CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: **City Development Department**

AGENDA DATE: **Introduction: 10/30/12**
Public Hearing: 11/6/12

CONTACT PERSON/PHONE: **Kimberly Forsyth, (915) 541-4668, forsythkl@elpasotexas.gov**

DISTRICT(S) AFFECTED: **City-wide**

SUBJECT:

An Ordinance Amending Title 19 (Subdivisions), Chapter 19.03 (Preliminary Plat), Chapter 19.05 (Development Plats), Chapter 19.50 (Definitions) Chapter 19.08 (Construction Plans), Chapter 19.10 (Dedication, Construction Requirements and City Participation), and Chapter 19.20, (Parks and Open Space) of the El Paso City Code to amend the criteria for preliminary plat approval, to add an exception to the plat requirement, to add a definition for Conservation Covenant, Stormwater Open Space and Utility Green Space, to amend phasing plans for subdivision improvements, to amend the roadway participation policies and to add an exclusion for parkland dedication. The penalty is as provided in Chapter 19.42 of the City of El Paso City Code. (All Districts)

BACKGROUND / DISCUSSION:
See attached report.

PRIOR COUNCIL ACTION:
N/A

AMOUNT AND SOURCE OF FUNDING:
N/A

BOARD / COMMISSION ACTION:

Development Coordinating Committee (DCC) reviewed and had no objections
City Plan Commission unanimously recommended approval on Aug. 9, 2012
Open Space Advisory Board reviewed on 09/26/12 and had no objections

**********REQUIRED AUTHORIZATION**********

LEGAL: (if required) N/A **FINANCE:** (if required) N/A

DEPARTMENT HEAD: Mathew S. McElroy
Director - City Development Department

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

ORDINANCE NO _____

AN ORDINANCE AMENDING TITLE 19 (SUBDIVISIONS), CHAPTER 19.03 (PRELIMINARY PLAT), CHAPTER 19.05 (DEVELOPMENT PLATS), CHAPTER 19.50 (DEFINITIONS) CHAPTER 19.08 (CONSTRUCTION PLANS), CHAPTER 19.10 (DEDICATION, CONSTRUCTION REQUIREMENTS AND CITY PARTICIPATION), AND CHAPTER 19.20, (PARKS AND OPEN SPACE) OF THE EL PASO CITY CODE TO AMEND THE CRITERIA FOR PRELIMINARY PLAT APPROVAL, TO ADD AN EXCEPTION TO THE PLAT REQUIREMENT, TO ADD A DEFINITION FOR CONSERVATION COVENANT, STORMWATER OPEN SPACE AND UTILITY GREEN SPACE, TO AMEND PHASING PLANS FOR SUBDIVISION IMPROVEMENTS, TO AMEND THE ROADWAY PARTICIPATION POLICIES, AND TO ADD AN EXCLUSION FOR PARKLAND DEDICATION. THE PENALTY IS AS PROVIDED IN CHAPTER 19.42 OF THE EL PASO CITY CODE.

WHEREAS, Title 19 (Subdivisions) of the El Paso City Code (the "Code") was adopted to promote the health, safety, morals and general welfare of the community; and,

WHEREAS, the Subdivision Ordinance helps guide the physical development of the community by promoting orderly and healthful design, and particularly by providing adequate public facilities; and,

WHEREAS, there is a need to add definitions for conservation covenant, stormwater open space and utility green space and to provide for an exception to the requirement for a development plat for water and wastewater utility infrastructure and stormwater facilities; and,

WHEREAS, there is a need to amend the phasing plan requirements and add additional exclusions to the parkland dedication requirement; and,

WHEREAS, the City Plan Commission has recommended approval of the amendments, and the El Paso City Council finds that the amendments proposed herein will further protect and provide for the public health, safety, morals and general welfare of the community, and

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

Section 1. That Title 19, Subdivisions, Chapter 19.03, Preliminary Plat, Section 19.03.040, Criteria for Approval, of the El Paso City Code be amended to amend paragraph 'C' and to add paragraph 'K':

19.03.040 Criteria for Approval

C. The proposed provision and configuration of roads, drainage and other facilities generally conform to the city's adopted master plans for those facilities, including without limitation, transportation, drainage, and any other municipal plans, but are not required to exceed the development's proportional share;

K. A preliminary plat may be approved for property zoned SmartCode 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 plan must be approved and recorded."

Section 2. That Title 19, Subdivisions, Chapter 19.05, Development Plats, Section 19.05.010, Purpose and effect, Paragraph D, Exceptions, of the El Paso City Code be amended to add the following exception:

19.05.010 - Purpose and effect

D. Exceptions. A development plat is not required:

5. For water and wastewater utility infrastructure and stormwater facilities constructed by the City.

Section 3. That Title 19, Subdivisions, Chapter 19.50, Definitions, Section 19.50.030, Definitions, of the El Paso City Code be amended to add the following definitions:

19.50.030, Definitions

"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.

"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.

"Utility green space" means an area of protected or conserved land, larger than ten acres where development is limited or controlled to preserve the area as 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 4. That Title 19, Subdivisions, Chapter 19.08, Construction Plans and Management, Section 19.08.010, Subdivision Improvement Plans, Paragraph D, Phasing Plan, of the El Paso City Code be amended as follows:

19.08.010, Subdivision Improvement Plans

D. Phasing Plan. Where phasing is proposed for the construction and installation of the required subdivision improvements, approval of a phasing plan shall be required, provided, that all of the subdivision improvements are completed within the time period specified herein. The city manager or designee may approve, disapprove or conditionally approve the phasing proposed if the proposed phasing will provide for the orderly development of the subdivision with adequate access to all improvements. No phasing plan shall be approved unless each phase has a complete drainage system, or security for all improvements that are not completed in the initial phase is provided in accordance with the methods and amount in Section 19.08.040.A. (1), (2), or (3). No temporary drainage structures will be allowed. If the property contains an arroyo or flow path that requires improvements, security in accordance with the methods and amounts stated in Section 19.08.040 shall be provided regardless of the phasing, unless the improvements to the arroyo or flow path are completed in the initial phase. Where the city manager or designee disapproves a phasing plan, the subdivider may appeal the decision to the city plan commission upon a written request submitted to the city manager or designee. Whether or not the city manager or designee approves phasing at the time of the construction plan submission, a subdivider may request phasing and submit a phasing plan at any time prior to the expiration of the time period for completion of the subdivision improvements, or any authorized extension. A phasing plan submitted and approved by the city manager or designee after the approval of the construction plan submission, shall be considered an authorized amendment to the subdivision improvement plans and such approved phasing plan shall be attached to and incorporated as part of the approved subdivision improvement plans.

Section 5. That Title 19, Subdivisions, Chapter 19.10 Dedication, Construction Requirements and City Participation, Section 19.10.050, Roadway participation policies, Paragraph B, Calculation of Minimum Proportional Share, Subparagraph 2, be amended as follows:

19.10.050 Roadway participation policies

B. Calculation of Minimum Proportional Share

2. The minimum developer's share of improvements to a roadway when a subdivision is to be located on both sides of a roadway is the full width of a local roadway, which is 52 feet ROW and 32 feet pavement, unless the traffic impact study determines that the proportional share of the development is more, in which case that shall become the minimum share of improvements. The roadway shall be improved by the developer on each side of the road along the entire length of the subdivision.

Section 6. That Title 19, Subdivisions, Chapter 19.20, Parks and Open Space, Section 19.20.060, Exclusions from Dedication Requirement, of the El Paso City Code be amended to add the following paragraph:

19.20.060 - Exclusions from dedication requirement.

I. Land within a subdivision, whether residential or nonresidential, covered by an Adaptive Reuse Overlay or designated as a Transit Oriented Development (TOD) overlay, or other specially designated incentive district established by City Council policy.

Section 7. Except as herein amended, Title 19, Subdivisions, of the El Paso City Code shall remain in full force and effect.

PASSED AND ADOPTED this ___ day of _____ 2012.

CITY OF EL PASO

_____
John F. Cook, Mayor

ATTEST:

_____
Richarda Duffy Momsen, City Clerk

APPROVED AS TO FORM:

Lauren Ferris
Lauren Ferris
Assistant City Attorney

APPROVED AS TO CONTENT:

_____
Mathew S. McElroy, Director
City Development Department

ORDINANCE NO _____

12-1007-463/doc# 132066/title 19 consolidation/ lcue

Dedicated to Outstanding Customer Service for a Better Community

SERVICE SOLUTIONS SUCCESS

City Development Department

DATE: Oct. 15, 2012

TO: The Honorable Mayor and City Council
Joyce A. Wilson, City Manager

FROM: Kimberly Forsyth, Lead Planner KLF

SUBJECT: Title 19 amendment

The City Plan Commission recommended unanimous approval of the proposed ordinance on August 9, 2012. The CPC determined that the amendment protects the best interest, health, safety and welfare of the public in general; and will have no negative effect on the natural environment, social economic conditions, and property values in the vicinity and the city as a whole. The Open Space Advisory Board also reviewed the ordinance on Sept. 26, 2012 and had no objections.

The amendment was initiated by several City Departments including the El Paso Water Utilities, Planning and Engineering, and was additionally distributed and reviewed by private sector engineers. There has been **no opposition** to this request.

Attachments: Staff Report

Mayor
John F. Cook

City Council

District 1
Ann Morgan Lilly

District 2
Susie Byrd

District 3
Emma Acosta

District 4
Carl L. Robinson

District 5
Dr. Michiel R. Noe

District 6
Eddie Holguin Jr.

District 7
Steve Ortega

District 8
Cortney Carlisle Niland

City Manager
Joyce A. Wilson

El Paso
All-America City
2010

City Development Department
Two Civic Center Plaza – 5th Floor · El Paso, Texas 79901
Phone (915) 541-4622 · Fax (915) 541-4799

City of El Paso – City Plan Commission Staff Report

Amendments to Title 19

The City Development Department and the El Paso Water Utilities and the members of the public have identified the following issues in Title 19 and recommend the additions and revisions to improve and clarify the text.

Under 19.03.040 Criteria for Approval

- Requirement to conform with City's master plan is not consistent with provisions for proportional share
- Preliminary SmartCode plats may be approved that do not comply with the regulatory plan, provided that a plat is approved that does comply prior to any permits being issued.

Under 19.05.010 Development Plats

- Development plats are not required for City water and wastewater infrastructure and facilities

Under 19.50 Definitions

- Add definitions for "conservation covenant", "stormwater open space" and utility green space"

Under 19.08.010 Subdivision Improvement Plans

- Revise requirements for phasing plans to ensure that a complete drainage system for a multi-phase is provided

Under 19.10.050 Roadway Participation Policies

- Revise text to reflect current ROW and pavement requirements for a local street.

Under 19.20.060 Exclusion from (Park) Dedication Requirements

- Add an exclusion for plats that are zoned for Adaptive Reuse, Transit Oriented Development and other special incentive districts as designated by City Council

8/2/12 draft

ORDINANCE NO _____

AN ORDINANCE AMENDING TITLE 19 (SUBDIVISIONS), CHAPTER 19.03 (PRELIMINARY PLAT) SECTION 19.03.04 (CRITERIA FOR APPROVAL), AND CHAPTER 19.05 (DEVELOPMENT PLATS) SECTION 19.05.010 (PURPOSE AND EFFECT), AND CHAPTER 19.50 (DEFINITIONS) SECTION 19.50.030 (DEFINITIONS) AND CHAPTER 19.08 (CONSTRUCTION PLANS AND MANAGEMENT) SECTION 19.08.010 (SUBDIVISION IMPROVEMENT PLANS), AND CHAPTER 19.10 (DEDICATION, CONSTRUCTION REQUIREMENTS AND CITY PARTICIPATION) SECTION 19.10.050, (ROADWAY PARTICIPATION POLICIES), AND CHAPTER 19.20, (PARKS AND OPEN SPACE) SECTION 19.20.060 (EXCLUSIONS FROM DEDICATION REQUIREMENT) OF THE EL PASO CITY CODE TO AMEND THE CRITERIA FOR APPROVAL, TO ADD AN EXCEPTION, TO ADD A DEFINITION FOR CONSERVATION COVENANT, STORMWATER OPEN SPACE AND UTILITY GREEN SPACE, TO AMEND PHASING PLANS FOR SUBDIVISION IMPROVEMENTS, TO AMEND THE ROADWAY PARTICIPATION POLICIES AND TO ADD AN EXCLUSION FOR PARKLAND DEDICATION. THE PENALTY IS AS PROVIDED IN CHAPTER 19.42 OF THE CITY OF EL PASO CITY CODE.

WHEREAS, Title 19 (Subdivisions) of the El Paso City Code (the "Code") was adopted to promote the health, safety, morals and general welfare of the community; and,

WHEREAS, the Subdivision Ordinance helps guide the physical development of the community by promoting orderly and healthful design, and particularly by providing adequate public facilities; and,

WHEREAS, there is a need to add definitions for conservation covenant, stormwater open space and utility green space; and,

WHEREAS, the City Plan Commission has recommended approval of the amendments, and the El Paso City Council finds that the amendments proposed herein will further protect and provide for the public health, safety, morals and general welfare of the community, and

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

Section 1. That Title 19, Subdivisions, Chapter 19.03, Preliminary Plat, Section 19.03.040, Criteria for Approval, of the El Paso City Code be amended to amend paragraph 'c' and to add paragraph 'k':

19.03.040 Criteria for Approval

c. The proposed provision and configuration of roads, drainage and other facilities generally conform to the city's adopted master plans for those facilities, including without limitation, transportation, drainage, and any other municipal plans, but are not required to exceed the development's proportional share;

k. A preliminary plat may be approved for property zoned SmartCode 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 19, Subdivisions, Chapter 19.05, Development Plats, Section 19.05, Purpose and effect, Paragraph D, Exceptions, of the El Paso City Code be amended to add the following exception:

19.05.010 - Purpose and effect

D. Exceptions. A development plat is not required:

5. For water and wastewater utility infrastructure and stormwater facilities constructed by the City.

Section 3. That Title 19, Subdivisions, Chapter 19.50, Definitions, Section 19.50.030, Definitions, of the El Paso City Code be amended to add the following definitions:

"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. A conservation covenant shall be required for land designated as utility green space that is ten (10) acres or greater.

"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.

"Utility green space" means an area of protected or conserved land 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 4. That Title 19, Subdivisions, Chapter 19.08, Construction Plans and Management, Section 19.08.010, Subdivision Improvement Plans, Subsection D, Phasing Plan, of the El Paso City Code be amended as follows:

D. Phasing Plan. Where phasing is proposed for the construction and installation of the required subdivision improvements, approval of a phasing plan shall be required, provided, that all of the subdivision improvements are completed within the time period specified herein. The city manager or designee may approve, disapprove or conditionally approve the phasing proposed if the proposed phasing will provide for the orderly development of the subdivision with adequate access to all improvements. No phasing plan shall be approved unless each phase has a complete drainage system, or security for all improvements that are not completed in the initial phase is provided in accordance with the methods and amount in Section 19.08.040.A. (1), (2), or (3). No temporary drainage structures will be allowed. If the property contains an arroyo or flow path that requires improvements, security in accordance with the methods and amounts stated in Section 19.08.040 shall be provided regardless of the phasing, unless the improvements to the arroyo or flow path are completed in the initial phase. Where the city manager or designee disapproves a phasing plan, the subdivider may appeal the decision to the city plan commission upon a written request submitted to the city manager or designee. Whether or not the city manager or designee approves phasing at the time of the construction plan submission, a subdivider may request phasing and submit a phasing plan at any time prior to the expiration of the time period for completion of the subdivision improvements, or any authorized extension. A phasing plan submitted and approved by the city manager or designee after the approval of the construction plan submission, shall be considered an authorized amendment to the subdivision improvement plans and such approved phasing plan shall be attached to and incorporated as part of the approved subdivision improvement plans.

Section 5. That Title 19, Subdivisions, Chapter 19.10 Dedication, Construction Requirements and City Participation, Section 19.10.050, Roadway participation policies, Subsection 19.10.050.B.2 be amended as follows:

> 2. The minimum developer's share of improvements to a roadway when a subdivision is to be located on both sides of a roadway is the full width of a local roadway, which is 52 feet ROW and 32 feet pavement, unless the traffic impact study determines that the proportional share of the development is more, in which case that shall become the minimum share of improvements. The roadway shall be improved by the developer on each side of the road along the entire length of the subdivision.

Section 6. That Title 19, Subdivisions, Chapter 19.20, Parks and Open Space, Section 19.20.060, Exclusions from Dedication Requirement, of the El Paso City Code be amended to add the following exclusion:

19.20.060 - Exclusions from dedication requirement.

I. Land within a subdivision, whether residential or nonresidential, covered by an Adaptive Reuse Overlay~~. or zoned SmartCode (SCZ),~~ or designated as a Transit Oriented Development (TOD) overlay, or ~~any~~ other specially designated incentive district established by City Council policy.

Section 7. Except as herein amended, Title 19, Subdivisions, of the El Paso City Code shall remain in full force and effect.

ADOPTED THIS ___ day of _____ 2012.

CITY OF EL PASO

_____

John F. Cook, Mayor

ATTEST:

_____

Richarda Duffy Momsen, City Clerk

APPROVED AS TO FORM:

_____

Lupe Cuellar
Assistant City Attorney

APPROVED AS TO CONTENT:

_____

Mathew S. McElroy, Director
City Development Dept.

ORDINANCE NO _____

Title 19, Section 19.03.040
Criteria for Approval

- Clarify that while a plat must generally conform to the City's adopted master plans, a developer is not required to build more than their development's proportional share.

C. *The proposed provision and configuration of roads, drainage and other facilities generally conform to the city's adopted master plans for those facilities, including without limitation, transportation, drainage, and any other municipal plans, but are not required to exceed the development's proportional share*;

Title 19, Section 19.03.040
Criteria for Approval

- Permit approval of SmartCode interim plats that do not conform to the approved regulating plan, provided that a plat that does conform is approved before any permits are issued by the City.

*K. **An interim** plat may be approved for property zoned SmartCode 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 plan must be approved and recorded.*

Sections 19.05.010 (Development Plats) & 19.50 (Definitions)

- Add an exemption from development plat requirements for City water and wastewater facilities

- Add definitions for

  - Conservation covenant
  - Stormwater open space
  - Utility green space

Section 19.50 (Definitions)

- Conservation covenant

"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.

Section 19.50 (Definitions)

- Stormwater open space

"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.

Section 19.50 (Definitions)

- Utility green space

"Utility green space" means an area of protected or conserved land, larger than 10 acres, where development is limited or controlled to preserve the area as 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 19.08.010.D
(Subdivision Improvement Plans, Phasing Plan)

- Requires that each phase of a multi-phase project has a complete drainage system, or that security is provided for all required improvements that are not completed in the initial phase

"No phasing plan shall be approved unless each phase has a complete drainage system, or security for all improvements that are not completed in the initial phase is provided in accordance with the methods and amount in Section 19.08.040.A. (1), (2), or (3). No temporary drainage structures will be allowed. If the property contains an arroyo or flow path that requires improvements, security in accordance with the methods and amounts stated in Section 19.08.040 shall be provided regardless of the phasing, unless the improvements to the arroyo or flow path are completed in the initial phase."

Section 19.10.050
(Roadway Participation Policies)

- Revise minimum share of improvements to a local roadway to reflect current subdivision standards

The minimum developer's share of improvements to a roadway when a subdivision is to be located on both sides of a roadway is the full width of a local roadway, which is 52 feet ROW and 32 feet pavement, unless the traffic impact study determines that the proportional share of the development is more, in which case that shall become the minimum share of improvements. The roadway shall be improved by the developer on each side of the road along the entire length of the subdivision.

Section 19.20.060
(Exclusion from Parkland Dedication Requirements)

•Provide an exclusion for subdivisions that are designated as TOD or other special incentive districts.

I. Land within a subdivision, whether residential or nonresidential, designated as a Transit Oriented Development (TOD), or other specially designated incentive district established by City Council policy.