



# City of Grand Island

Tuesday, March 24, 2020

Council Session

## Item E-2

### **Public Hearing on Changes to Chapter 36-102 of the Grand Island City Code Relative to Landscaping Requirements**

*Council action will take place under Ordinances item F-3.*

Staff Contact: Chad Nabity

# **Council Agenda Memo**

**From:** Regional Planning Commission

**Meeting:** March 24, 2020

**Subject:** Concerning proposed amendments to Chapter 36 Landscaping Requirements Section ***§36-102***

**Presenter(s):** Chad Nabity, AICP Planning Director

## **Background**

The City of Grand Island and the Grand Island Public Works Department are working on making substantial upgrades to the Old Potash Highway between Webb Road and North Road. As part of this planned upgrade the City will be acquiring additional right of way from the adjoining property owners. Most of this area was developed prior to the adoption of any landscaping requirements within the City. City staff, working with the engineers on the project, is suggesting that the City exempt this area from the landscaping requirements in a manner similar to the exemptions granted to the Central Business District (Downtown/Railside) and the Fourth Street Business District.

## **Discussion**

The Landscaping Regulations were originally adopted in the mid 1990's. They have been amended several times since their initial adoption. In the original regulation both the Central Business District (Downtown/Railside) and the Fourth Street Business District were exempted from the regulations. Further amendments were made to exempt Street Improvement Districts (the South Locust and Fonner Park business improvement districts). These regulations were designed from the beginning to foster a minimum landscape standard without causing an undue burden on property owners or city staff.

The Grand Island Public Works Department is working on a rebuilding, widening and renovation of Old Potash Highway between Webb Road and North Road. The project is expected to occur over a two year period. The majority of this corridor has been developed along the existing rural section county road. The project to widen the road will increase the width from a 2 or 3 lane section to a 3 to 7 lane section through this corridor with multiple round-a-bouts. The City will be acquiring right of way from numerous property owners to accommodate expanded road corridor.

The proposed changes, as attached, address concerns over conflicts with the zoning regulations and requirements for landscaping on commercial properties that are likely to arise due to the need for additional right of way along the Old Potash Highway Corridor, see the attached map

for the exact location. In addition they clarify the relationship between Street Improvement Projects that are exempted and approved Business Improvement Districts.

### 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 elsewhere in this code and/or below, shall be exempt from this section. Properties subject to Streetscape Improvement Projects supported by Business Improvement Districts created for the purpose of establishing and/or maintaining district wide landscaping plans shall be exempt from this section as long as the Business Improvement District is in effect, where applicable. In the absence of such projects, the provisions of this section shall apply.

a. Old Potash Highway District: COMMENCING AT THE SOUTHEAST CORNER OF SECTION 13, TOWNSHIP 11 NORTH, RANGE 10 WEST OF THE 6TH P.M., CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE NORTHERLY ALONG THE EAST OF THE SOUTHWEST QUARTER OF SAID SECTION 13; THENCE EASTERLY ALONG A LINE BEING 100' NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID SECTION 13 TO A POINT ON THE EAST LINE OF SAID SECTION 13; THENCE SOUTHERLY ALONG SAID EAST LINE TO THE SOUTHEAST CORNER OF SAID SECTION 13; THENCE SOUTHERLY ALONG THE EAST LINE OF SECTION 24, TOWNSHIP 11 NORTH, RANGE 10 WEST OF THE 6TH P.M., CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA; THENCE WESTERLY ALONG A LINE BEING 100' SOUTH OF AND PARALLEL TO THE NORTH LINE OF SAID SECTION 24 TO A POINT ON THE WEST LINE OF WESTGATE INDUSTRIAL PARK SUBDIVISION IN THE CITY GRAND ISLAND, HALL COUNTY, NEBRASKA; THENCE NORTHERLY ALONG SAID WEST LINE TO THE NORTHWEST CORNER OF SAID SUBDIVISION, SAID POINT ALSO BEING ON THE NORTH LINE OF SAID SECTION 24; THENCE EASTERLY ALONG SAID NORTH LINE TO THE POINT OF BEGINNING.

- (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	0	0

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, 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:

- (a) Location of proposed landscaping drawn to scale.
- (b) Location, size, type and condition of proposed plant and non-plant landscaping materials including fences, walks, ponds, fountains, benches, lighting and irrigation systems.
- (c) 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

Amended by Ordinance No. 9738, effective 07-10-2019

**From the March 11, 2020 Regional Planning Commission Meeting Minutes:**

**Public Hearing – Grand Island Zoning Code Change – Proposed changes to section 26-102 (B) Proposed changes would clarify language regarding properties that are exempt from the Landscaping Requirements section of the code and add a corridor along Old Potash Highway to the exempted districts. (C-13-2020GI)**

O'Neill opened the public hearing.

Nabity stated the language was changed to clarify exemptions based on business improvement districts created for the purpose of landscaping in Grand Island. The proposed changes would exempt landscaping requirements along the section of the new business improvement district which includes Old Potash Highway District from Webb Road to North Road. The Old Potash Highway project will involve numerous roundabouts and will also involve widening Old Potash Highway. There is not room to accommodate landscaping without moving or replacing buildings and that would not be in the best interest of the city.

O'Neill closed the public hearing.

A motion was made by Hendricksen and second by Ruge to recommend approval of the Grand Island zoning code change to section 26-102 (B).

The motion carried with eight members voting in favor (Nelson, O'Neill, Ruge, Monter, Maurer, Rubio, Hendricksen and Randone) and 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**

Move to approve as recommended.



# Grand Island, NE Old Potash Highway Landscape District Aerial Map

