



## Legislation Text

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

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### AGENDA INFORMATION SHEET

**DEPARTMENT:** Department of Development Services

**ACM:** Jon Fortune

**DATE:** April 5, 2016

#### **SUBJECT**

Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, regarding an Alternative Environmentally Sensitive Area Plan to allow for commercial development to encroach into an existing Environmentally Sensitive Area (ESA). The approximately 39 acre property is generally located on southbound I-35E and approximately 2200 feet south of Lillian B Miller Parkway within a Regional Center Commercial Downtown (RCC-D) zoning district; and 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 recommended approval with conditions (4-3). (ADP16-0002, Buc-ee's Travel Center)

#### **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. As proposed, the alignment of this private road and public infrastructure would disturb approximately 13,134 square feet of an existing ESA Riparian Buffer and remove 24 trees with a canopy of 10,087 square feet within the disturbance area.

Section 35.17.8 of the Denton Development Code (DDC) prohibits development activities within ESA Riparian Buffers; however, an Alternative ESA Plan to permit development within an ESA can be approved if the proposal results in a high quality development meeting the intent of habitat preservation. In order to meet this standard for approval, and 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. This preserved area includes 10 existing trees which would be enhanced with eight additional trees planted near the preservation area at appropriate spacing as to achieve the maximum height and canopy for the species. Although the proposed number of preserved trees is fewer than the proposed number of trees to be removed, when planted appropriately, the new plantings would combine with the existing 10 preserved trees to create 19,945 square feet of tree canopy at maturity.

Additionally, the installation of two Stormceptors® (stormwater quality controls) is proposed for treating the

runoff draining from the adjacent commercial parcels along I-35E into the existing Riparian Buffer ESA. Optimal sizing and location of the controls would be determined during the final plat stage of development. The intent of these stormwater quality controls is to simulate the natural filtering functions of the Riparian Buffer that would be impacted by the proposed private road. Drainage from the proposed travel center would not be discharged into the protected ESA.

Based upon the criteria for approval and the proposed mitigation, Staff recommends approval of the request. The attached Staff Analysis contains a complete analysis of the proposed ESA disturbance and the mitigation measures submitted by the applicant.

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. As of this writing, staff has received three notices in opposition of the request.

### **OPTIONS**

1. Approve as submitted.
2. Approve subject to conditions.
3. Deny.
4. Postpone consideration.
5. Table item.

### **RECOMMENDATION**

A public hearing was held at the March 23, 2016, Planning and Zoning Commission meeting. The Planning and Zoning Commission recommends approval (4-3) of the request with the following conditions:

1. An area equal to or greater than 13,149 square feet where ten (10) trees currently exist shall be preserved in accordance with the ESA Mitigation Plan. No land disturbing activity as defined by the Denton Development Code is permitted in the preservation area. The existing ten trees are a component of the mitigation area for preservation, and shall not be removed unless directed and/or permitted by City Urban Forester pursuant to the Denton Development Code.
2. Eight new trees shall be planted to mitigate the removal of trees in the ESA. Each new tree shall 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 AESAP dies, that tree shall 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. The eight new trees shall be planted near the preserved area shown on the ESA Mitigation Plan with appropriate spacing as to achieve the maximum height and canopy for the species.
4. Two stormwater quality controls, or Stormceptors®, shall be installed according to manufacturer's recommendations and sized for at least obtaining minimum pollutant removal efficiencies recommended by integrated Storm Water Management (iSWM) specifications. Sizing and location shall be

determined during the final plat stage of development, and location and sizing shall be approved by City of Denton staff.

5. 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.
6. The property owner or maintenance entity established to maintain the Stormceptors® shall provide to the City a report twice per year demonstrating that the Stormceptors® have been monitored and maintained in accordance with the manufacturer's recommendation.
7. Where chronic or severe problems exist, and the owner does not provide maintenance and repairs, the City of Denton shall 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.

The Development Review Committee recommends approval of this request with the following conditions:

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.

#### **PRIOR ACTION/REVIEW (Council, Boards, Commissions)**

A public hearing was held at the March 23, 2016 Planning and Zoning Commission meeting.

#### **STRATEGIC PLAN RELATIONSHIP**

The City of Denton's Strategic Plan is an action-oriented road map that will help the City achieve its vision.

The foundation for the plan is the five long-term Key Focus Areas (KFA): Organizational Excellence; Public Infrastructure; Economic Development; Safe, Livable, and Family-Friendly Community; and Sustainability and Environmental Stewardship. While individual items may support multiple KFAs, this specific City Council agenda item contributes most directly to the following KFA and goal:

**Related Key Focus Area:**     **Sustainable & Environmental Stewardship**

**Related Goal:**               **5.4 Manage land use and preserve open/natural spaces**

**EXHIBITS**

1.     Staff Analysis
2.     Aerial Map
3.     Zoning Map
4.     ESA Mitigation Plan
5.     Proposed ESA Tree Canopy Map
6.     Runoff Treatment Area Map
7.     Stormceptor Information Sheet
8.     Stormceptor Diagram
9.     Public Notification Map and Responses
10.    Draft Ordinance

Respectfully submitted:  
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