



Hall County Regional Planning Commission

Wednesday, May 06, 2009
Regular Meeting

Item -5

Text Amendment Change (C-16-2009GI)

Insert a narrative here

Staff Contact:

Agenda Item #6

PLANNING DIRECTOR RECOMMENDATION TO REGIONAL PLANNING COMMISSION:

May 6, 2009

SUBJECT:

Concerning amendments to the Zoning Ordinance for the City of Grand Island and its 2 mile extra-territorial jurisdiction. Amendments to be considered pertain to the Communication Towers §36-173 Setbacks and Separation or Buffer Requirements (C-16-2009GI)

PROPOSAL:

The changes proposed here were requested by Patrick Buettner of Grand Island, Nebraska. All areas with changes are highlighted. Additions are *Italicized and underlined* and deletions are in ~~strike-out~~.

§36-173. Setbacks and Separation or Buffer Requirements

(A) All towers up to fifty (50) feet in height shall be set back on all sides a distance equal to the underlying setback requirement in the applicable zoning district. Towers in excess of fifty (50) feet in height shall be set back one additional foot for each foot of tower height in excess of fifty (50) feet *except where such setback is from property owned by a government entity and the City Council finds in granting the permit that reducing such additional setback will not cause harm to the intended use of the public property.* The height of a tower shall be measured from the grade at the foot of the base pad to the top of any telecommunications facilities or antennas attached thereto. Setback requirements shall be measured from the base of the tower to the property line of the tract of land on which it is located.

(B) Towers exceeding one hundred (100) feet in height may not be located in any residential zoned district and must be separated from all residential zoned land and occupied structures other than those utilized by the tower owner, by a minimum of two hundred (200) feet or one hundred percent (100%) of the height of the proposed tower, whichever is greater.

(C) Towers of one hundred (100) feet or less in height may be located in residential zoned districts provided said tower is separated from any residential structure, school, church, and/or occupied structures other than those utilized by the tower owner, by a minimum of one hundred percent (100%) of the height of proposed tower.

(D) Towers must meet the following minimum separation requirements from other towers:

- (1) Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed, by a minimum of seven hundred fifty (750) feet.
- (2) Self-supporting lattice or guyed towers shall be separated from all other self-supporting or guyed towers by a minimum of one thousand five hundred (1,500) feet.

OVERVIEW:

The proposed changes would give the City Council flexibility in determining the appropriate setbacks for a tower when the property the tower is on is bounded by

public property. Property owned by a government entity could include a: city, state, federal, natural resource district, fair board and/or public school district among others. The types of property could include: detention cells, road right of way, parks, schools, fair grounds, drainage way or projects, lakes etc...

In the particular case that Mr. Buettner is interested in the tower would abut a detention cell on state owned property that is maintained by the City.

Another option for amending these regulations would be to change the regulations as shown below:

§36-173. Setbacks and Separation or Buffer Requirements

(A) All towers up to fifty (50) feet in height shall be set back on all sides a distance equal to the underlying setback requirement in the applicable zoning district. Towers in excess of fifty (50) feet in height shall be set back one additional foot for each foot of tower height in excess of fifty (50) feet except where such setback is from property owned, controlled and/or maintained the City and the City Council finds in granting the permit that reducing such additional setback will not cause harm to the intended use of the public property. The height of a tower shall be measured from the grade at the foot of the base pad to the top of any telecommunications facilities or antennas attached thereto. Setback requirements shall be measured from the base of the tower to the property line of the tract of land on which it is located.

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This change would only allow the City Council to reduce the required setbacks when the City has some interest in the property that will allow the exemption.

The regulations as they are currently written do not permit Council to reduce the required setback under any circumstances. A 190 foot tower is required to be placed 145 feet from a side property line in the M2 zoning district (M2 side yard setback is 5 feet. One foot setback for every foot over 50 feet in height. $190 - 50 = 145$). These setbacks from a side property line are required by the current regulations regardless of the adjoining use. In some cases, such as: very large rights-of-way, lakes, detention cells and other drainage structures it may be reasonable to lower the requirement on a case by case basis. The changes as proposed both by Mr. Buettner and by planning staff would let Council take the specific circumstances of either government owned or City owned controlled or maintained property into consideration while granting the permit and reduces the required setback.

RECOMMENDATION:

That the Regional Planning Commission recommend that the Grand Island City Council **approve** the changes to the Grand Island Zoning Ordinance as suggested by staff.

_____ Chad Naby AICP, Planning Director

§36-172. Tower Development Permit; Procedure

After receipt of an application for a Tower Development Permit, the City Clerk shall schedule a public hearing before the City Council to consider such application. Notice of such application shall be placed in a newspaper of general circulation in the City at least one (1) time ten (10) days prior to such hearing. In addition to the publication, the City Clerk shall cause a notice to be posted in a conspicuous place on the property on which action is pending. Such notice shall be not less than eighteen (18) inches in height and twenty four (24) inches in width with a white or yellow background and black letters not less than one and one-half (1½) inches in height. Such posted notice shall be so placed upon the premises so that it is easily visible from the street nearest the same and shall be so posted at least ten (10) days prior to the date of such hearing. It shall be unlawful for anyone to remove, mutilate, destroy, or change such posted notice prior to such hearing. Any person so doing shall be deemed guilty of a misdemeanor. The public hearing shall be held at which all interested parties shall be heard. The City Council may approve a Tower Development Permit as requested in the pending application with any conditions or safeguards it deems reasonable and appropriate based upon the application and/or input received at the public hearing or deny the application. In all zoning districts in which towers are a permitted conditional use of land, the Tower Development Permit shall be deemed a conditional use permit for said tract of land.

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(D) Towers must meet the following minimum separation requirements from other towers:

- (1) Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed, by a minimum of seven hundred fifty (750) feet.
- (2) Self-supporting lattice or guyed towers shall be separated from all other self-supporting or guyed towers by a minimum of one thousand five hundred (1,500) feet.

§36-174. Structural Standards for Towers Adopted

The *Structural Standards For Steel Antenna Towers And Antenna Supporting Structures*, 1991 Edition (ANSI/EIA/TIA 222-E-1991) is hereby adopted, together with any amendments thereto as may be made from time to time, except such portions as are hereinafter deleted, modified, or amended by ordinance and set forth in this chapter of the City Code.

§36-175. Illumination and Security Fences

(A) Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). In cases where there are residential zoned properties located within a distance of 300% of the height of the tower, any tower subject to this Article shall be equipped with dual mode lighting.

(B) All self-supporting lattice or guyed towers shall be enclosed within a security fence or other structure designed to preclude unauthorized access. Monopole towers shall be designed and constructed in a manner which will preclude to the extent practical, unauthorized climbing of said structure.

§36-176. Exterior Finish

Towers not requiring FAA painting or marking shall have an exterior finish which enhances

compatibility with adjacent land uses, subject to review and approval by the City Council as part of the application approval process. All towers which must be approved as a conditional use shall be of stealth design unless stealth features are impractical or the cost of such features represents an undue burden on the applicant.

§36-177. Landscaping

All tracts of land on which towers, antenna support structures, telecommunications facilities and/or antennas are located shall be subject to the landscaping requirements of the City Code.

§36-178. Maintenance, Repair or Modification of Existing Towers

All towers constructed or under construction on February 1, 1998 may continue in existence as a non-conforming structure and may be maintained or repaired without complying with any of the requirements of this Article. Nonconforming structures or uses may not be enlarged or the degree of nonconformance increased without complying with this Article, including applying for and obtaining a Tower Development Permit. Any modification or reconstruction of a tower constructed or under construction on February 1, 1998, shall require compliance with the requirements of this Article including applying for and obtaining a Tower Development Permit. Said application shall describe and specify all items which do not comply with this Article and may request, subject to approval by the Mayor and City Council, an exemption from compliance as a condition of the Tower Development Permit.

§36-179. Inspections

The City reserves the right to conduct an inspection of towers, antenna support structures, telecommunications facilities and antennas upon reasonable notice to the tower owner or operator to determine compliance with this Article and to prevent structural and equipment failures and accidents which may cause damage, injuries or nuisances to the public. Inspections may be made to determine compliance with the Building Code and any other construction standards set forth in the City Code, federal and state law or applicable ANSI standards.

§36-180. Maintenance

The towers, antenna support structures, telecommunications facilities and antennas shall at all times be kept and maintained in good condition, order and repair so that the same does not constitute a nuisance to or a danger to the life or property of any person or the public.

§36-181. Abandonment

If any tower shall cease to be used for a period of three hundred sixty-five (365) consecutive days, the Building Department shall notify the tower owner that the site will be subject to a determination by the Building Department Director that the site has been abandoned. Upon issuance of a Notice to Show Cause by the Building Department Director, the tower owner shall have thirty (30) days to show by a preponderance of the evidence that the tower has been in use or under repair during the period of apparent abandonment. In the event the tower owner fails to show that the tower has been in use or under repair during the relevant period, the Building Department Director shall issue a final determination of abandonment of the site and the tower owner shall have seventy five (75) days thereafter to dismantle and move the tower. In the event the tower is not dismantled and removed, the tower shall be declared a public nuisance by the Building Department Director, or his/her designee and a written request shall be directed to the City Attorney to proceed to abate said public nuisance pursuant to §20-15 of the Grand Island City Code, and charge the costs thereof against the real estate on which the tower is located or the owner of record of the said real estate.

§36-182. Satellite Dish Antennas, Regulation

After February 1, 1998 installation of satellite dish antennas shall be permitted within the zoning jurisdiction of the City of Grand Island only upon compliance with the following criteria:

- (A) In residential zoned districts, satellite dish antennas may not exceed a diameter of ten (10) feet.
- (B) Single family residences may not have more than one (1) satellite dish antenna.
- (C) Multiple family residences with ten or less dwelling units may have no more than one (1) satellite dish antenna. Multiple family residences with more than ten (10) dwelling units may have no more than two (2) satellite dish antennas.

(D) In residential zoning districts, satellite dish antennas shall not be installed in the required front yard setback area or side yard setback area.

(E) All satellite dish antennas installed within the zoning jurisdiction of the City after February 1, 1998, shall be of a neutral color such as black, gray, brown, or such other color as will blend with the surrounding dominant color in order to camouflage the antenna.

§36-183. Severability

If any clause, section, or any other part of this Article shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Article shall not be affected thereby, but shall remain in full force and effect.

§36-184. Reserved

§36-185. Reserved

§36-186. Reserved

§36-187. Reserved