommendation by the Planning and Zoning Commission, and approval by City Council, an Alternative ESA Plan can be permitted if it demonstrates that the proposal will result in a high-quality development that meets the intent of the environmental protections outlined in Subchapter 17. Section 35.17.1 outlines the intent of the environmental protections of Subchapter 17, including:

- Manage and protect environmentally sensitive areas within the City as well as detail such areas that have been previously identified in The Denton Plan.
- Protect the natural and ecological resources that are essential elements of the City's health and community character and which provide irreplaceable plant and wildlife habitat;
- Establish a development framework for the City that is respective of private property rights, while encouraging them to be used responsibly for the benefit of the entire community;
- Preserve and enhance the City's distinctive community character and quality of life by ensuring that its natural and built environments are consistent with the community vision and values embodied in The Denton Plan (and subsequent Denton Plan 2030).

As mitigation for the 13,134 square feet of existing ESA disturbance, the applicant proposes an equal quantity of natural area adjacent to the existing Riparian Buffer to be preserved and enhanced with eight additional trees. Additionally, the installation of two Stormceptors® (stormwater quality controls) is proposed, with the optimal sizing and location to be determined during the final plat stage of development.

#### **SITE DATA:**

The approximately 38 acre site is generally located on the southwest side of I-35E, 1,200 feet north of Wind River Lane. It is undeveloped and has approximately 2,100 feet of frontage along I-35 E. The triangular-shaped property includes mature trees along the perimeter, a 3-acre pond, and 50-foot ESA Riparian Buffer running north from the pond to I-35E.

#### **COMPATABILITY OF REQUEST WITH SURROUNDING ZONING AND LAND USES:**

The proposed commercial use is permitted under the existing zoning and no access to the adjacent neighborhoods will be provided from the proposed development. The requested Alternative ESA Plan will not negatively affect the surrounding neighborhoods. The applicant has proposed storm water quality control

measurements and will preserve and maintain an equal amount of natural area and tree plantings to offset the area proposed for disturbance. This preserved natural area will be provided for and maintained in addition to the required buffers and landscaping.

## **COMPREHENSIVE PLAN:**

Beginning with the 1999 Denton Plan and continuing with Denton Plan 2030, Denton has been committed to protecting areas of significant ecological value by limiting land-disturbing activities and development within identified ESAs. These ESA areas, including Riparian Buffers, provide important plant and animal habitats while filtering and sequestering pollutants within storm water runoff.

Element 5 of the Denton Plan 2030 establishes the City of Denton's goals for conservation and the environment:

*Goal PDC-2: Use an integrative approach to environmental management to create local land conservation strategies tailored to protecting Denton's water, air, ecosystems, and natural character.*

To implement this goal of protecting Denton's environment, Denton Plan 2030 recommends requiring ESA assessments for development sites when disturbance is proposed and implementing appropriate management practices and necessary mitigation actions. While the proposed development would impact the existing Riparian Buffer, mitigation proposed by the applicant would use natural area preservation, tree plantings, and storm water quality technology to simulate some of the effects of the Riparian Buffer on the site.

## **CONSIDERATIONS:**

1. The applicant proposes a private road within the Buc-ee's Travel Center development to provide for internal circulation that would impact approximately 13,134 square feet of an existing Riparian Buffer ESA.
2. Riparian Buffers are one of the four types of environmentally sensitive areas (ESAs) protected by the DDC. In general, ESAs perform six basic functions (City of Denton Environmental Management White Paper, 2004):
  - Provide a habitat for wildlife,
  - Serve as a conduit ,
  - Act as a barrier,
  - Filter pollutants,
  - Serve as a source of resources, and
  - Serve as a sink and sequestration area for pollutants.All of these functions serve to protect the quality and quantity of surface water resources, promote effective floodplain management, and ensure stream bank stability.
3. The subject Riparian Buffer extends 50 feet from both directions of the channel (totaling 100 feet back-to-back). The area was assessed in 2008 (ESA08-0009) and met all hydrological, physical, and biological criteria for a Riparian Buffer. The assessment scored the habitat as of good quality. Since the original assessment, there have not been changes upstream or nearby that would have changed the habitat conditions. A recent tree survey of the area confirmed the existing heavy tree canopy within the buffer observed in 2008.
4. Generally, encroachments or disturbances of a Riparian Buffer are not allowed unless otherwise permitted under Section 35.17.8 or if an Alternative ESA Plan is approved. The proposed road and infrastructure improvements would require the following disturbances:
  - Removal of vegetation and the construction of a stream crossing for vehicular access;

- Open cut installation of water and sewer lines through the Riparian Buffer;
- Removal of approximately 13,134 square feet of good riparian habitat; and
- Removal of 24 trees providing 10,087 square feet of tree canopy and totaling 311 caliper inches.

5. The DDC states that the Alternative ESA Plan must result in a high quality development meeting the intent of habitat preservation. The applicant is proposing the following mitigation in exchange for the ESA disturbance:

- Preserve an area of approximately 13,149 square feet dominated by dry land vegetation where ten trees currently exist
- Plant eight additional trees in and near the preserved area in locations that will allow the trees to reach the species' mature height and canopy. The additional trees, at maturity, are expected to increase the canopy by approximately 10,000 square feet. The attached ESA Mitigation Plan shows the approximate location of the proposed preservation area. The Proposed ESA Tree Canopy Map demonstrates possible locations for the mitigation trees; and
- Add two Stormceptors ® (stormwater quality controls) for treating runoff in the attached Runoff Treatment Area Map before reaching the stream. The controls would perform some of the filtering and barrier functions the removed ESA would otherwise provide. The goal is using Stormceptors ® for intercepting oils and floatables from adjacent commercial parking lots. The Stormceptors ® would also help in maintaining the water quality and aesthetics of the existing pond located downstream.

6. The following is a comparison of the existing conditions of the ESA impacted by the proposed private road and the proposed green mitigation:

	<b>Existing ESA</b>	<b>Proposed Mitigation</b>
Area (square feet)	13,134	13,149
Number of Trees	23	18 (10 existing, 8 new)
Caliper Inches	311	196 (180 existing, 16 new)
Tree Canopy (square feet)	10,087	19,945 (9,847 existing, 10,048 at maturity)

7. The road crossing would be designed to meet the City drainage regulations. The opening of the road crossing would provide an open pathway for wildlife movement during periods of low flow. In line with existing drainage regulations velocity dissipators would be installed in those area were high flow velocities are expected.

8. Since the preserved area, tree plantings, and Stormceptors ® will imitate some of the ecological and water quality functions of an ESA, the proposed mitigation meets the intent of the environmental protections in Subchapter 17 of the DDC. Furthermore, the proposed mitigation meets the goals of Denton Plan 2030.

#### **STAFF RECOMMENDATION:**

Staff recommends approval of the request with the following conditions, meeting the intent of the standards in Subchapter 17 of the DDC and is consistent with the goals and objectives of the Denton Plan 2030.

1. An area equal to or greater than 13,149 square feet shall be preserved in accordance with the attached ESA Mitigation Plan. No land disturbing activity as defined by the Denton Development Code is permitted in the preservation area.
2. Eight trees must be planted to mitigate for the removal of trees in the ESA. Each tree must be a Large Tree from the Landscape Plant List (mature canopy size of 1,256 square feet) and a minimum of 2

inches in diameter at planting. Planted trees must be irrigated for a minimum of three years. If any tree that is planted as part of the Alternative ESA Plan dies, that tree must be immediately removed and replaced with a Large Tree within the appropriate planting season. The ESA mitigation trees are in addition to the Percentage of Tree Canopy required by the governing zoning district.

3. Two Stormceptors ® shall be installed with optimal sizing and location to be determined during the final plat stage of development.
4. All water quality protection facilities shall be maintained by the property owner or maintenance entity established for that purpose. A description of maintenance tasks, frequency of maintenance, responsible parties for maintenance, funding, access, etc. shall be provided during the final plat stage of development.
5. Where chronic or severe problems exist, and the owner does not provide maintenance and repairs, the City of Denton will have the right but not the obligation to remedy the situation and recover the cost for the work from the property owner. This authority shall be established on the final plat document.

**OPTIONS:**

1. Recommend approval as submitted.
2. Recommend approval subject to conditions.
3. Recommend denial.
4. Table the item.

**PUBLIC NOTIFICATION:**

To comply with the public hearing notice requirements, 55 notices were sent to property owners within 200 feet of the subject property, 122 courtesy notices were sent to physical addresses within 500 feet of the subject property, a notice was published in the Denton Record Chronicle, and signs were placed on the property. The applicant did not hold a neighborhood meeting in association with this request.

**PROJECT TIMELINE:**

Application Received:	January 27, 2016
1st Submittal Sent to DRC Members:	January 27, 2016
Comments Released to Applicant:	February 12, 2016
DRC Meeting with Staff:	February 18, 2016
2nd Submittal Sent to DRC Members:	February 22, 2016
Business Days under DRC Review:	10 days
Business Day out to Applicant:	2 days
Total Business Days:	12 days

**EXHIBITS:**

- Aerial Map
- Zoning Map
- ESA Mitigation Plan
- Proposed ESA Tree Canopy Map
- Runoff Treatment Area Map
- Stormceptor Information Sheet
- Stormceptor Diagram
- Notification Map

Respectfully submitted:  
Beverly Zendt, AICP  
Development Review Committee Administrator

Prepared by:  
Julie Wyatt  
Associate Planner