City of El Paso – City Plan Commission Staff Report

Amendment to Title 21 (SmartCode)

To add a new designation of utility green space specific to Transect Zone 1 and to add definitions for the terms "conservation covenant", "stormwater open space" and "utility green space"; and to address preliminary plat and regulating plans.

- The proposed ordinance amends Title 21 to more closely define the protections and purposes of conserved lands, providing definitions and environmental standards for the following terms:
    - Conservation Covenant
    - Stormwater Open Space
    - Utility Green Space
- It additionally allows utility green space to be designated in the T1 Zone for the purpose of protecting and conserving lands.
- Finally, the proposed ordinance clarifies requirements for preliminary plat approval in a SmartCode Zone.
- On September 26, 2012 the Open Space Advisory Board unanimously recommended approval of the ordinance with minor modifications, which have been addressed in the presently proposed ordinance.

Attachments:
Attachment 1: Proposed Ordinance

ORDINANCE NO._____

AN ORDINANCE AMENDING TITLE 21 (SMARTCODE), CHAPTER 21.30 (NEW COMMUNITY PLANS), SECTION 21.30.100 (ENVIRONMENTAL STANDARDS) AND CHAPTER 21.70 (DEFINITIONS) OF THE EL PASO CITY CODE, TO ADD A NEW DESIGNATION OF UTILITY GREEN SPACE SPECIFIC TO TRANSECT ZONE 1 AND TO ADD NEW DEFINITIONS FOR THE TERMS CONSERVATION COVENANT, STORMWATER OPEN SPACE AND UTILITY GREEN SPACE; AND TO ADDRESS PRELIMINARY PLAT AND REGULATING PLANS. THE PENALTY BEING AS PROVIDED IN CHAPTER 21.60 (ENFORCEMENT AND PENALTY) OF THE EL PASO CITY CODE.

WHEREAS, Title 21 (SmartCode) of the El Paso City Code was adopted to promote the health, safety, morals and general welfare of the community; and

WHEREAS, the El Paso Water Utilities – Public Service Board (EPWU-PSB) is authorized to find that certain parcels of land which were purchased for the purpose of improving and extending the El Paso waterworks plant and system and sewer system are inexpedient and may be offered for sale; and

WHEREAS, the EPWU-PSB has deemed that master planning of real estate as a condition to it being removed from its care, custody and control to be in the best interest of all the citizens of the City to insure that City goals and objectives for sustainability and smart growth are achieved; and

WHEREAS, as part of the master planning process, certain areas are to be set aside as conserved lands that are publicly owned and maintained in perpetuity; and

WHEREAS, these conserved lands will remain mostly undeveloped areas except for necessary water, waste water and stormwater utility systems to serve developing areas in the City; and

WHEREAS, other passive recreational uses may also be allowed in the conserved lands to add to the City's existing open space and recreational system; and

WHEREAS, the City Plan Commission has recommended that a new definition of "Utility Green Space" and a new section on environmental standards be included in the El Paso City Code that more closely defines the protections and purposes of these conserved lands than otherwise allowed in current provisions of the Code; and

WHEREAS, the City Council has determined that the regulation of conserved lands are designed to protect ecologically sensitive lands and to prohibit those activities that would adversely affect the environmental characteristics of the lands; and

WHEREAS, the regulations established by this Ordinance are part of a comprehensive regulatory scheme designed to protect the culture, heritage, ecology and aesthetics of the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

SECTION 1. That Title 21 (SmartCode), Chapter 21.10 (General to All Plans), Section 21.10.40 (Process), Paragraph E, of the El Paso City Code be amended as follows:

21.10.40 Process

E. A preliminary plat may be approved without reflecting the regulating plan provided that the plat contains the following plat note: "This land is zoned SmartCode and a regulating plan has been approved. Prior to the issuance of any city permits, a plat reflecting the regulating must be approved and recorded."

SECTION 2. That Title 21 (SmartCode), Chapter 21.30 (New Community Plans), Section 21.30.100 (Environmental Standards), of the El Paso City Code be amended to add a new Subsection 21.30.100.C and that the remainder of the Section be re-lettered:

21.30.100 Environmental Standards

C. Specific to Zone T1, Utility Green Space designation.

1. Within a T1 Zone, the area shown as open space may be designated as utility green space for the purpose of protecting and conserving lands to:

a. Add to the existing open space system and enhance the ecological, hydrological, and recreational vitality of the existing Franklin Mountains and foothill areas;

b. Promote planning and growth that emphasizes sustainability in our built and natural environments;

c. Promote careful management to reduce environmental impacts to the water, waste water and stormwater systems in the community;

d. Protect healthy ecosystems through environmental management and measurement by:

(1) Reducing impervious cover that contributes to degradation of water resources;

(2) Reducing rainfall pollutant loads to streams and other water resources;

(3) Reducing potential pressure to encroach on utility resource buffer areas;

(4) Reducing soil erosion potential by reducing the amount of clearing and grading required;

(5) Promoting erosion and sediment control;

(6) Reducing capital cost of utility infrastructure;

(7) Reducing cost of stormwater management by concentrating runoff and reducing volumes;

e. Promote a high quality, sustainable utility system that conserves and protects land, watershed, wastewater, reclaimed water and water resources;

f. Optimize best practices in planning, engineering and management that will protect the environment; and

g. Protect the ecological and geological health and function of green space.

2. Where a utility green space is designated within a T1 Zone, a conservation covenant may be required to provided further protection to the area.

3. In addition to allowing use of the land for water, waste water, and stormwater utility systems, other passive recreational uses and activities customarily found in conserved natural areas are also permitted (such as, but not limited to, trail corridors and trailheads, scenic outlooks, and pedestrian walking and jogging paths). Notwithstanding the allowable uses and activities described in this section, the mandating restriction of uses and activities permitted on land within a utility green space designated within a T1 Zone shall be as set forth in the regulating plan. Should the land also be covered by a conservation covenant, the conservation covenant shall enumerate the use(s) permitted and prohibited, shall detail how use of the land shall be authorized pursuant to this section, and shall include a management plan for maintenance, monitoring and enforcement of these use provisions. In no case shall a use not satisfying the general intent of these regulations be permitted as a provision of the conservation covenant.

4. Any property designated as utility green space within a T1 Zone shall be subject to the development standards of the El Paso City Code as part of construction, reconstruction, or alteration of any permitted use, and any additional development standards as may be enumerated in the regulating plan.

5. Water, waste water, and stormwater utility systems, for purposes of this section, shall mean the systems of the City as they may be constructed or now exist and may be improved, added to, or extended hereafter, there being included in such term all water, sewer and stormwater facilities now or hereafter owned or operated by the El Paso Water Utilities – Public Service Board, and including all real and personal property comprising any part of or used or useful in the operation of the water, waste water, and stormwater facilities of the City. Specific facilities shall include, but not be limited to, any facility or structure that stores, pumps, conveys, treats, or disposes of potable water, reclaimed water, wastewater, and/or stormwater and the associated residuals with the appropriate resource buffer zone. In addition, other public utility facilities which serve to distribute and transmit electrical power, gas and other essential service necessary to the water, waste water, and stormwater utility systems are also authorized.

6. Utility green space designated within a T1 Zone shall not be considered a park or civic space, nor shall acceptance of a dedication and maintenance by the City be required.

D. Specific to Zone T1, Stormwater Open Space designation. Within a T1 Zone, the areas shown as open space may be designated as stormwater open space where natural drainage is to be permitted to the extent reasonably possible to preserve the city's open spaces, greenways, arroyos, and wilderness areas. Stormwater open space may allow for passive recreational use, and may be considered a park or park/pond with dedication and maintenance by the City.

Notwithstanding any other provision of this section, stormwater open space shall permit necessary water, waste water, and stormwater utility systems.

SECTION 2. That Title 21 (SmartCode), Chapter 21.70 (Definitions), of the El Paso City Code be amended to add:

> "Conservation covenant" means a voluntary declaration by a property owner of a covenant that is filed of record in the El Paso County Real Property Records on property and is intended to preserve permanently the conservation values of an area.
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> "Stormwater open space" means a natural open area to be used to help manage storm water, reduce flooding risk and improve water quality as its primary purposes, while still permitting passive recreational use of the open space as secondary purposes to the area. Water, waste water, and stormwater utility systems within areas designated for stormwater open space shall be designed with environmentally sensitive infrastructure and constructed with a low impact development (LID) approach to the extent permitted in the City's subdivision regulations. Any area designated as stormwater open space shall require the approval of the Floodplain Administrator, shall conform to the Master Stormwater Management Plan and Open Space Master Plan of the City, and shall be shown within the boundaries of any required land study, subdivision plat, detailed site development plan, master zoning plan, SmartCode regulating plan, or any other platting or zoning document as may be required by the City.
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> "Utility green space" means an area of protected or conserved land, larger than ten acres, where development is limited or controlled to preserve large areas of undisturbed open space as its primary purpose, while still permitting passive recreational uses and necessary water, waste water and stormwater utility systems as secondary purposes to the area. Utility green space shall be shown within the boundaries of any required land study, subdivision plat, detailed site development plan, master zoning plan, SmartCode regulating plan, or any other platting or zoning document as may be required by the City.

SECTION 3. Except as herein enumerated, Title 21, SmartCode, of the El Paso City Code shall remain in full force and effect.

PASSED AND ADOPTED this ___ day of _____, 2012.

SIGNATURES ON FOLLOWING PAGE

CITY OF EL PASO

_____
John F. Cook, Mayor

ATTEST:

_____
Richarda Duffy Momsen, Municipal Clerk

APPROVED AS TO FORM:

_____
Karla M. Nieman
Assistant City Attorney

APPROVED AS TO CONTENT:

_____
Mathew S. McElroy, Director
City Development Department

ORDINANCE NO._____

12-1007-327/doc # 115636/Title 21/NW plan/lcue