



City of El Paso – City Plan Commission Staff Report

Amendment to Title 20 Section 20.10.400 - Neighborhood Conservancy Overlay

This amendment proposes to modify several standards of the Neighborhood Conservancy Overlay District that has now been in use for sixteen years. In addition to administrative updates such as including the current name of the Planning & Inspections Department, the amendment also clarifies review thresholds for development within an adopted Neighborhood Conservancy Overlay (NCO) District and changes the composition of the City Review Committee (CRC) to include a member of a recognized Neighborhood Association within the NCO District boundaries.

The Planning & Inspections Department staff has been working closely with members of the Rim Area Neighborhood Association over a period of several months to craft these changes. A draft of the proposed ordinance revisions was presented to the Neighborhood Association at their annual meeting on April 18, 2017.

This amendment is recommended for approval by staff.

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

Section 1. That Title 20 (Zoning), Chapter 20.10 (Supplemental Use Regulations), Section 20.10.400 (Neighborhood Conservancy Overlay) be amended as follows:

20.10.400 – Neighborhood Conservancy Overlay.

- A. Purpose. The purpose of a neighborhood conservancy overlay (NCO) is to regulate the uses, dimensional standards, construction, reconstruction, renovation and alteration of buildings and other structures in designated places and areas of historic, cultural, or architectural importance ~~and significance~~ within the city. These designated places ~~and areas~~ have a distinctive ~~atmosphere or~~ character and should be conserved through regulations that protect and enhance their significant attributes. The designation has the effect of modifying the existing development standards of the district by requiring owners of property to comply with additional reasonable design, use and/or dimensional standards ~~as part of when undertaking~~ building construction that affects block faces within a study area plan neighborhood. The design standards are intended to promote the conservation of ~~the~~ neighborhood attributes and thereby contributing to the stability or stabilization of the neighborhood. All properties within an NCO will carry the suffix "NCO," indicating that such property is subject to the design standards of both the designated zoning district and the NCO. ~~An NCO designation shall not prohibit the use of a property that is otherwise permitted by the existing zoning.~~
- B. Designation.
1. An application for an NCO designation may be initiated either by a property owner or group of property owners, or by the ~~e~~City ~~p~~Plan ~~e~~Commission, or by the El Paso City Council. No NCO shall be designated and approved by the El Paso City Council if owners of more than fifty ~~one~~ percent of the total land area within a neighborhood described in the application object in writing to the designation. Signatures of the property owners evidencing their dissent must be submitted prior to approval by the El Paso City Council of an ordinance designating an NCO.
 2. The area described in the application shall include at least one block face. For purposes of this section, a block face shall be defined as a parcel of land entirely surrounded by public highways, streets, parks or alleys.
- C. Application. An application for an NCO designation shall be subject to the requirements and procedures of Chapter 20.04, and shall also be accompanied with all of the following:
1. A list of all neighborhood associations and/or other organizations representing the interests of the property owners in the area described in the application;
 2. A written justification which supports the requested NCO designation. The justification must contain a detailed statement of why such a designation would be in the best interest of the city as a whole, and a description of the attributes of the area which merit conservation.
- D. Study area plan formulation and adoption. Prior to application for an NCO, the city shall have adopted a specific study area plan, as required by "The Plan for El Paso," for

property within a neighborhood wholly or partially to be designated for mixed-use. The study area plan shall, at a minimum, include a written and graphic description of the concerns, policy objectives, guidelines and design standards for regulating the development of the area. The ~~city development~~ Planning and Inspections ~~Department~~ shall, upon authorization and prioritization by the El Paso City Council, assist area residents and other interested parties to prepare a study area plan, and when completed shall be on file in the department. Any NCO designation approved by the city shall incorporate the study area plan by express reference. Applications submitted for any property within an NCO designated area shall be reviewed for compliance with the design standards contained in the study area plan, as described in subsection G.

E. City review committee.

1. A three member city review committee (CRC) shall be created to oversee the functions within each area designated an NCO. The CRC shall have the power and authority to review and authorize the release of building permits for any new construction, reconstruction or renovation of the exterior of existing buildings or structures within a designated NCO, except as described in subsection F. ~~The building official shall forward all applicable building permit applications to the CRC.~~
2. ~~Members of the CRC shall consist of the planning official, the building official and the historic preservation officer (or their respective designees).~~ The three members of the CRC shall consist of a planning official, a building official and a designee of a neighborhood association within the study area plan boundaries. The planning official shall act as secretary of the committee. ~~For quorum purposes, presence of all members of the CRC shall be required to convene a meeting and vote on any permit. Meetings shall be scheduled, with notice duly posted according to the Texas Open Meetings Law, by the secretary as necessary to review and act on permit applications.~~ Written notice of any permit application received and pending action before the CRC shall be given, as a minimum, to any area neighborhood associations and to the immediate abutting property owners within the NCO area. The notice shall state the date and time of the scheduled meeting before the CRC.
3. The secretary shall make and maintain a ~~detailed~~ record of all proceedings and procedures of the CRC, setting forth the reasons for each decision, the vote of each member participating therein, and any failure of a member to vote. Action taken at a CRC meeting shall require the affirmative vote of a majority of the members present at the meeting. The CRC shall, in every case, reach a decision without unreasonable delay.
4. All administrative decisions ~~of the CRC~~ as well as decisions as a result of hearing before the CRC shall be reasonable under the circumstances and shall not be arbitrary or capricious. If the CRC has not disapproved an application for a building permit at the next available meeting after ~~within twenty days after~~ it has been properly submitted then such application shall be deemed to have been approved without further action of the CRC. All decisions shall be in writing, and shall be served on the applicant by the United States Mail, postage prepaid, return receipt requested, and shall be deemed given when deposited in the United States Mail.

F. Contents of application, scope of review, waivers.

1. Prior to the issuance of any building permits for any new construction, reconstruction or renovation of the exterior of existing buildings on property (or any portion thereof) with an NCO designation, drawings and applications shall be submitted to reviewed by the CRC Planning and Inspections Department to determine if the proposal meets criteria for administrative review or is to be presented to the committee. Either administrative or CRC review shall be used to determine if the proposed new construction, reconstruction or ~~renovation~~ renovation complies with the design standards of the specific study area plan.
2. The ~~CRC~~ city manager or designee shall establish and publish a detailed list of the documents and information that must be submitted by an applicant together with the application for a building permit, copies of which shall be maintained as directed by the city manager or designee, and the application fee. All applications for building permits on property with an NCO designation shall comply with the required design standards for the applicable study area plan. Approval of a permit shall indicate that the proposed construction complies with the requirements of this section and the design standards of the specific study area plan. The CRC may request assistance of other city departments to review drawings and applications. In the event that the design standards of the applicable study area plan are more restrictive or impose higher (or different) standards than the requirements of this title, the design standards of the applicable study area plan shall govern.

G. Reviews Required.

1. CRC hearing required. A CRC hearing shall be convened for new footprint construction or additions to a structure within an NCO when the work proposed alters the view from a public right-of-way or a public park, or, when such work was undertaken without required CRC review and approval.
2. Work subject to administrative review. The CRC secretary may review and authorize permits for:
 - a. Proposals to replace like-for-like architectural elements, windows, doors and finishes, new equipment, hardscape and walls.
 - b. Minor modifications, as defined in Title 18.XX.XXX, made during permitted construction that do not alter the character, scale or conformity of the portion of the property or diverge from CRC-approved scope of work.
 - c. Addition of elements and surfaces at a frontage for the purpose of accommodating persons with disabilities.
3. No review required. The following work is neither subject to administrative review, nor CRC hearing:
 - a. Work that does not require a building permit unless specified in the study area plan.
 - b. Plumbing, heating and cooling systems when no exterior building modifications are required or where new placement is to the rear of the property or not visible from the public right-of-way or a public park.

c. Ordinary minor nonstructural repair work having a value of two-thousand dollars (\$2,000.00) or less.

~~GH.~~ Appeals of CRC Actions. Administrative decisions on any building permit application may be appealed to the CRC and ~~Decisions of the CRC on any building permit application~~ may be appealed to the eCity pPlan eCommission within fifteen calendar days after the decision is rendered by the CRC. The applicant, or an owner of a building or structure located within the designated NCO, and aggrieved by an administrative decision or the decision of the CRC may file an appeal. The appeal shall be filed in writing with the secretary and shall be accompanied by a reasonably detailed statement of which design standard is not met in the application for a building permit with sufficient evidence to warrant the appeal. Evidence may include, but is not limited to:

1. A demonstration that the intent of a design standard has been misconstrued or incorrectly interpreted;
2. Relevant evidence was not considered by the CRC in making its decision;
3. The alternate design is at least equivalent of that prescribed in terms of quality, effectiveness and aesthetics;
4. Written notice of any appeal filed shall be given, as a minimum, to any area neighborhood associations and to the immediate abutting property owners within the NCO area. The notice shall state the date and time of the scheduled meeting before the city plan commission;
5. In exercising its powers, the city plan commission may reverse or affirm, in whole or in part, or may modify the requirement, decision or determination appealed from a decision of the CRC. The city plan commission shall be authorized to impose any necessary conditions or safeguards to ensure that the purpose and intent of these regulations is satisfied. The grant of an appeal to a requirement pursuant to this section shall not be construed as a waiver of any other requirement of this section. Modifications concerning use shall never be permitted under any circumstances. Any decision of the city plan commission on an appeal as provided in this section shall be final;
6. An application for appeal shall be on forms prescribed by the planning division, and shall be accompanied by a fee set by resolution or ordinance of the El Paso City Council to help defray the cost of publication and general expenses in connection with the appeal. All decisions shall be in writing and shall be served on the applicant by the United States Mail, postage prepaid, return receipt requested, and shall be deemed given when deposited in the United States Mail.

~~H. Plan Review Not Required. For purposes of this section, review and authorization to release building permit applications for the new construction, reconstruction, or renovation of the exterior of buildings within an approved NCO shall not be required for ordinary minor nonstructural repair work having a value of two thousand dollars or less.~~



PROPOSED NCO REGULATION CHANGES

City Plan Commission

July 13, 2017

"Delivering Outstanding Services"



WHAT IS A NEIGHBORHOOD CONSERVANCY OVERLAY?

- An **OVERLAY** District that imposes **additional zoning standards** beyond what is imposed by the underlying zoning district
- The **purpose** of a **neighborhood conservancy overlay (NCO)** is to regulate the **construction, reconstruction, renovation and alteration** of buildings and other structures in **designated places and areas of historic, cultural, or architectural importance** and significance within the city (*from 20.10.400.A*).
- Shown on Zoning Map with “...NCO”





NEIGHBORHOOD CONSERVANCY OVERLAY

- **TITLE 20 SECTION 20.10.400**
 - Applies to **ALL NCOs**
 - Establishes regulations for **how to create** NCO Districts and **how to govern** them
- **STUDY AREA PLAN**
 - Study Area = neighborhood with an NCO Overlay
 - **Implements** the NCO for a **specific neighborhood**
 - Describes the **character** of the neighborhood
 - Sets the **standards** for how to preserve that specific neighborhood's character



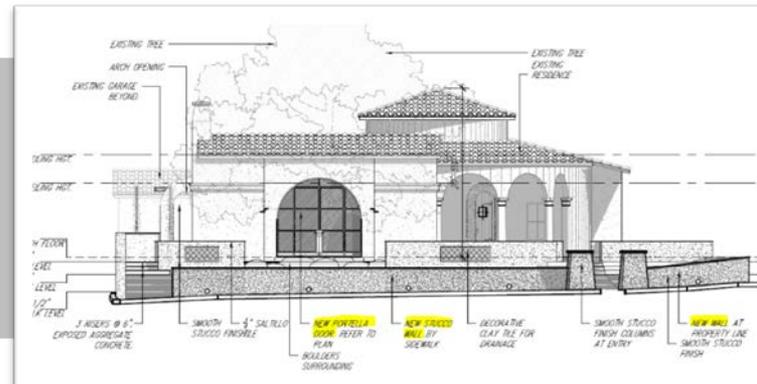
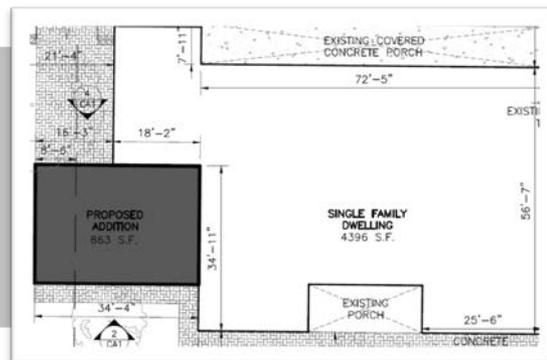
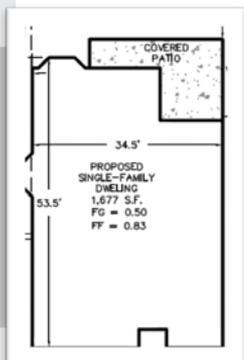
NEIGHBORHOOD CONSERVANCY OVERLAY

- Located in Title 20 (Zoning Section) of the City Code
- Governs
 - CREATING an NCO District
 - HOW TO REGULATE an NCO District



NEIGHBORHOOD CONSERVANCY OVERLAY

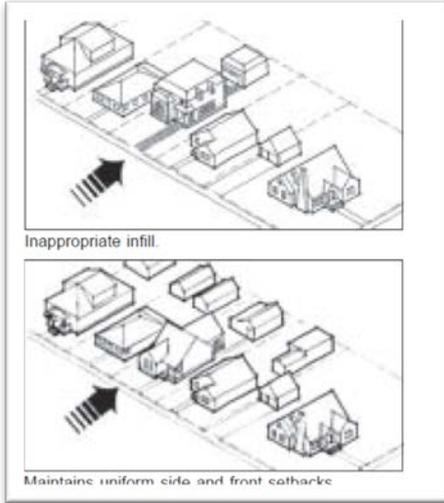
- Requires **additional review** before obtaining a building permit for:
 - New buildings
 - Additions
 - Replacing elements
 - Landscaping visible from the street



"Delivering Outstanding Services"



NEIGHBORHOOD CONSERVANCY OVERLAY



Maintains the established scale of the Neighborhood.



Does not maintain the established scale of the Neighborhood.

- Review can be either **ADMINISTRATIVE** or require a **PUBLIC HEARING** with the City Review Committee
- Review is to ensure compatibility and compliance with the NCO Regulations and guidelines



NEIGHBORHOOD CONSERVANCY OVERLAY

REVIEW THRESHOLDS

NO REVIEW REQUIRED:

- Work that does not require a building permit
- Plumbing and HVAC systems when no exterior building modifications are required or will be visible from the street or a park
- Ordinary minor non-structural repair work having a value of \$2,000 or less

ADMINISTRATIVE REVIEW:

- Like-for-like replacement of architectural elements, windows, doors, finishes, new equipment, hardscape, and walls
- Minor modifications made during construction for matters already approved by CRC
- Elements added to the front of a house to accommodate persons with disabilities

CRC REVIEW REQUIRED:

- Improvements that require a building permit, are visible from the front, and have a value of over \$2,000
- Additions and renovations, including to front yards, that are visible from streets and parks



NEIGHBORHOOD CONSERVANCY OVERLAY

- City Review Committee
 - Hear all cases for improvements in the NCO District that aren't eligible for administrative review
 - Applicants are required to attend
 - Currently composed of City staff representing Planning and Building Permitting sections
 - Meets the second Wednesday of the month at 801 Texas Ave
 - Open Meetings





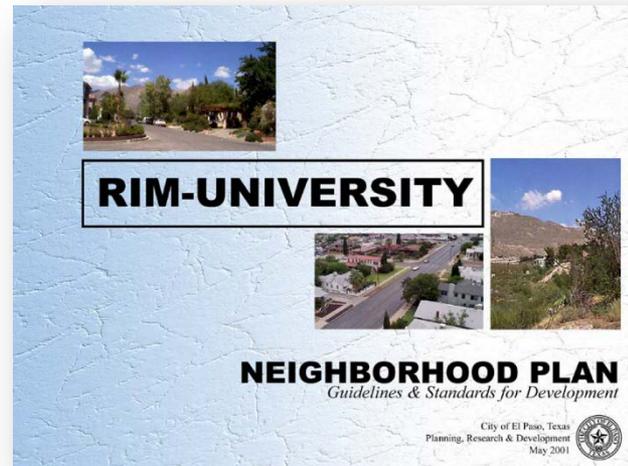
RIM UNIVERSITY NEIGHBORHOOD PLAN

- **TITLE 20 SECTION 20.10.400**
 - Applies to **ALL NCO-zoned properties in the City**
 - Establishes regulations for **how to create** NCO Districts and **how to govern** them
- **STUDY AREA PLAN**
 - Study Area = neighborhood with an NCO Overlay
 - **Implements** the NCO for a **specific neighborhood**
 - Standards applicable to **JUST** the Neighborhood



RIM UNIVERSITY NEIGHBORHOOD PLAN

- Contains **standards** that **protect the character** of the Rim neighborhood by limiting the types of construction that can be approved, and requiring **additional review** before **building permits** can be obtained





RIM UNIVERSITY NEIGHBORHOOD PLAN



Side yard with appropriate gate and wall.



Details appropriate to the style.

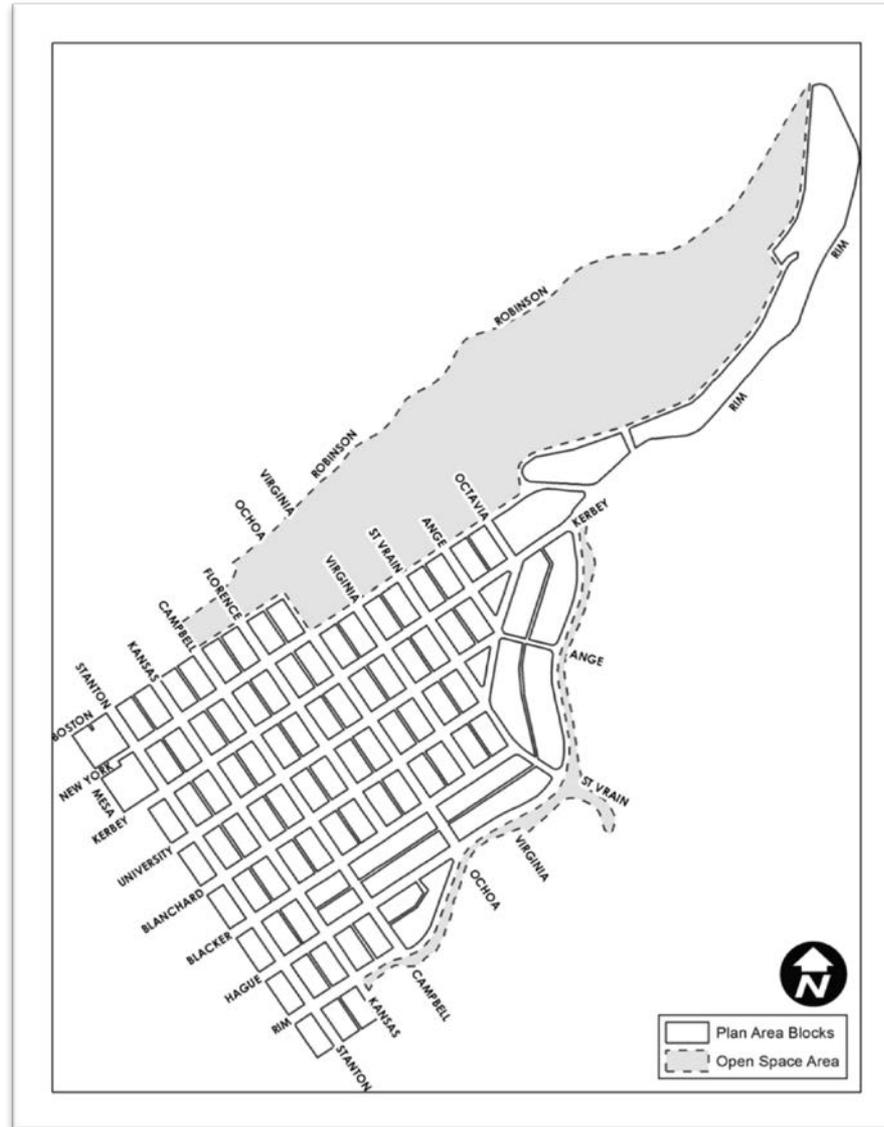


Chain-link fencing is prohibited.

- Standards include:
 - Setbacks and Site Development
 - Architectural guidelines
 - Roof forms
 - Front Yards
 - Fences
 - Lighting
 - Paint
 - Signage
 - Maintenance
 - Includes standards for both residential and non-residential uses



RIM UNIVERSITY NEIGHBORHOOD PLAN





PROPOSED CHANGES

- Both the **Title 20** Provisions and **Rim University Neighborhood Plan** have been in effect for 16 Years
- Minor updates are proposed for both



PROPOSED CHANGES

- Changes to Title 20.10.400:
 - Give **neighborhood** associations a **voting** member on the **City Review Committee** that decides on applications to build in the NCO District
 - **Modifies** the **thresholds for** administrative (just City staff) **review** and for full City Review Committee review



PROPOSED CHANGES

- **Changes to the Rim Area Neighborhood Plan:**
 - **Dimensional standard changes**
 - **Architectural Standards Changes**
 - **Front Yard Standard Changes**
 - **Adds standards that specifically address properties abutting the arroyo**
 - **Minor changes to:**
 - Fence standards
 - Lighting standards
 - Paint standards (no metallic finishes or fluorescent colors, don't paint stone)