



# **City of Grand Island**

**Tuesday, January 22, 2013**

**Council Session**

## **Item E2**

### **Public Hearing on Amending Chapter 36 of the Grand Island City Code Relative to Accessory Building and Uses and Landscaping Requirements**

**Staff Contact: Chad Nabity**

# **Council Agenda Memo**

**From:** Chad Nabity, AICP  
**Meeting:** January 22, 2013  
**Subject:** Addition to Chapter 36 (Zoning)  
**Item #'s:** E-2 & F-5  
**Presenter(s):** Chad Nabity

## **Background**

*Concerning proposed amendments to Chapter 36 of the Grand Island City Code (Zoning) in the following areas: §36-27 – Accessory Building and Uses and §36-102 Landscaping Requirements. (C-05-2013GI)*

The City of Grand Island and Hall County zoning regulations allow for varying side and rear yard setbacks for accessory structures based on the size of the lot. Traditionally Grand Island has allowed a 2 feet setback for the rear and side yard for an accessory building and Hall County has required a 5 feet setback. In the early 1980's when the City of Grand Island annexed the Capital and Le Heights areas, the City changed their regulations in a manner designed to promote consistency in those neighborhoods that were previously subject to the 5 feet County setback. A distinction was made between lots less than 100 feet wide and those greater than 100 feet wide. The wider lots (all of the County lots were at least 100 feet wide) would require the 5 feet setback and the narrower lots could maintain the 2 feet setback. The way the ordinance was written was based on the frontage of the lot (that area along the street) not on the width of the lot. The building department interpretation has always been that it is the width of the lot that control which set back to use. Width is the distance between the side property lines at the midpoint between the front and rear lot line. A cul-de-sac lot may have a very narrow frontage 25 feet to 35 feet but a width of substantially more than 100 feet and a rear lot line measuring even more than that. City staff is recommend the following change to make the regulations consistent with the interpretation and enforcement of the regulation:

### **§36-27. Accessory Building and Uses**

(A) Accessory buildings shall not be located within the required front yard setback of the lot and or within an easement.

(B) An accessory building on a corner lot shall have a setback from all public streets equal to or greater than the requirement for the existing principal building.

(C) There shall be a minimum setback of six (6) feet between accessory buildings.

(D) If an accessory building has a door opening of over six (6) feet in width on a side parallel to an alley, then such accessory building shall be located not less than eight (8) feet from the lot line abutting the alley.

(E) Detached accessory buildings shall not be allowed on more than 50% of the allowable lot coverage and no single detached accessory building shall exceed 35% of the allowable lot coverage (e.g. A 52.8' x 132' [6969.6 sq. ft.] lot in an R2 zoning district [35% allowable coverage] could cover 2438.31 sq. ft. of the lot with buildings. 1219.155 of that could be devoted to detached accessory buildings with no single building exceeding 853.4085 sq. ft.)

(F) Detached accessory buildings on parcels or lots with less than five (5) buildable acres shall not exceed the height of the principal building by more than 25% (e.g. a house with a peak height of 16 feet could have an accessory building with a peak height of 20 feet.)

(G) Detached accessory buildings on parcels or lots with five (5) or more buildable acres shall be limited by the height regulations that apply to the zoning district.

(H) In Business and Manufacturing Zoning Districts:

(1) Accessory buildings shall comply with all requirements of this code for the principal building.

(I) In Agricultural and Residential Zoning Districts:

(1) Accessory buildings shall be permitted only on the same platted lot as the principal building.

(2) Accessory buildings shall comply with all requirements of this code for the principal building if located within fifteen (15) feet of the principal building or when any part of the accessory building is located in the area between the required front yard setback and a line extending from the back of the principal building to the side lot line.

(3) Accessory buildings on lots with a **frontage width** of 100 feet or more shall have a minimum side and rear yard of five feet.

(4) Accessory buildings on lots with a **frontage width** of less than 100 feet shall have a minimum side and rear yard of two feet.

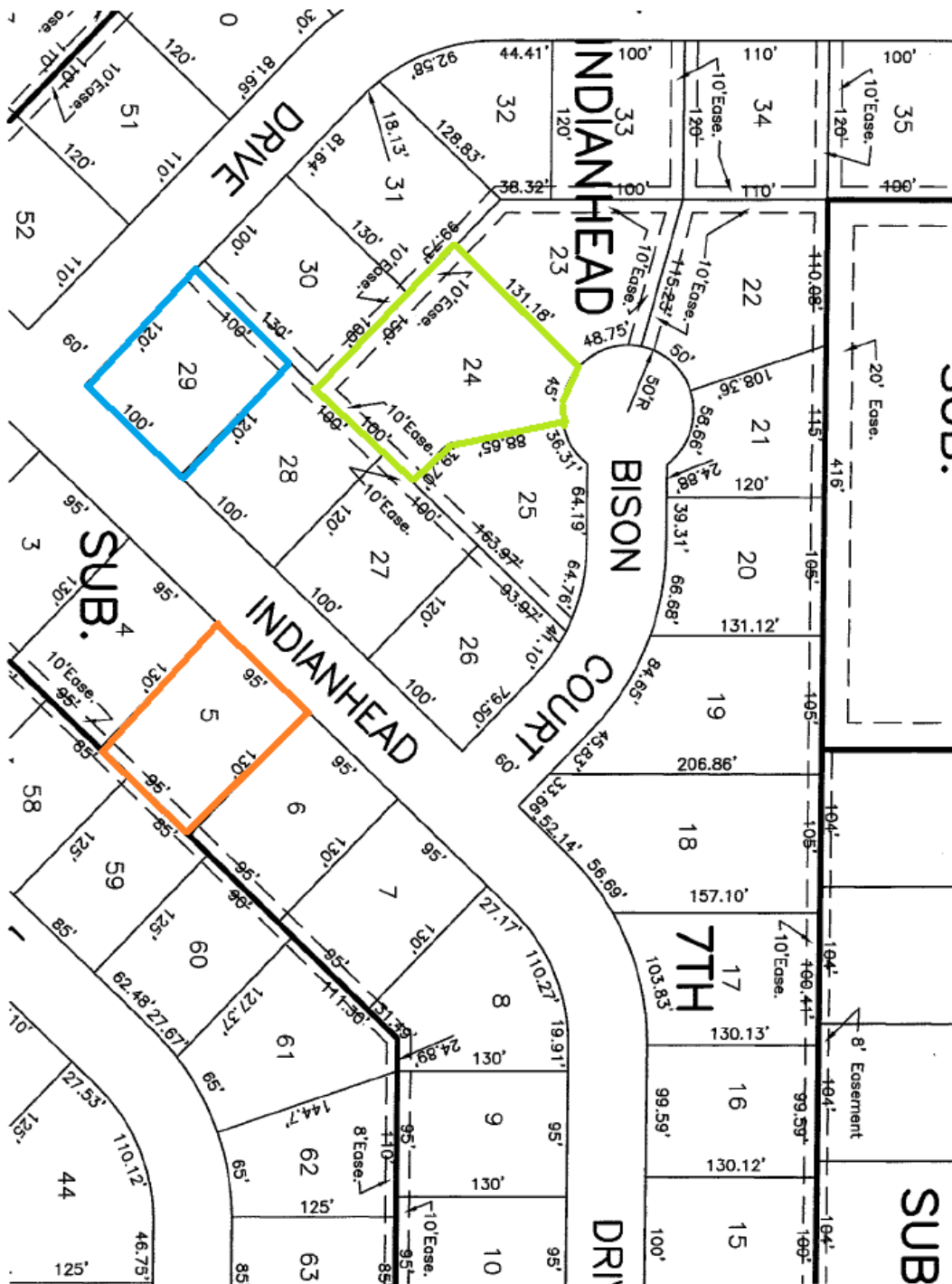
(J) No accessory building shall be constructed prior to beginning construction of the principal building. No accessory building shall be used unless the main building is under construction; however, in no event shall such building be used as a dwelling unless a certificate of occupancy shall have been issued for such use.

(K) Regulation of accessory uses shall be as follows:

(1) Except as herein provided, no accessory building shall project beyond a required yard line along any street.

(2) Any accessory building built within fifteen (15) feet of the principal structure shall meet all the requirements for the principal structure.

The diagram on the next page shows three (3) lots that have varying widths. The lot surrounded by the orange line would have a width of 95 feet so it could have the two (2) feet side and rear yard setbacks for an accessory building. The lot surrounded by the blue line is 100 feet wide and would be subject to the five (5) foot setbacks. The lot on the cul-de-sac, surrounded by the green line is more than 100 feet wide at the mid-point so it would be subject to the five (5) feet setback.



The Central Nebraska Airport has contacted staff about making a change to the landscaping regulations to remove the requirement for shade and ornamental trees in the Airport Overlay Zone. The Airport Overlay zone covers the airport and the airport industrial park, all property owned by the airport. The Airport will be adding new structures in the next few years and those new structures will be subject to the

landscaping provisions of the zoning regulations. The airport has specific criteria that they have to meet for the FAA regarding wildlife management. One of their key concerns is limiting habitat for birds. Trees provide that habitat and can attract birds to the area. Birds and planes do not mix. Staff is suggesting the following language be added to the landscaping regulations to address this issue.

#### **§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, 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.

**(1a) 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.**

(2) 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, 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 or less shall be exempt from the requirements of this section.

(3) 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.

(4) 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.)
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

\*\*\* 30 feet for lots in RO, B1, B2, AC, B3, CD, TD, ME, M1, M2 and M3 zone adjacent to state or federal highway.

(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, R4, RD
ME, M1, M2, M3	20	TA, LLR, R1, R2, R3, 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 width of 6 feet, shall be installed along any parking area adjacent to a public street right-of-way. No parking area shall contain more than 100 spaces. 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.

(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.

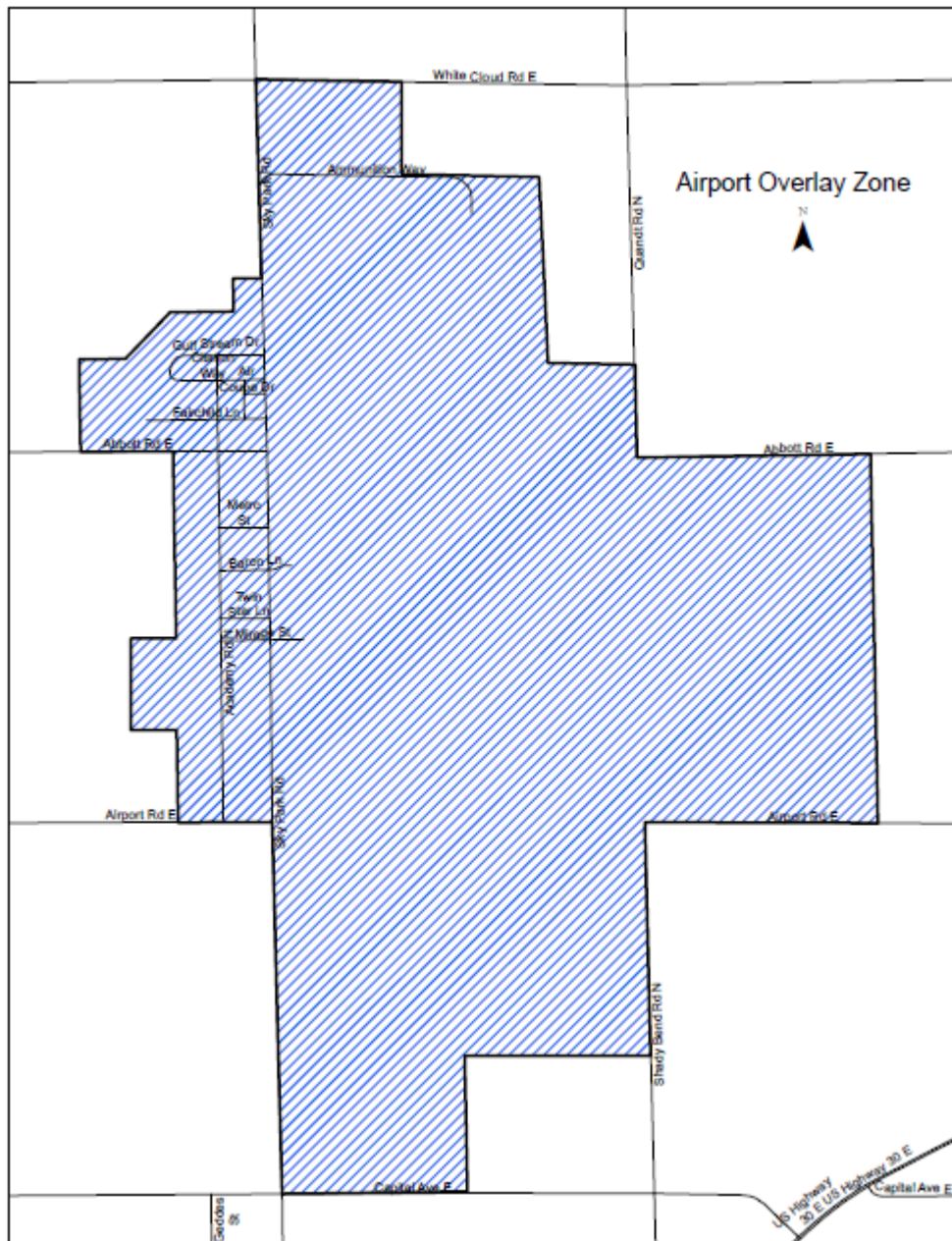
(b) A drawing showing the plan and layout of the landscaping areas.

(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.



## **Discussion**

These changes regarding accessory buildings are designed to create consistency between the language of the code and the way the code has been interpreted and enforced. The changes to the landscaping regulations are designed to encourage consistency between the multiple regulatory schemes with which the Airport must comply.

O'Neill opened the Public Hearing.

The Planning Commission held a public hearing on the proposed changes at their meeting on January 2, 2013. No members of the public spoke in favor or against the proposed changes.

O'Neill closed the Public Hearing.

A motion was made by Ruge to approve the text amendment to 36-27 Accessory Buildings and Uses and 36-102 Landscaping Requirements as presented and was seconded by McCarty.

The motion carried with 10 members present and 10 voting in favor (Reynolds, Haskins, Ruge, McCarty, Snodgrass, O'Neill, Connelly, Amick, Hayes and Eriksen) and no member present voting against.

### **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 recommended.

### **Sample Motion**

Move to approve the proposed changes to Chapter 36 as recommended and shown in Ordinance Number 9419.