

COMMISSION ACTION FORM

**SUBJECT: ZONING TEXT AMENDMENTS RELATING TO ENVIRONMENTALLY SENSITIVE AREA OVERLAY (O-E)**

**BACKGROUND:**

The Ames Zoning Ordinance includes a zoning overlay district known as the Environmentally-Sensitive Area Overlay (O-E). Zoning overlays are districts that are added to base zoning districts to augment requirements in relation to a specific area or uses. The O-E is described as follows:

The Environmentally Sensitive Overlay (O-E) Zone is intended to supplement the City's flood plain regulations and to protect designated natural resource areas by using the natural resources inventory to identify and preserve natural resources and by establishing parks and open space areas. Greenways are included in this district for stream corridors, linear parks, and open spaces adjacent to environmentally sensitive areas to create a continuous system throughout the City.

The Zoning Ordinance specifies that such overlays are to be mapped based on a scientific study that concludes the area is “especially sensitive to adverse public impact from development due to unique environmental concerns.” The ordinance notes that flood plains, designated natural resource areas, parks and open spaces, greenways, and areas adjacent to aquifers are eligible based on existing scientific evidence (FEMA Flood Insurance Study, Norris Study of 1994, etc.). Other areas may be so designated by the City Council based on other scientific studies done by the City or by other parties.

The O-E does not contain specific regulatory requirements, such as use limitations. It requires the applicant to prepare an Environmental Assessment Report on how the development will “address, obviate, or mitigate” the environmental issues which led to the designation. **The major regulatory tool within the O-E is the requirement for a City Council approval of a Major Site Development Plan for any development within the overlay district.**

O-E overlay standards require a developer or property owner to identify measures to reduce the expected impacts of development in the Floodway, such as increase in runoff from impervious surfaces or significant alteration of natural features. **This approach would not entirely prohibit development in the Floodway, but instead would require the project to demonstrate how its impacts will be mitigated.** The City Council could impose conditions on any approval to mitigate any possible negative effects. The City Council could also seek changes to the development to better mitigate negative impacts or, if mitigation was not possible, to deny the proposed development. The Council will review a project through the criteria of a Major Site Development Plan. (Attachment C) The most relevant criteria would be #1,4, 5, and 11.

## Proposed Amendments

The proposed amendments to the O-E district address the applicability of the overlay to activities within the Floodway. The amendments address the process for seeking approvals for a project within the overlay.

There is in excess of 400 properties in the City in which at least a portion lies within the Floodway. Most also include a portion of the property within the Floodway Fringe. The intent of the O-E is to ensure that the review occurs only if development uses occur in the Floodway—if development activities are limited to only the Floodway Fringe, the procedural requirements of Section 29.1103(4) would not apply. If, however, development is proposed in the Floodway, those procedures (the preparation of an Environmental Assessment Review and Major Site Development Plan) would apply to the entire development.

The proposed language can be found in Attachment B.

## **ALTERNATIVES:**

1. The Planning & Zoning Commission can recommend that the City Council adopt the proposed changes to the language of the O-E district.
2. The Planning & Zoning Commission can recommend the City Council decline to adopt the proposed changes to the language of the O-E district.
3. The Planning & Zoning Commission can recommend alternative language for the proposed changes to the language of the O-E district.

## **RECOMMENDED ACTION:**

Staff believes that these amendments, in conjunction with the proposed amendments to Chapter 9 Flood Plain Zoning Regulations and the mapping of the O-E (companion items on the agenda). Taken together, these changes will reduce the impacts of development in the Floodway by requiring owners and developers to identify and account for these impacts and to devise measures to mitigate them. Approvals of those developments would require a review and recommendation by the Planning and Zoning Commission and action by the City Council following a public hearing. However, development that occurs entirely in the floodway fringe would not be subject to any changes in process or standards.

**Therefore, the Planning and Housing Department supports Alternative #1, which is to recommend that the City Council approve the proposed changes to the language of the Environmentally Sensitive Area Overlay (O-E) district.**

## ATTACHMENT A: EXISTING LANGUAGE

### Sec. 29.1103. "O-E" ENVIRONMENTALLY SENSITIVE AREA OVERLAY.

(1) **Purpose.** The Environmentally Sensitive Overlay (O-E) Zone is intended to supplement the City's flood plain regulations and to protect designated natural resource areas by using the natural resources inventory to identify and preserve natural resources and by establishing parks and open space areas. Greenways are included in this district for stream corridors, linear parks and open spaces adjacent to environmentally sensitive areas to create a continuous system throughout the City.

(2) **Designation of Environmentally Sensitive Areas.** Any area may be designated an O-E Zone by ordinance of City Council, after the advice and recommendation of the Planning and Zoning Commission, if the results of a scientific study of the area support the conclusion that the area so designated is especially sensitive to adverse public impact from development due to unique environmental circumstances. Examples of such areas that may be designated as an O-E zone are:

- (a) Flood Plain Areas. Those areas defined in Chapter 9 of the Municipal Code;
- (b) Designated Natural Resource Areas. Those areas defined in "A Natural Areas Inventory of Ames" (July 18, 1994);
- (c) Park and Open Space Areas. Those areas defined in the City's Parks and Recreation Master Plan of the Municipal Code;
- (d) Green-ways. Those areas as may be defined as Green-ways by the City Council; and
- (e) Aquifer Protection Areas. Those areas as may be defined as Aquifer Protection Areas as defined by the City Council.

(3) **Studies.** The Department of Planning and Housing and the Planning and Zoning Commission are authorized to conduct studies in order to evaluate areas for environmental sensitivity as part of the continuing process of maintaining a current comprehensive land use plan for the City. Additionally, studies done by or for other governmental or private parties may be adopted for the purposes of this section.

(4) **Procedures.** No Building/Zoning Permit shall be issued and no grading, excavation, construction or change in use shall occur in an area designated as an O-E Zone except in accordance with the procedures set forth in Section 29.1503(4), "Major Site Development Plan Review". In addition, the applicant shall prepare and submit an Environmental Assessment Report which shall detail how the problems identified in the study on which the O-E Zone designation was based will be addressed, obviated or mitigated. City Council shall not approve the Major Site Development Plan unless it has reviewed and approved the Environmental Assessment Report.

(5) **Enforcement.** Development or other activities in conflict with the Major Site Development Plan, or a failure to implement the Plan, including the measures set out in the Environmental Assessment Report shall constitute the violation of this section for which any and all enforcement means and remedies established by law or zoning regulations may be invoked and instituted.

## **ATTACHMENT B: PROPOSED LANGUAGE**

### **Sec. 29.1103. "O-E" ENVIRONMENTALLY SENSITIVE AREA OVERLAY.**

(1) **Purpose.** The Environmentally Sensitive Overlay (O-E) Zone is intended to supplement the City's flood plain regulations and to protect designated natural resource areas by using the natural resources inventory to identify and preserve natural resources and by establishing parks and open space areas. Greenways are included in this district for stream corridors, linear parks and open spaces adjacent to environmentally sensitive areas to create a continuous system throughout the City.

(2) **Designation of Environmentally Sensitive Areas.** Any area may be designated an O-E Zone by ordinance of City Council, after the advice and recommendation of the Planning and Zoning Commission, if the results of a scientific study of the area support the conclusion that the area so designated is especially sensitive to adverse public impact from development due to unique environmental circumstances. Examples of such areas that may be designated as an O-E zone are:

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- (d) Green-ways. Those areas as may be defined as Green-ways by the City Council; and
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**(a)Development within the Floodway**

**(i) If no activity defined as a Development Use in Section 9.4 (2) occurs within the O-E Zone, the requirements of this subsection shall not apply.**

**(ii) If any activity defined as a Development Use in Section 9.4 (2) occurs within the O-E Zone, the requirements of this subsection shall apply to the entire parcel.**

(5) **Enforcement.** Development or other activities in conflict with the Major Site Development Plan, or a failure to implement the Plan, including the measures set out in the Environmental Assessment Report shall constitute the violation of this section for which any and all enforcement means and remedies established by law or zoning regulations may be invoked and instituted.

## Attachment C

### Major Site Development Plan Criteria Excerpt:

(vii) City Council Decision. After the transmittal of the recommendation from the Planning and Zoning Commission, the City Council shall consider the application at a public hearing conducted as part of a regularly scheduled meeting. Notification of the public hearing shall be made by mail and posting, in accordance with Sections 29.1500(2)(d)(i) and (iii) above. The City Council must approve, deny or modify the Major Site Development Plan approval application within 60 days of the public hearing.

(d) Design Standards. When acting upon an application for a major site plan approval, the City Council shall rely upon generally accepted site planning criteria and design standards. These criteria and standards are necessary to fulfill the intent of the Zoning Ordinance, the Land Use Policy Plan, and are the minimum necessary to safeguard the public health, safety, aesthetics, and general welfare. These criteria and standards include:

(i) The design of the proposed development shall make adequate provisions for surface and subsurface drainage to limit the rate of increased runoff of surface water to adjacent and down stream property;

(ii) The design of the proposed development shall make adequate provision for connection to water, sanitary sewer, electrical and other utility lines within the capacity limits of those utility lines;

(iii) The design of the proposed development shall make adequate provision for fire protection through building placement, acceptable location of flammable materials, and other measures to ensure fire safety;

(iv) The design of the proposed development shall not increase the danger of erosion, flooding, landslide, or other endangerment to adjoining and surrounding property;

(v) Natural topographic and landscape features of the site shall be incorporated into the development design;

(vi) The design of interior vehicle and pedestrian circulation shall provide for convenient flow of vehicles and movement of pedestrians and shall prevent hazards to adjacent streets or property;

(vii) The design of outdoor parking areas, storage yards, trash and dumpster areas, and other exterior features shall be adequately landscaped or screened to minimize potential nuisance and impairment to the use of adjoining property;

(viii) The proposed development shall limit entrances and exits upon adjacent streets in order to prevent congestion on adjacent and surrounding streets and in order to provide for safe and orderly vehicle movement;

(ix) Exterior lighting shall relate to the scale and location of the development in order to maintain adequate security, while preventing a nuisance or hardship to adjacent property or streets;

(x) The proposed development shall ensure that dust and other forms of air pollution, noise disturbances, odor, glare, and other nuisances will be limited to acceptable levels as prescribed in other applicable State and City regulations; and

(xi) Site coverage, building scale, setbacks, and open spaces shall be in proportion with the development property and with existing and planned development and structures, in adjacent and surrounding property.