



City of Grand Island

Tuesday, June 25, 2019

Council Session

Item E-4

Public Hearing on Amendments to the Grand Island City Code Section 36-70 Heavy Business Zone and Section 36-102 Landscaping Requirements and Heavy Business Zone

Council action will take place under Ordinances item F-1.

Staff Contact: Chad Nabity

Council Agenda Memo

From: Regional Planning Commission

Meeting: June 25, 2019

Subject: Proposed Changes to Section 36-70 (B-3) Heavy Business Zone relative to the required setbacks Section 36-102 Landscaping Requirements relative to the R-3SL Medium Density Small Lot Zone, B-3 Heavy Business Zone and additions and enlargements of existing improvements in any zoning district.

Presenter(s): Chad Nabity, AICP Planning Director

Background

The Railside Business Improvement District board has requested that the Planning Commission and City Council consider changes to the B3 zoning district setbacks. Their proposal is to reduce the front and street yard setbacks to 0 feet allowing for development at the property line in a manner consistent with the traditional building setbacks for downtown Grand Island. This will require changes to the landscaping regulations that require a setback in the B3 zoning district to allow for landscaping. Along with these changes requested by the Railside Board, staff is suggesting changes to the landscaping regulations that would add the R-3SL Medium Density Small Lot residential zone to the landscaping regulations. The final proposed change would update the requirements for additional landscaping when a property owner is making minimal expansions to the parking or building area on their property.

Discussion

The B3 setbacks were increase from 0 feet to 10 feet to become consistent with the landscaping regulations with the adoption of the zoning regulations in 2004. Development of some buildings in the Downtown area has shown that it may be beneficial to the look and feel of downtown to allow development that is more traditional.

When the R3-SL Zoning district was added to the regulations there were no changes made to the landscaping sections. The proposed changes would treat the R-3SL district the same as the R3 district.

In 2018 the Grand Island Board of Adjustment met and granted a variance allowing a business on 2nd Street to install an addition to the their hard surfaced parking without landscaping the area of the addition. The Board of Adjustment found that the additional landscaping would not impact the look of the area and that not placing landscaping once the addition was completed allowed for it to be consistent with the existing development on the property. Based on that decision staff is suggesting that in cases where the addition to the building or hard surfaced parking is equal to or less than 25% of the street frontage that the regulations be waived. In many cases, the improvements, if required are not maintained by the owners, which in return diminishes the aesthetics of the property and the surrounding area.

§36-70. (B-3) Heavy Business Zone

Intent: The intent of this zoning district is to provide for the multiple uses within the central business district. Residential uses are permitted at the density of the (RO) Residential Office Zone.

(A) Permitted Principal Uses: The following principal uses are permitted in the (B-3) Heavy Business Zoning District.

- (1) Agencies as found in the Zoning Matrix [Attachment A hereto]
- (2) Boarding and lodging houses, fraternity and sorority houses
- (3) Churches, synagogues, chapels, and similar places of religious worship and instruction of a quiet nature
- (4) Colleges offering courses of general instruction, including convents, monasteries, dormitories, and other related living structures when located on the same site as the college
- (5) Country clubs
- (6) Dwelling units
- (7) Elderly Home, Assisted Living
- (8) Group Care Home with less than eight (8) individuals
- (9) Hospitals, nursing homes, convalescent or rest homes
- (10) Hotel and motel uses
- (11) Mortuaries, funeral homes, and funeral chapels
- (12) Nonprofit community buildings and social welfare establishments
- (13) Office and office buildings for professional and personal services as found in the Zoning Matrix [Attachment A hereto]
- (14) Parking Lots
- (15) Preschools, nursery schools, day care centers, children's homes, and similar facilities
- (16) Public parks and recreational areas
- (17) Public, parochial and private schools having a curriculum equivalent to an elementary or higher educational level
- (18) Public and quasi-public buildings for cultural use
- (19) Radio and television stations (no antennae), private clubs and meeting halls
- (20) Railway right-of-way but not including railway yards or facilities
- (21) Retail activities of a prescriptive service provided it is limited to being secondary to said use. Retail space is limited to 25% of the total floor area
- (22) Stores and shops that conduct retail business, provided, all activities and display goods are carried on within an enclosed building except that green plants and shrubs may be displayed in the open, as per the Zoning Matrix [Attachment A hereto]
- (23) Truck, bush and tree farming, provided, there is no display or sale at retail of such products on the premises
- (24) Utility substations necessary to the functioning of the utility, but not including general business offices, maintenance facilities and other general system facilities, when located according to the yard space rules set forth in this section for dwellings and having a landscaped or masonry barrier on all sides. Buildings shall be of such exterior design as to harmonize with nearby properties
- (25) Vocational or trade schools, business colleges, art and music schools and conservatories, and other similar uses
- (26) Other uses as indicated in the Zoning Matrix [Attachment A hereto]

(B) Conditional Uses: The following uses are subject to any conditions listed in this chapter and are subject to other conditions relating to the placement of said use on a specific tract of ground in the (B-3) Heavy Business Zoning District as approved by City Council.

- (1) Manufacture, fabrication or assembly uses incidental to wholesale or retail sales wherein not more than 20% of the floor area is so used
- (2) Outdoor sales and rental lots for new or used automobiles, boats, motor vehicles, trailers, manufactured homes, farm and construction machinery
- (3) Stores and shops for the conduct of wholesale business, including sale of used merchandise.
- (4) Towers
- (5) Automobile body repair; subject to the following minimum standards:
No storage of parts or unlicensed vehicles outside of an enclosed building.
The facility shall meet or exceed all building and fire code requirements.
- (6) Other uses as indicated in the Zoning Matrix [Attachment A hereto]

(C) Permitted Accessory Uses:

- (1) Buildings and uses accessory to the permitted principal use.

(D) Space Limitations:

Uses			Minimum Setbacks					
		A	B	C	D	E		
	Minimum Parcel Area (feet)	Minimum Lot Width (feet)	Front Yard (feet)	Rear Yard (feet)	Side Yard (feet)	Street Side Yard (feet)	Maximum Ground Coverage	Maximum Building Height (feet)
Permitted Uses	3,000	30	10	0 ¹	0 ²	10	100%	
Conditional Uses	3,000	30	10	0 ¹	0 ²	10	100%	

¹ No rear yard setback is required if bounded by an alley, otherwise a setback of 10 feet is required.

² No side yard setback is required, but if provided, not less than 5 feet or unless adjacent to a parcel whose zone requires a side yard setback, then 5 feet.

(E) Miscellaneous Provisions:

- (1) Supplementary regulations shall be complied with as defined herein.
- (2) Only one principal building shall be permitted on one zoning lot except as otherwise provided
Amended by Ordinance No. 8947, effective 1-5-2005
Amended by Ordinance No. 9166, effective 5-13-2008

§36-102. Landscaping Requirements

(A) Purpose: The landscaping and screening regulations are intended to improve the physical appearance of the community; to improve the environmental performance of new development by contributing to the abatement of heat, noise, glare, wind and dust; to promote natural percolation of storm water and improvement of air quality; to buffer potentially incompatible uses from one another; and, to protect and enhance the value of property and neighborhoods within the city.

(B) Applicability:

(1) The provisions of this section shall apply to the following zones: Medium Density Residential Zone, **Medium Density Small Lot Residential Zone**, High Density Residential Zone, Residential Office Zone, Light Business Zone, General Business Zone, Arterial Commercial Overlay Zone, Heavy Business Zone, Industrial Estates Zone, Light Manufacturing Zone, Heavy Manufacturing Zone, Commercial Development Zone, Residential Development Zone and Travel Development Zone. Landscaping of lands within districts such as the Central Business District and Fourth Street Business District, as defined in this code, shall be subject to Streetscape Improvement Projects where applicable. In the absence of such projects, the provisions of this section shall apply.

(2) The provisions of this section shall apply to the Airport Overlay Zone with the exception that three shrubs may be substituted for each required shade or ornamental tree to conform to standards of wildlife management required near an airport.

(3) The provisions of this section shall apply to all new development, including surface parking, on each lot or site upon application for a building permit, except as follows:

(a) Reconstruction or replacement of a lawfully existing use or structure.

(b) Remodeling, rehabilitation or improvements to existing uses or structures which do not substantially change the location or building footprint of existing structures, or the location and design of parking facilities or other site improvements. However, additions or enlargements of existing uses or structures, which increase floor area or impervious coverage **by more than 25% adjacent to the existing street frontage**, shall be subject to the provisions of this section, which shall only apply to that portion of the lot or site where the new development or use occurs.

(c) Residential structures containing three dwelling units **on a single lot**, or less shall be exempt from the requirements of this section.

(4) Landscaping which exists on any property shall not be altered or reduced below the minimum requirements of this section, unless suitable substitutions are made which meet the requirements of this section, pursuant to a site plan approved by the city.

(5) Any conflict between this section and another section of this chapter shall be resolved in favor of the more restrictive provision.

(C) Nonconforming Status: Any property or use of property, which as of August 1, 2004 or any amendment hereto is lawfully nonconforming only as to the regulations relating to landscaping, may be continued in the same manner as if the landscaping were conforming.

(D) Definitions: The following definitions shall be used for terms contained within this section:

Buffer yard: A landscaped area provided to separate and significantly obstruct the view of two adjacent land uses or properties from one another.

Canopy tree: A deciduous tree having a minimum mature height of 30 feet and a minimum caliper of 1 inch at the time of planting. One canopy tree equals two understory/ornamental or evergreen trees.

Evergreen tree: An evergreen or conifer tree having a minimum mature height of 20 feet and a minimum 2 gallon container size or bare root/ball equivalent at the time of planting.

Landscaped area: That area within the boundaries of a given lot consisting primarily of plant material, including but not limited to grass, trees, shrubs, flowers, vines, groundcover and other organic plant materials (this does not include plant materials typically used as a cash crop). Tall varieties of native and ornamental grasses may be planted and left in their natural state in selective and limited locations, deemed appropriate by the city. Inorganic materials such as brick, stones, aggregate, ponds or fountains may be used within landscaped areas, provided that such materials comprise no

more than 35 percent of the required landscaped area. Flat concrete or asphalt, other than walkways five feet or less in width, may not be used within a required landscaped area.

Minimum equivalent street landscaping: The minimum landscaped area which must be provided in a street yard, expressed as a percent of the total area contained within that street yard.

Shrub: A deciduous or evergreen plant having a minimum height of 18 inches at the time of planting, with a maximum mature height of less than 10 feet.

Street yard:

(1) The area of a lot or parcel which lies between any street property line and the fronting walls of any building or buildings on the parcel. The street yard shall follow all irregularities or indentations in the front wall of the building, excluding minor projections or indentations such as steps or unenclosed porches. For the purposes of defining the street yard area, the front wall shall be extended from the outermost corners of the building, parallel with the fronting street, until intersecting with the side property line [see Attachment B hereto]. Street yard depth shall not exceed 100 feet for the purposes of calculating the minimum equivalent street landscaping area requirement.

(2) On lots or parcels with multiple buildings, the street yard area shall be defined by all building front walls having direct, visual frontage onto the street. Any space between buildings equal to 15 percent of the length of such frontage, but in no case more than 100 feet, shall be considered an extension of the continuous building front wall for the purpose of delineating the street yard.

Understory/ornamental tree: A flowering or non-flowering deciduous tree having a maximum mature height of 30 feet and a minimum caliper of 2 inch at the time of planting.

(E) Street Yard Landscaping Standards:

(1) Street yard landscaping shall be provided adjacent to each street property line and within street yards, as set forth below, in accordance with an approved site landscaping plan.

(2) Minimum equivalent street landscaping area:

(Minimum Equivalent Street Landscaping Area)		
Zoning District	Percent of Street Yard (%)	Minimum Landscaping Depth of Street Yard*** (ft.)
R3SL	65	20
R3	65	20
R4	60	10
RO	30	10
B1	25	10
B2	20*	10*
AC	20	20*
B3	20	10*
ME	20	20
M1	20	20
M2	20	10
M3	20	10
TD	30	30
CD	**	30
RD	**	10 or 30

*Unless otherwise established in an approved Streetscape Improvement Project.

**As determined by approved plan

(3) When a lot contains more than one street frontage, the area of all street yards and the proposed street yard landscaped areas may be combined for the purposes of determining compliance with this section.

(4) Any required street yard landscaping shall include the following minimum shrub and tree plantings (or an appropriate equivalent as determined by the city) for every 100 feet (any fraction of .5 or less rounded to the next lowest number; any fraction exceeding .5 rounded to the next highest number) of property line adjacent to a public street right-of-way: 1 canopy tree; 1

understory/ornamental or evergreen tree; 3 shrubs. Existing trees or shrubs approved for preservation shall be counted toward satisfaction of this provision.

(F) Buffer Yard and Parking Landscaping Screening Standards:

(1) Buffer yard landscaping shall be installed and maintained adjacent to the affected common side or rear property line(s), when a use is established in a more intensive zoning district located adjacent to a less intensive zoning district, as set forth below:

More Intensive Zoning District	Required Buffer Yard Width (ft.)*	Less Intensive Zoning District
RO, B1, B2, AC, B3 , CD, TD	10	TA, LLR, R1, R2, R3, R3SL , R4, RD
ME, M1, M2, M3	20	TA, LLR, R1, R2, R3, R3SL , R4, RO, RD, CD, TD, B1, B2, B2, AC, B3

*When an alley, street or railroad R.O.W. separates adjacent districts requiring a buffer yard, the buffer yard width shall be halved.

(2) Buffer yard landscaping is intended to provide screening of loading docks, refuse collection points, truck/equipment parking, sources of noise, glare, light, dust, or other negative impacts. Buffer yard landscaping shall include hedges or screens of evergreen or approved deciduous plant material, capable of providing a substantial opaque barrier, and attaining a minimum height of 6 feet within three years of planting. Opaque fencing may also supplement the vegetative plantings, but shall be installed no closer to the property line than the width of the required buffer yard.

(3) Buffer yard landscaping and parking landscaping screening strips shall not be placed on an easement.

(4) A parking landscaping screening strip, having a Minimum Landscaping Depth of Street Yard as identified above, shall be installed along any parking area adjacent to a public street right-of-way. No parking area shall contain more than 100 spaces except as allowed within these regulations. If a greater number of parking spaces is required, separate parking areas shall be provided, and shall be separated from other parking areas by landscaped dividing strips, having a minimum width of 6 feet. These strips shall include trees, shrubs, grasses and other vegetative coverings for a creative aesthetic appearance. A parking landscaping screening strip shall also count towards meeting any requirements associated with minimum equivalent street or buffer yard landscaping.

Alternate plans for parking lots with more than 500 spaces may submitted for approval by a committee comprised of the Planning Director, Building Department Director and Public Works Director with recommendations from other appropriate city staff. The Committee shall establish criteria for the review and approval of larger parking lots based on but not limited to the following areas of concern: overall area and types of landscaping provided shall not be less than would be required under the conventional regulations, provision for storm water management and filtering using best available practices, provisions for adequate lighting, fire protection and security throughout the lot, provisions for pedestrian access through and around the lot, and provisions for pedestrian access to the site requiring said parking lot.

(5) A development may continue to comply with the buffer yard landscaping requirements in effect at the time of issuance of its initial building permit, regardless of whether an adjacent lot or property is rezoned to a less restrictive zoning district which requires additional buffer yard landscaping.

(G) Site Plan Requirements:

(1) A site plan showing the required street yard, buffer yard and/or parking screening landscaping shall be submitted to the city for review and approval as part of the application for a building permit. The plan shall include, but not be limited to the following:

- Location of proposed landscaping drawn to scale.
- Location, size, type and condition of proposed plant and non-plant landscaping materials including fences, walks, ponds, fountains, benches, lighting and irrigation systems.
- Estimated date of completion of the installation of all plantings and finishing materials.

(H) Installation and Maintenance Requirements:

- (1) Required landscaping areas shall be installed and maintained in a neat, clean, orderly and healthful condition. Maintenance shall include proper pruning of trees and shrubs, mowing of lawn and grass areas, weeding, removal of litter, fertilizing, replacement of plants consistent with this section when necessary, and the regular watering of all plantings.
- (2) The installation of landscaping shall be completed prior to the issuance of any occupancy permit for buildings on the property, or commencement of the intended use of the property.
- (3) If, at the time of commencement of the intended use of the property or application for a certificate of occupancy, any required landscaping has not been installed or completed due to seasonal or climatic conditions or plant material being unavailable, the developer or owner of the property shall submit the following to the Building Department:
 - (a) A request for extension of the proposed completion date for installation of the required landscaping, stating the reason for the request, the property owner's current mailing address, and a commitment to complete the installation of the landscaping by a date certain, not to exceed six months from the building completion date.
 - (b) A drawing showing the plan and layout of the landscaping areas.
 - (c) A cost estimate for the installation of the landscaping area.
 - (d) A bond, certificate of deposit, letter of credit, cash or other financial surety as may be approved by the City Attorney guaranteeing faithful performance of the owner or developer's commitment to complete installation of the required landscaping and payable to the City of Grand Island in the event that the developer fails to carry out the commitments described in sub-paragraph (a) above.
- (4) Upon approval of the foregoing request for extension of time to complete the landscaping installation, the owner or developer shall be issued a conditional certificate of occupancy or a conditional letter authorizing commencement of use of the property by the Building Department. The owner or developer shall complete the installation of the landscaping in accordance with the commitments made pursuant to sub-paragraph (a) above, and, upon inspection and approval by the Building Department, a certificate of occupancy or commencement of use letter shall be issued. All limitations on the use of the property relating to landscaping are deemed to be of no force or effect at that time, and the City shall release the surety or other security submitted by the owner or developer.
- (5) If the owner or developer has not installed the required landscaping with the commitments made pursuant to sub-paragraph (a) above, the owner or developer shall be deemed to have granted the City or its officers, employees, agents or representatives permission to enter upon the property to install the required landscaping in accordance with the plan submitted pursuant to sub-paragraph (c) above using the surety or security filed by the owner or developer as payment for said installation. The Building Department shall send the owner or developer written notice of default and intention to enter onto the property to install required landscaping by certified mail, return receipt requested, and ordinary first class mail sent to the last known address of said owner or developer at least five (5) business days prior to making such entry.

Amended by Ordinance No. 9256, effective 04-07-2010
Amended by Ordinance No. 9419, effective 02-15-2013
Amended by Ordinance No. 9422, effective 04-02-2013

From the June 3rd Regional Planning Commission Meeting Minutes:

O'Neill opened the public meeting

Nabity explained the request from the Railside board regarding changing the front yard setback from 10 foot to 0 feet, along with the proposed changes to the Landscaping regulations necessary to accommodate this change. The addition of the R3-SL district should have been done with the adoption of that district and this will clean that up. The changes for additions and required landscaping were

suggested after the Grand Island Board of Adjustment granted a variance to a car lot on 2nd Street that was increasing their hard surfaced parking by 25%. The board of adjustment made the determination that adding landscaping to just this portion of the property would constitute a hardship and that the owners should be able to proceed without adding the landscaping. This change will make the regulation consistent with their ruling.

O'Neill closed the public meeting

A motion was made by Ruge and second by Nelson to approve .

The motion was carried with nine members in favor (Nelson, O'Neill, Ruge, Maurer, Monter, Rainforth, Rubio, Hendricksen, and Randone) no members voting no.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

Recommendation

City Administration recommends that the Council approve the proposed changes as presented.

Sample Motion

Motion to approve as recommended.