

# **Committee on the Environment (COE) Presentation**

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# Objective:

- ▶ Consider adoption of an ordinance to repeal and replace Subchapter 17 *Environmentally Sensitive Areas* (ESAs), amend Subchapter 3 *Procedures* related to appeals, and amend Subchapter 23 *Definitions* by adding new and replacing definitions.

# ESAs:

## ▶ Types

- ▶ Floodplains
  - ▶ Developed
  - ▶ Undeveloped
- ▶ Riparian buffers
- ▶ Water-related habitats
- ▶ Upland habitats

## ▶ Functions

- ▶ Environmental services
- ▶ Compliance with permits, regulations, and designations

# Reasons for Revisions:

- ▶ Inconsistencies with other regulations
- ▶ Improve wording/phrasing
- ▶ Lack of clarity
- ▶ Lack of guidance for policy implementation
- ▶ Evaluation of existing policies
- ▶ Considering new policies

# Public Vetting:

- ▶ 13 COE meetings
- ▶ Denton Development Code Update webpage
- ▶ Notices to all ProjectDox applicants via email
- ▶ Presentations at DDC Update open house meetings
- ▶ Input solicited from developers and consultants
- ▶ 3 P&Z work sessions and 2 public hearings

## Feb. 7 P&Z PH Overview:

- ▶ COE-vetted language presented.
- ▶ List of 61 public comments
- ▶ P&Z asked about amount of upland habitat ESA in residential and non-residential zoning districts.
- ▶ Staff provided written responses for public comments.
- ▶ P&Z requested rewording of Upland Habitat definition.

## Feb. 21 P&Z PH Overview:

- ▶ Continued work session from Feb. 7.
- ▶ Staff provided written responses for public comments.
- ▶ Staff made changes in response to 26 public comments;
  - ▶ added and revised definitions and clarified language
  - ▶ moved technical information to criteria manual
  - ▶ aligned permitted activities in Undeveloped floodplains and Riparian buffers.
- ▶ P&Z directed staff to list all definitions in SCH 17, SCH 23, and Criteria Manual.
- ▶ P&Z recommended approval with the changes made in response to public comment and P&Z.

## ESA Criteria Manual (Sec. 35.17.3):

- ▶ **Goal: To provide a guiding document for developers, and the community in general, for protecting and managing ESAs.**
- ▶ COE-vetted language

In addition to meeting the requirements expressly established in this Subchapter, all environmentally sensitive areas shall comply with the Environmentally Sensitive Areas Criteria Manual. Where there is conflict between a provision set forth in this Subchapter and a provision of the Environmentally Sensitive Areas Criteria Manual, the provisions of this Subchapter shall apply.

- ▶ Public Comment: 6
- ▶ Planning and Zoning Commission recommends no changes

# Credits (Sec. 35.17.4.E):

- ▶ **Goal: To expand available credits for meeting multiple city requirements through the preservation of ESAs.**

- ▶ **COE-vetted language:**

Any Environmentally Sensitive Area that is preserved may be used towards meeting:

Landscape and Tree Canopy requirements contained in Subchapter 13

New	One square foot of tree canopy will be given for every square foot of preserved ESA tree canopy (1:1)
New	Two square feet of landscape credits will be given for every square foot of preserved ESA tree canopy (2:1)
New	One square foot of landscape credits will be given for every square foot of non-wooded preserved ESA (1:1)
Existing	Parkland dedication in accordance with the Parkland Dedication Ordinance
Existing	Drainage standards in accordance with Subchapter 19.

- ▶ **Public Comments: 21,22,23,56, and 60**
- ▶ **Planning and Zoning Commission recommends no changes**

## ZBA Appeals (Sec. 35.17.6.C.3):

- ▶ **Goal: To provide an appeal process for ESA field assessments through ZBA.**

- ▶ COE-vetted language

### Appeals

Appeals to staff determinations shall follow the Staff Review Procedure detailed in Section 35.3.7.

- ▶ Public Comment: 32
- ▶ Planning and Zoning Commission recommends adding a semi colon after the word Appeals;

## Classification of Floodplain ESAs (Sec. 35.17.7):

- ▶ **Goal: To classify floodplains as Developed or Undeveloped based on field assessments.**
- ▶ COE-vetted language  
Upon field verification areas designated as FEMA 1% Annual Chance Floodplain would be classified according to the existing conditions as Developed or Undeveloped floodplains.
- ▶ Public Comment: None
- ▶ Planning and Zoning Commission recommends no changes

## Mobility Plan Roadways (Sec.35.17.7.B.1.h):

- ▶ **Goal: To exempt roadways required by the Mobility Plan, eliminating the need for Alternative ESA Plans.**

- ▶ COE-vetted language

Construction of roadways identified on the Mobility Plan as long as the disturbed areas are restored to minimize erosion and promote the recovery of the Environmentally Sensitive Area subject to the Director of Environmental Services approval, and requirements outlined in Section 35.17.7.B.4.

- ▶ Public Comment: None
- ▶ Planning and Zoning Commission recommends deleting reference to Sec. 35.17.7.B.4 as this section has been relocated to the ESA Criteria Manual.

## Preservation of Upland Habitat (Sec. 35.17.9.A.2):

- ▶ **Goal: To extend protection of upland habitats on non-residential developments.** Tree Code would be met by preserving the ESA.
- ▶ COE-vetted language  
Non-residential development shall be designed to retain thirty percent (30%) tree canopy which shall remain predominantly in its natural state. Preservation of upland habitat contiguous to forested areas on adjacent properties or parcels is strongly encouraged.
- ▶ Public Comment: None
- ▶ Planning and Zoning Commission recommends no changes

## Criteria for Approving Alt. ESA Plans (Sec. 35.17.11.B):

- ▶ **Goal: To provide a criteria to P&Z and Council for approving Alt. ESA plans while providing guidance for Developers on how to meet the criteria** (e.g. by planting more trees, constructing wetlands, removing invasive species, *etc.*)
- ▶ COE-vetted language

The goals and objectives which must be met, and by which the proposal will be judged are:

- New 1. Mitigation goals are obtained by creating, expanding, and/or improving environmentally sensitive areas.
- New 2. Mitigation goals are obtained by preserving environmentally sensitive areas above the minimum requirements, exchanges between different types of ESAs, installing pollution prevention controls, and/or implementing best management practices or any other approaches that result in the improvement of the environment being impacted.

## Criteria for Approving Alt. ESA Plans (Sec. 35.17.11.B):

- Existing 3. Areas offered as mitigation are linked to existing or planned open space or conserved areas to provide an overall open space system.
- Existing 4. Development is arranged for maximizing access and utilization of the environmentally sensitive areas by citizens.
- Existing 5. Areas offered as mitigation are placed either in a lot or lots that incorporate a permanent conservation easement, restrictive covenants, or such other legal mechanism to allow for the long term conservation of said areas. Such legal mechanism shall limit any future land disturbing activity or construction within the environmentally sensitive areas and shall run with the land and be binding upon all successors and assigns of the current owner.

## Criteria for Approving Alt. ESA Plans (Sec. 35.17.11.B):

- Existing 6. The Alternative Environmentally Sensitive Area Plan shall demonstrate that the developer's alternative proposal results in a high quality development meeting the intent of the standards in the Denton Development Code.
- ▶ Public Comments: 59, 60, and 61
  - ▶ Planning and Zoning Commission recommends no changes

# Necessary Next Steps:

- ▶ **Goal: To give ZBA the authority for approving appeals from staff determinations on ESA field assessments (Slide 10)**

- ▶ Staff Review Appeal Procedure (35.3.7.D)

5. A Staff decision on an Environmentally Sensitive Areas (ESAs) field assessment may be appealed to the Zoning Board of Adjustments.

- ▶ **Goal: To add new and replace definitions in Subchapter 23**  
***Definitions***

- |                         |                         |
|-------------------------|-------------------------|
| ▶ Developed floodplains | Undeveloped floodplains |
| ▶ Nuisance              | Upland habitats         |
| ▶ Riparian buffers      | Valley storage          |
| ▶ Streams               | Water-related habitats  |
| ▶ Surface water body    | Wetlands                |

## Recommendation:

- ▶ Staff recommends **approval** of the revisions.
- ▶ The Planning and Zoning Commission recommended **approval**, with conditions [4-2].