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S E R V I C E S O L U T I O N S S U C C E S S

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

DEPARTMENT: **Development Services Department**

AGENDA DATE: **Introduction 12/1/09; Public Hearing 12/8/09**

CONTACT PERSON/PHONE: **Eduardo Garcia 541-4638**

DISTRICT(S) AFFECTED: **All Districts**

SUBJECT:
An Ordinance amending Title 19 (Subdivisions), Chapter 19.01 (Provisions Applicable to all Platting Procedures); Chapter 19.02 (Land Studies), Chapter 19.03 (Preliminary Plats), Chapter 19.04 (Final Plats), Chapter 19.06 (Minor Plats), Chapter 19.07 (Revisions to Recorded Plats); Chapter 19.11 (Extra Territorial Jurisdiction (ETJ) Standards), Chapter 19.15 (Roadways); Chapter 19.18 (Traffic Impact Analysis), Chapter 19.20 (Parks and Open Space); Chapter 19.23 (Easements, Block and Lot Design Improvement Standards), Chapter 19.50 (Definitions) of the El Paso City Code, to add exceptions to platting and allow for administrative approvals of minor revisions to Land Studies; to amend provisions for preliminary plats, minor pats and recordation; to amend the effect of final plat approval; to amend street improvement design and roadway provisions; to revise provisions for amending plats; to amend dedications to the City and vacation procedures; to amend requirements in the ETJ; and to add a definition for public facility. The penalty is as provided for in Section 19.42 of the El Paso City Code.

BACKGROUND / DISCUSSION:
See attached Ordinance.

PRIOR COUNCIL ACTION:
N/A

AMOUNT AND SOURCE OF FUNDING:
N/A

BOARD / COMMISSION ACTION:
Development Coordinating Committee (DCC) –Unanimous Approval Recommendation
City Plan Commission (CPC) –Approval Recommendation 4-0

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

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD: Victor Q. Torres
Director, Development Services

_____

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

Development Services Department
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Mayor
John F. Cook

City Council

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Emma Acosta

District 4
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City Manager
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ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 19 (SUBDIVISIONS), CHAPTER 19.01 (PROVISIONS APPLICABLE TO ALL PLATTING PROCEDURES); CHAPTER 19.02 (LAND STUDIES), CHAPTER 19.03 (PRELIMINARY PLATS), CHAPTER 19.04 (FINAL PLATS), CHAPTER 19.06 (MINOR PLATS), CHAPTER 19.07 (REVISIONS TO RECORDED PLATS); CHAPTER 19.11 (EXTRA TERRITORIAL JURISDICTION (ETJ) STANDARDS), CHAPTER 19.15 (ROADWAYS); CHAPTER 19.18 (TRAFFIC IMPACT ANALYSIS), CHAPTER 19.20 (PARKS AND OPEN SPACE); CHAPTER 19.23 (EASEMENTS, BLOCK AND LOT DESIGN IMPROVEMENT STANDARDS), CHAPTER 19.50 (DEFINITIONS) OF THE EL PASO CITY CODE, TO ADD EXCEPTIONS TO PLATTING AND ALLOW FOR ADMINISTRATIVE APPROVALS OF MINOR REVISIONS TO LAND STUDIES; TO AMEND PROVISIONS FOR PRELIMINARY PLATS, MINOR PLATS AND RECORDATION; TO AMEND THE EFFECT OF FINAL PLAT APPROVAL; TO AMEND STREET IMPROVEMENT DESIGN AND ROADWAY PROVISIONS; TO REVISE PROVISIONS FOR AMENDING PLATS; TO AMEND DEDICATIONS TO THE CITY AND VACATION PROCEDURES; TO AMEND REQUIREMENTS IN THE ETJ; AND TO ADD A DEFINITION FOR PUBLIC FACILITY. THE PENALTY IS AS PROVIDED FOR IN SECTION 19.42 OF THE EL PASO CITY CODE.

WHEREAS, Chapter 212 of the Texas Local Government Code allows the City to adopt rules governing plats and subdivisions of land in order to promote the health safety moral or general welfare of the city and for the safe orderly and healthful development of the City; and,

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 by guiding the future growth and development of the city in accordance with The Plan for El Paso and by encouraging the orderly and beneficial development of the city through appropriate growth management techniques and by establishing reasonable standards of design and procedures for subdivisions and resubdivision of land in order to further the orderly layout and use of land; and,

WHEREAS, the Subdivision Ordinance helps guide the physical development of the community by promoting orderly and healthful design, and particularly by ensuring adequate public facilities and services are available to new development, to include transportation, water, sewerage, schools, parks and other public improvements are available concurrent with development and will have a sufficient capacity to serve the subdivision and to ensure the subdivider provides for the required public improvements attributable to the development; and,

WHEREAS, the Subdivision Ordinance establishes reasonable standards of design and procedures for subdivision and resubdivision of land in order to further the orderly layout and use of land assuring the adequacy of drainage facilities; safeguard the water table; proper and safe circulation of traffic throughout the city; and to encourage the use and management of natural resources throughout the city in order to preserve the integrity, stability and beauty of the city;

WHEREAS, the City Plan Commission (CPC) has reviewed and recommends the adoption of the amendments as herein enumerated; and,

WHEREAS, the El Paso City Council finds that the adoption of these amendments will further protect and provide for the public health, safety, morals and general welfare of the community, and

WHEREAS, the regulations established by this Ordinance are in furtherance of the public interest, peace, order, trade and commerce of the City and necessary and proper for carrying out the power granted by law to the City; and

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

SECTION 1. That Title 19 (Subdivisions), Chapter 19.01 (Provisions Applicable to All Platting Procedures) of the El Paso City Code be amended as follows:

1. Section 19.01.010 (Authority Purpose and Applicability), Subsection C (Applicability), Subparagraph 2, is amended as follows:

(C) Applicability.
(2) No permit shall be issued for any building or structure on a property until a plat has been approved and/or filed for record in accordance with Title 19, except that the following shall be exceptions to this requirement:

a. Permits for repair or remodeling of an existing structure or for site improvements (parking areas, driveways, etc.) which involve no increase in square footage; or
b. The replacement of an existing primary single-family or duplex structure, not to exceed the square footage, nor deviate from the original location, of the original structure, provided that the new structure is in conformance with all other provisions of the City Code; or
c. Building additions to single-family or duplex structures of not over one hundred percent (100%) of the existing structure's value, and of not over fifty percent (50%) of the gross floor area of the structure; provided that any increase in square footage of a structure, any additions to a structure, and/or any site improvements are in compliance with all other provisions of the City Code; or
d. Demolition permits, or permits for removal of a structure from a parcel or tract; or
e. Permits for Accessory buildings (as defined in Title 20 of the Zoning Ordinance).

2. Section 19.01.030 (Exemptions) is amended to add the following subsection:

Section 19.01.030, Exemptions

12. The acquisition of land by the City for the purpose of providing storm water drainage facilities or land required for water or wastewater infrastructure facilities.

SECTION 2. That Title 19 (Subdivisions), Chapter 19.02 (Land Studies), Section 19.02.070 (Revisions following approval of a land study), Subsection B (Amendments), Paragraph 4, of the El Paso City Code, is amended as follows:

Section 19.02.070, Revisions following approval of a land study

4. If a request for amendment to an approved land study occurs after submission of a final plat, the subdivider shall be required to file a new land study application for the entire area contained within the formerly approved land study. Amendments deemed minor by the City Manager or designee, as defined in subsection A of this section, may be authorized administratively.

SECTION 3. That Title 19 (Subdivisions), Chapter 19.03 (Preliminary Plats), Section 19.03.010 (Purpose, exceptions and effect), Subsection B (Exceptions), of the El Paso City Code, is amended as follows:

B. Exceptions. A final plat in accordance with Chapter 19.04, along with final subdivision improvement plans in accordance with Chapter 19.08, may be submitted in lieu of a preliminary plat. The applicant, however, assumes all liability for costs and time delays created by the applicant not submitting a preliminary plat.

SECTION 4. That Title 19 (Subdivisions), Chapter 19.04 (Final Plat), Section 19.04.010 (Purpose, applicability, exceptions, and effect), Subsection C (Effect), of the El Paso City Code, is amended as follows:

19.04.010, Purpose, applicability, exception and effect

C. Effect. Approval of a final plat shall authorize the subdivider to install any improvements in public rights-of-way with approved subdivision improvement plans and to seek approval of site preparation, building and other permits for any lot in the subdivision, in accordance with section 19.08.020. Approval also authorizes the recordation of the final plat in accordance with this title.

SECTION 5. That Title 19 (Subdivisions), Chapter 19.06 (Minor Plats) of the El Paso City Code be amended as follows:

1. Section 19.06.010 (Purpose, applicability and effect), subsection C (Effect) is amended as follows:

19.06.010, Purpose, applicability and effect

C. Effect. Approval of a minor plat authorizes the recordation of the final plat in accordance with this title.

2. Section 19.06.020 (Application and procedures), subsection B (Application Contents), of the El Paso City Code, is amended as follows:

19.06.020, Application and procedures, Subsection B

B. Application Contents. All applications shall be submitted on a form supplied by the planning department with the required information as stated on the application form and the administrative submission requirements available in the planning department. The minor plat document shall be prepared by a registered professional land surveyor. The applicant shall submit a combined plat (preliminary/final) of the minor subdivision application.

SECTION 6. That Title 19 (Subdivisions), Chapter 19.07 (Revisions to Recorded Plats), Section 19.07.040 (Amending plats), Subsection B (Applicability), paragraph 10, of the El Paso City Code, is amended as follows:

Section 19.07.040 (Amending plats),

10. Make necessary changes to the preceding plat to create six (6) or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat; or

SECTION 7. That Title 19 (Subdivisions), Chapter 19.10 (Dedication, Construction Requirements and City Participation), Section 19.10.020, (In General), Paragraph A, of the El Paso City Code, is amended as follows:

Section 19.10.020, In General

A. Dedication and Construction of Improvements. The property owner shall dedicate all rights-of-way and easements for and shall construct, capital improvements within the rights-of-way or easements for water, wastewater, road or drainage improvements needed to adequately serve a proposed development consistent with the applicable master facilities plans and construction design standards, whether the facilities are located on, adjacent to or outside the boundaries of the property being developed, subject to the rough proportionality requirements of this ordinance. Such dedication shall be made and shown on the plat, provided, however, the city plan commission may grant an exception and allow for a dedication to be completed by metes and bounds. The following procedures shall be followed:

1. Where a property owner requests that the city plan commission grant an exception and that approval be given for the metes and bounds dedication of a public easement or right-of-way, the property owner shall file an application for a metes and bounds dedication with the City Manager or designee. The metes and bounds dedication application shall include:
    a. Completed forms, available at the office of the Planning Division of the Development Services Department, signed by the property owner;
    b. A metes and bounds description prepared by a surveyor of the property to be dedicated as a public easement or right-of-way, including calculations showing the area;
    c. A minimum of eighteen copies of a survey map prepared by a surveyor, clearly and legibly drawn at a scale of one hundred feet to an inch on one or more twenty-four-inch by thirty-six-inch sheets having a minimum one-half-inch border on all sides, except where the City Manager or designee approves a modified scale or other acceptable format, showing all of the following:
        i. Legal description stating approximate acreage;
        ii. Date of preparation, map scale (both graphic and numeric), north direction and basis of north direction;
        iii. Length, bearings and curve data for the survey map boundaries;
        iv. Dimensions and identifications of parcel boundaries, adjacent or abutting easements, canals, drains and subdivisions; including at least one row of adjacent lots and parcels;
        v. Width and location of proposed public easements or rights-of-way;
        vi. A location map at a scale of one inch equals six hundred feet, except where the City Manager or designee approves a modified scale, which provides identification of the proposed public easement or right-of-way in relation to features such as local streets, arterial streets, schools and other features;
        vii. Identification of any release or other limitations of rights of access to and from the

proposed public easement or right-of-way;

viii. Survey data, including:

(a) The survey map shall be tied by bearing and distance to either a section corner, survey line, grant line, or other known and accepted survey points. This tie shall be delineated on the plat,

(b). Any section line, survey line, or grant line crossing or adjoining the property shall be clearly designated and located on the survey map,

(c) The survey map shall show bearings and lengths of all lines, the radius, central angle, chord bearing and distance, length of curve and tangent of curve for all curved lines,

(d) All recognized survey monuments and other evidence of the survey map boundary location found, set, reset or replaced, describing their type and location shall be identified,

(e) All adjoining property shall be identified by legal description, i.e., lot, block and subdivision or tract name or by section, township or other proper identification,

(f) The centerlines of streets adjoining the property, indicating all permanent survey monuments found,

(g) All distances shall be to the nearest hundredth of a foot and shall be shown in feet and decimals thereof; all bearings shall be shown to the nearest degree, minute and second,

(h) A print-out of the mathematical closure of the exterior boundary of the property, which indicates the error of closure of the respective parcel,

(i) The survey map shall be tied to a horizontal control monument established by either the National Geodetic Survey (N.G.S.) or the city if the property is within three thousand feet of such horizontal control monument as determined by the City Engineer,

(j) A survey map tied to a horizontal control monument shall be tied to the monument by course and distance. The tie to the monument, including the reference angle to a published azimuth marker, shall be shown on the map. All N.G.S. reference information for the horizontal control monument, including the N.G.S. station designation, State Plane Coordinates grid factor, mapping angle, reference datum and the State Plane Coordinate zone shall also be shown on the plat. The tie to the horizontal control monument shall be made by the surveyor responsible for the boundary survey;

ix. Certification by the surveyor that the survey map represents a survey made on the ground under his supervision and is in compliance with the current Texas Board of Professional Land Surveying Professional and Technical Standards;

x. Certification from a title company qualified to do business in the state, showing the name(s) of the owner(s) of the property to be dedicated by metes and bounds;

d. A processing fee in the amount established by city council;

e. A written detailed justification for the request for exception of the regulations contained under this title; and

f. Documentation to show proof of ownership.

g. A current tax certificate from the city tax assessor-collector indicating that all ad valorem taxes have been paid on the property included within the survey map.

2. Review for application completeness. The City Manager or designee shall, upon receipt of a metes and bounds dedication application, determine whether or not the application meets all of the content requirements for submittal required in this section. An application not meeting all of the submission requirements of this title shall be returned to the property owner within five working

days following the date of acceptance for review of application completeness, indicating the information which is lacking on the application. For purposes of this section, the date of acceptance of a metes and bounds dedication application for review of application completeness shall not be counted as the first day of the five working day review period. If an application accepted for review of application completeness is not returned to the property owner within the five working day review period, the metes and bounds dedication application shall be deemed accepted and the time period specified within paragraph 3 below shall commence on the sixth working day following the date the metes and bounds dedication application was accepted for review of application completeness.

3. Application Procedure.

a. General Provisions. Upon receipt of an application for metes and bounds dedication of a public easement or right-of-way, the City Manager or designee shall distribute the application to the members of the development coordinating committee, which shall submit written comments within one week from the date of distribution and shall determine whether the application, subject to any written conditions and recommendations, accompanied with an explanation if their recommendation, shall be presented to the city plan commission. The property owner and surveyor shall be notified and given the comments at least three working days prior to the commission hearing. The property owner shall be present at the commission hearing when the application is heard.

b. Distribution and Review. Upon receipt of an application for metes and bounds dedication of a public easement or right-of-way, the City Manager or designee shall distribute the application to the members of the development coordinating committee. Written comments and recommendations on the application for metes and bounds dedication of a public easement or right-of-way shall be submitted by members of the development coordinating committee to the City Manager or designee within one week from the date of distribution. All objections to the application shall be submitted in writing. Comments and recommendations not submitted or received within the specified time period shall result in comments not being considered by the City Manager or designee, and may require that the affected member's late comments and recommendations be presented directly to the city plan commission.

The City Manager or designee shall present the application for metes and bounds dedication of a public easement or right-of-way to the development coordinating committee who shall determine whether the application, subject to any written comments and recommendations, complies generally with the intent of these regulations. The recommendation of the development coordinating committee, accompanied with an explanation of their recommendation, shall be presented to the city plan commission.

The City Manager or designee shall compile a report of the written comments received by the staff, which shall be submitted to the city plan commission. A copy of this report shall be provided to the property owner and surveyor at least three working days prior to the commission hearing. The property owner shall be present at the commission hearing when the application is heard.

c. City Plan Commission Action. The city plan commission shall review all reports and recommendations presented by the staff and shall either recommend approval or disapproval of granting an exception for the metes and bounds dedication. A recommendation for approval by the city plan commission shall be based on a finding that the metes and bounds dedication

provides as well for the safe, orderly and healthful development of the community as if dedicated by a subdivision.

When the city plan commission recommends approval of acceptance of the metes and bounds dedication the City Manager or designee, shall forward the recommendation to the city attorney for preparation of the dedication instrument. This report shall be provided to the property owners making the application at least three working days prior to the commission hearing.

d. Notification of Action. Notice of the recommendation for approval, approval with exceptions or disapproval of an application for the metes and bounds dedication of a public easement or right-of-way by the city plan commission shall be reported in writing to the property owner and surveyor within five working days of the commission hearing.

e. Submission for Recording. Within six months following the date of a recommendation for approval or approval with exceptions by the city plan commission of an application for metes and bounds dedication of a public easement or right-of-way, the property owner shall submit five copies of the approved survey map which incorporates and fully satisfies any exceptions requested to the application by the city plan commission, one original copy of the deed conveying ownership of the property to the city, and the prescribed county recording fees (by check or money order made payable to the "City of El Paso").

The City Manager or designee shall place the proposed dedication instrument on the city council agenda for approval or disapproval. Upon approval of the dedication instrument by the city council, the City Manager or designee shall present the executed instrument, exhibits and deed to the city clerk for recording.

The City Manager or designee shall distribute copies of the executed instrument, exhibits and deed to the appropriate city, county, and other official agencies.

Failure of the property owner to submit the requested information, or to comply with any conditions imposed by the city plan commission, within the six-month period shall necessitate the total resubmission of the application for the metes and bounds dedication of a public easement or right-of-way, which shall be subject to the regulations in effect at the time of resubmission.

f. Withdrawal of Application for Metes and Bounds Dedication. An application for the metes and bounds dedication of a public easement or right-of-way may be withdrawn by a property owner prior to any final action by the city council. A request for withdrawal shall be made officially in writing to the City Manager or designee. No refund of the processing fee shall be allowed where an application is withdrawn.

4. Appeal of city plan commission recommendation to disapprove granting the exception.
In the event that the city plan commission recommends disapproval of granting the exception for a metes and bounds dedication of a public easement or right-of-way, no dedication instrument shall be prepared by the city attorney, nor shall the application be submitted to the city council for approval. The property owner may, in writing, request an appeal to the city council by filing an application and any required documentation to support the appeal with the City Manager or designee and paying any required fee. The City Manager or designee shall place an item on the agenda of a regularly scheduled city council meeting. The appeal must be made within fifteen days of the recommendation by the city plan commission.

The City Manager or designee shall advise the property owner of the date of the city council meeting. The city council may deny the appeal for the metes and bounds dedication of a public easement or right-of-way or may approve the metes and bounds dedication application and direct the preparation of the dedication instrument for recording.

Where the city council approves a metes and bounds dedication application, the property owner shall be required to submit the necessary documents for recording. Failure of the property owner to submit the necessary documents for recording within six months following the date of the city council approval on appeal shall require the total resubmission of the metes and bounds dedication application which shall be subject to the then existing regulations.

5. Resubmission of a metes and bounds dedication application. No application for a metes and bounds dedication of a public easement or right-of-way shall be resubmitted within a twelve-month period from the date of final action by the city plan commission or the city council, whichever action occurs last.

SECTION 8. That Title 19 (Subdivisions), Chapter 19.11 (Extra Territorial Jurisdiction (ETJ) Standards), Section 19.11.040 (Other infrastructure requirements in the ETJ), Paragraph A (Parks), of the El Paso City Code, is amended as follows:

19.11.040, Other infrastructure requirements in the ETJ

A. Parks. Parks shall be required in designated areas within the ETJ that the City has identified as future areas for potential voluntary annexations. The areas of potential annexations are identified on an official map kept in the Development Services Department and included as part of Section 19.11 Attachment A, as may be amended by City Council Subdivisions located in those designated areas within the ETJ of El Paso shall meet the park requirements of the city contained within Chapter 19.20. Any land conveyed to the city for future park purposes shall be identified on the plat as a legal lot with lot number. The developer shall provide to the city a warranty deed, approved by the city attorney's office, conveying the property to the city for park purposes. Land acquired by the city for park purposes under the provisions of this chapter will not be maintained or improved by the county. A sign containing city contact information shall be placed upon the site noting that the lot is owned and maintained by the City of El Paso. Upon acceptance by the city, the city shall have the responsibility to maintain the parkland, facilities and any improvements provided by the dedication or subsequently made to the park in accordance with Chapter 19.20.

SECTION 9. That Title 19 (Subdivisions), Chapter 19.15 (Roadways) of the El Paso City Code, is amended as follows:

1. Section 19.15.020 (Subdivider Responsibility), Subsection B (Streets, Generally), Paragraph 2 (Existing Boundary Streets for Small Subdivisions), is amended as follows:

Section 19.15.020, Subdivider Responsibility

2. Existing Boundary Streets for Small Subdivisions. If the right-of-way of an existing street forms part of the boundary for a subdivision meeting all of the following conditions, the subdivider shall have the option to make the contribution to the city for the cost of required street improvements, as determined by the City Manager or designee.

2. Section 19.15.040 (Street and Alley Abandonment/Vacation), is amended as follows:

Section 19.15.040 Public Right-of-Way, Alley, or Public Easement Vacation

A. **Public Easements**. The vacation of public easements shall be achieved by a Replat, a Vacation Plat, or a separate instrument. If such was originally dedicated to the City by a Plat, then a Replat or a Vacation Plat may be required for vacation. If such was dedicated by a separate instrument, then a Replat or Vacation Plat shall not be required, but such vacation shall be accomplished by separate instrument in accordance with the terms and conditions specified under the dedicatory instrument. Vacation of a temporary drainage easement, drainage area or other temporary dedication of land to the City shall be in accordance with the dedicatory language contained in the dedicatory instrument.

B. **Alleys and Public Rights-of-Way**. A property owner whose property abuts an alley or right-of-way located within the corporate limits, may apply to the city for a vacation, in whole or in part, of the abutting alley or right-of-way. If no improvements have been made to the alley or right-of-way, such vacation may be obtained either by following the process for vacation of a recorded subdivision or resubdivision as described in Section 19.07 of this title or by complying with the requirements of this Section. If improvements have been made to the alley or right-of-way, such vacation may be obtained only by complying with the requirements of this Section.

C. **Application required**. An application for vacation of public easements, alleys and rights-of-way, a copy of which is on file with the Planning Division of the Development Services Department, accompanied with the following submittal requirements shall be submitted to the City Manager or designee:

1. A nonrefundable processing fee as approved by city council.

2. The written concurrence of all persons who own property abutting the public easement or right-of-way proposed to be vacated.

3. Copies of recorded deeds showing current ownership of all properties abutting the public easement or right-of-way proposed to be vacated.

4. Eighteen copies of a survey of the area requested for vacation, showing all abutting property boundaries, improvements (noting whether such improvements are to be removed or are to remain), drainage structures, dimensions and other easements or rights-of-way contained on the property. Such survey shall be prepared by a surveyor (must be sealed) and must contain the following information:

a. Illustrate the existing and proposed drainage patterns, conditions, and what will be modified. Provide drainage easement(s) for any existing active underground drainage pipe and drop inlet(s) located within the property, also for surface drainage flow of storm water crossing the subject property.
b. Provide flood zone designation and illustrate flood zone encroachments, if applicable.
c. A metes and bounds description of the property to be vacated and calculations showing the area in square feet.
d. A location map at a scale of one inch equals six hundred feet which provides identification of the proposed vacation in relation to features such as local streets, arterial streets, schools and other features, on a separate 8 ½ x 11 sheet.
e. One copy of the subdivision plat or instrument by which the public easement or right-of-way was dedicated, showing the recording information.

D. Review for application completeness. The City Manager or designee, shall, upon receipt of an application for vacation of public easements, alleys and rights-of-way, review the application to determine whether or not the application meets all of the requirements for submittal required above. An application not meeting all of the submission requirements shall be returned to the property owner within five working days following the date of acceptance for review of application completeness, indicating the information which is lacking on the application. For purposes of this procedure, the date of acceptance of an application for review of application completeness shall not be counted as the first day of the five working day review period. If an application accepted for review of application completeness is not returned to the property owner within the five working day review period, the application shall be deemed accepted.

E. Procedure and notice.

1. **Procedure.** Upon acceptance of an application for vacation of public easements, alleys and rights-of-way, the City Manager or designee shall distribute the application to the development coordinating committee. Written comments and recommendations on the application shall be submitted by members of the development coordinating committee to the City Manager or designee within one week from the date of distribution. All objections to the application shall be submitted in writing. Comments and recommendations not submitted or received within the specified time period shall result in comments not being considered by the City Manager or designee, and shall require that the affected member's late comments and recommendations be presented directly to the development coordinating committee. Where the development coordinating committee does not accept the late comments and recommendations, a presentation by the affected member shall also be made directly to the city plan commission.

   The City Manager or designee shall present the application to the development coordinating committee who shall recommend approval, approval with modifications or disapproval, subject to any written comments and recommendations. The recommendation of the development coordinating committee, accompanied with an explanation of their recommendation, shall be presented to the city plan commission.

   The City Manager or designee shall compile a report of the written comments and recommendations of the development coordinating committee, which shall be submitted to the city plan commission. A copy of this report shall be provided to the property owners making the application at least three working days prior to the commission hearing.

   Upon a favorable recommendation from the city plan commission on the application to vacate a public easement, the City Manager or designee shall forward the information to the city attorney for preparation of the vacation ordinance. The City Manager or designee shall forward the request to the city council for finalization.

   Upon a favorable recommendation from the city plan commission on the vacation of alleys and rights-of-way, the City Manager or designee shall forward the information to the city attorney for preparation of the vacation ordinance and for securing the necessary appraisal. Upon completion of establishing the market value of the public easement, alley or rights-of-way, the City Manager or designee shall forward the request to the city council for finalization.

2. **Public Hearing Notice.**

a. **Public Easement Vacations.** Notice to property owners regarding the city plan commission and the city council hearings shall not be required when the application is for vacation of public easement.

b. **Alley and Public Right-of-Way Vacations.** Notice for city plan commission and city council hearing shall be mailed by the City Manager or designee to all property owners:

(a) Abutting an alley or public right-of-way proposed to be vacated;

(b) Within the block contiguous to the alley or public right-of-way proposed to be vacated; and

(c) Within a two hundred foot radius of the alley or public right-of-way proposed to be vacated.

Notice shall be given at least ten days prior to the public hearing. Property ownership shall be determined by reviewing the last approved ad valorem tax roll of the city available. In addition, the City Manager or designee shall place a legal notice in a newspaper of general circulation in the city or as otherwise provided by state law regarding information of the public hearing before the city plan commission on the public right-of-way proposed to be vacated. Notice shall appear in the newspaper ten days prior to the public hearing date.

D. Appeal of city plan commission denial. No vacation ordinance shall be prepared or submitted to the city council where the city plan commission recommends disapproval of an application for vacation of a public easement, alley or right-of-way. The applicant may, in writing, request an appeal to city council by placing an item on the agenda at a regularly scheduled city council meeting. The appeal must be made within fifteen days of the denial by the city plan commission in the office of the city clerk. The city council may deny the appeal or may direct the preparation of the vacation ordinance.

E. Appraisal required for vacation of an alley or public right-of-way.

1. **General.** Where required by state law, an appraisal shall be made for an application for vacation of an alley or public right-of-way. The applicant shall pay for all appraisal fees incurred by the city. The appraisal shall be requested to determine the market value of the city's interest in the alley or public right-of-way. The cost of the appraisal will be reimbursed to the city by the applicant whether or not the application is finally approved by the city council. The applicant shall submit a check payable to the city for all appraisal fees before the application is forwarded to the city council for finalization.

No appraisal shall be required for an application for vacation of a public easement. In all cases, the market value of the city interest in a public easement to be vacated shall be the equivalent value of twenty-five dollars.

2. **Date of Valuation.** The date for establishing the market value of the alley or public right-of-way proposed to be vacated shall be the date the application is accepted by the City Manager or designee.

3. **Case of Disputed Value.** If the first appraisal obtained by the city is disputed by the applicant, the applicant shall obtain a second independent appraisal at the applicant's expense. The city must agree on the qualification of the second independent appraiser before the appraisal is requested by the applicant. If the city attorney determines that there is a substantial difference between the two appraisals, the city will contact a third independent appraiser to perform a

review appraisal, the cost of which shall be paid by the applicant. The city council shall then make a final determination of market value which shall be binding on all parties.

F. Fees to be paid by applicant.

1. **Application Fee.** Before the city council authorizes the vacation of all or part of a public easement, alley or right-of-way, the applicant shall pay a nonrefundable application fee as established by city council.

2. **Vacation Fee for Alley or Public Right-of-Way.** In addition to the application fee, the applicant shall pay the following:

   a. The cost of the appraisal; and
   b. The appraised market value of the city's interest in the alley or public right-of-way.

3. **Publication Costs.** The city shall bear the costs for publishing notices related to the application to vacate public easements, alleys and rights-of-way, when it is presented before the city council for finalization.

G. Resubmission of a vacation application. No application for vacation of a public easement, alley or right-of-way, shall be resubmitted within a twelve-month period from the date of final action by the city plan commission or the city council, whichever action occurs last.

H. Quit Claim Deed. A Quit Claim deed that eliminates any and all future claim for city responsibility for the vacated right-of-way, alley, or easement may be required by the city council as part of the approval of the document (i.e., Plat or separate instrument) that achieves the vacation.

3. Section 19.15.080 (Street Length), Subsection B (Maximum Length of a Cul-De-Sac Street), Paragraph 4, is amended to remove subparagraph f.

SECTION 10 That Title 19 (Subdivisions), Chapter 19.18 (Traffic Impact Analysis), Section 19.18.010 (Purpose and applicability), Subsection B (Applicability), Paragraph 1, Subparagraph a, of the El Paso City Code, is amended to change the phrase "five hundred adjusted daily trips for commercial and industrial uses" to "one thousand adjusted daily trips for commercial and industrial uses".

SECTION 11. That Title 19 (Subdivisions), Chapter 19.20 (Parks and Open Space) of the El Paso City Code, is amended as follows:

1. Section 19.20.020 (Dedication required), Subsection A, is amended as follows:

Section 19.20.020, Dedication Required

A. Dedication Required. All subdivisions located within the corporate limits of the city of El Paso and within those areas designated in the city's extra territorial jurisdiction (ETJ), as identified on an official map kept in the Development Services Department.

2. Section 19.20.020 (Dedication Required), Subsection B (In Residential Subdivisions), Paragraph 2, is amended as follows:

Section 19.20.020, Dedication Required

2. This provision may be waived by the City Manager or designee where the city is provided a copy of deed restrictions or other legal instrument verifying that the property within the subdivision application or portion thereof, is restricted to nonresidential uses as defined in this chapter. The evidence shall be provided to the city manager or designee with the filing of the preliminary plat, and shall be reviewed by the city attorney prior to the city plan commission action on the preliminary plat. Failure of the subdivider to provide this information with the filing of the preliminary plat shall result in the subdivision application being considered as a residential subdivision.

3. Section 19.20.030; Subsection A (Rate), Paragraph 1, Subparagraph d, of the El Paso City Code is amended as follows:

Section 19.20.030, Parkland Calculation, Subsection A, paragraph 1, subparagraph d

d. The City Manager or designee may waive the gross density used in the parkland calculation rate for subsection (A) (1) (c) above when the subdivider verifies by means of deed restrictions or other legal instrument that the density permitted within the subdivision is less than the gross density required by subsection (A) (1) (a) or (A) (1) (b) of this section. The evidence shall be provided to the city manager or designee with the filing of the final plat, and shall be reviewed by the city attorney prior to city plan commission action on the final plat. Failure of the subdivider to provide this information with the filing of the final plat shall result in the gross density rates of this chapter being applied to the parkland calculation.

3. Section 19.20.050 (Standards for deeded parkland), subsection C (Exceptions), is amended as follows:

Section 19.20.050, Standards for deeded parkland, Subsection C

C. Exceptions. For purposes of this chapter, off-site dedications accepted pursuant to Section 19.20.080 shall not be required to satisfy the requirements of subsection (B)(3) of this section at the time of acceptance of the deed by the city. The city shall require the approval of a development agreement as a condition of acceptance of an off-site dedication, requiring such improvements within two years of the recording of the first subdivision plat within the development by the property owner who deeded the parkland, or a subsequent purchaser.

4. Section 19.20.080 (Off-site dedication of parkland), Subsection A (Application), is amended as follows:

Section 19.20.080, Off-Site dedication of parkland, Subsection A

A. Application. Where a land study is submitted by a subdivider pursuant to Chapter 19.02, the city or the subdivider may request that an off-site dedication of parkland be accepted within the corporate limits or within the areas designated in the city's extra territorial jurisdiction (ETJ), as identified on an official map kept in the Development Services Department. An application for off-site dedication of parkland shall be filed by a subdivider with the city manager or designee.

<u>SECTION 12</u> That Title 19 (Subdivisions), Chapter 19.23 (Easements, Block and Lot Design and Improvement Standards) of the El Paso City Code be amended as follows:

1. Section 19.23.040 (Lots—Determination and regulation of size), Subsection C (Flag or Panhandle Lots) is amended as follows:

Section 19.23.040, Lots—Determination and regulation of size, Subsection C

C. Flag or Panhandle Lots. Panhandle lots shall be discouraged in residential areas except when, due to unique parcel configuration it is the only way to develop the property, and it shall be considered an exception. It may be allowed as an alternative subdivision design in accordance with this title. It shall also be discouraged in commercial areas except when it is part of a master planned commercial center or commercial unit development with cross access easements allowing additional access. The maximum length of a commercial panhandle shall be one hundred feet. The city plan commission must authorize an exception allowing the flag or panhandle lots in accordance with Chapter 19.48 at the time of preliminary plat approval. Such lots shall otherwise conform to the development standards for construction, and shall be based on the following design requirements.

2. Section 19.23.040 (Lots—Determination and regulation of size), Subsection C (Flag or Panhandle Lots), Paragraph 2 (Residential Uses) is amended as follows:

Section 19.23.040, Lots—Determination and regulation of size, Subsection C, Paragraph 2

2. Residential Uses. The maximum length of the panhandle shall be one hundred feet. The minimum width of the panhandle shall be twelve feet to serve one dwelling unit. A maximum of two dwelling units may jointly use a panhandle, provided that the minimum cumulative width of the panhandle is twenty-four feet. Maintenance of the common driveway, in cases of joint use, shall be ensured by deed restrictions and a note of such deed restrictions shall be placed on the face of the plat.

SECTION 13. That Title 19 (Subdivisions), Chapter 19.50 (Definitions), Section 19.50.030 (Definitions), of the El Paso City Code, is amended as follows:

"Public Facility" means any public improvement providing required services for proper development, including, but not limited to, streets, bridges, public buildings, public works buildings or facilities, water systems, sanitary and storm sewerage systems, sanitary landfills, retention dams or basins and community facilities, such as parks, fire stations, libraries, schools, and health clinics.

SECTION 14. Except as expressly herein amended, Title 19, Subdivisions, of the El Paso City Code shall remain in full force and effect.

ADOPTED THIS _____ day of _____ 2009.

SIGNATURES ON NEXT PAGE

CITY OF EL PASO

_____

John F. Cook, Mayor

ATTEST:

_____

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

_____

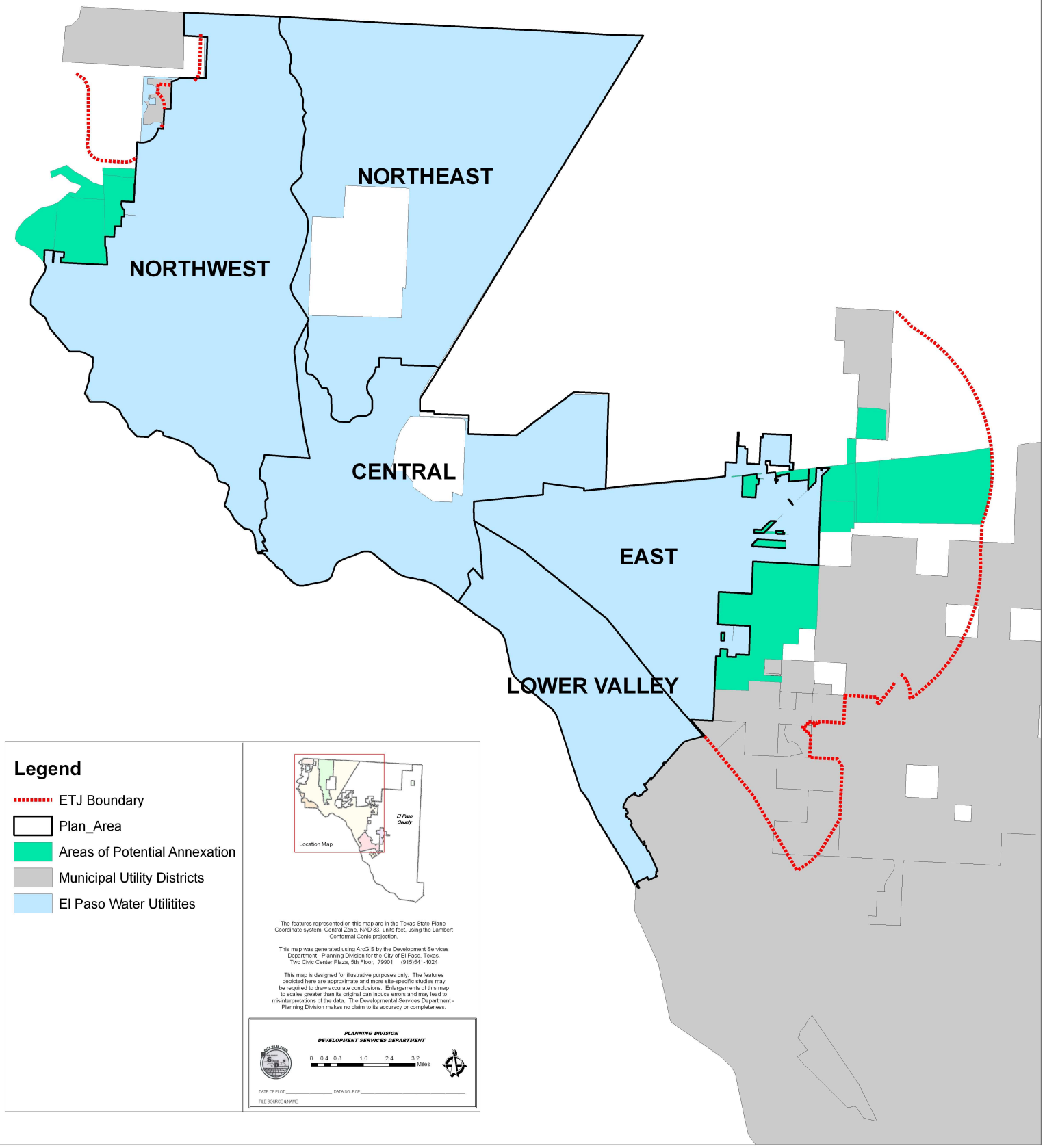
Lupe Cuellar
Assistant City Attorney

APPROVED AS TO CONTENT:

_____

Mathew S. McElroy, Deputy Director - Planning
Development Services Department

Attachment A 19.11.04 A.
Areas of Potential Annexation



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S E R V I C E S O L U T I O N S S U C C E S S

DEVELOPMENT SERVICES
PLANNING DIVISION

M E M O R A N D U M

DATE: November 23, 2009

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

FROM: Eduardo Garcia, Lead Planner

SUBJECT: **Title 19 Amendments**

The City Plan Commission (CPC) on November 19, 2009 **recommended approval of the amendments to Title 19.**

The CPC determined that the Title 19 Amendments protects the best interest, health, safety and welfare of the public in general; and that the amendments will have no effect on the natural environment, social economic conditions, and property values in the vicinity and the city as a whole.

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
Rachel Quintana

District 6
Eddie Holguin Jr.

District 7
Steve Ortega

District 8
Beto O'Rourke

City Manager
Joyce A. Wilson

Development Services Department
Victor Q. Torres – Director
2 Civic Center Plaza – 5th Floor · El Paso, Texas 79901 · (915) 541-4622 · Fax (915) 541-4799