



City of Grand Island

Tuesday, May 26, 2009

Council Session

Item E4

**Public Hearing Concerning Changes to the Grand Island City
Code Section 36-173 Relative to Setback and Separation or Buffer
Requirements for Towers**

Staff Contact: Chad Nabity

Council Agenda Memo

From: Regional Planning Commission
Meeting: May 26, 2009
Subject: Text Amendment of Zoning Ordinance (C-16-2009GI)
Item #'s: E-4 & F-7
Presenter(s): Chad Nabity AICP, Regional Planning Director

Background

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)

Discussion

The following proposed amendment to section 36.70 Section B of the Grand Island City Code, was considered by the Regional Planning Commission at the May 6, 2009 meeting following a public hearing. A copy of the recommendation from the Planning Director to the Planning Commission is attached.

At the public hearing, Nabity explained Mr. Buettner was requesting a change in code for the tower he would be locating near the detention cell that the city owns. Conditional use permit would still be needed; this would allow City Council to make the final decision.

§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.

(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.

Mr. Buettner spoke in favor of the proposed change. No other members of the public spoke regarding this change. Planning Commission discussed whether it is fair to allow people to “use” city property in this way. Only those people with property adjacent to city property or city controlled property will be eligible for this exception.

Planning Commission discussed the differences in language between both versions of the proposed changes. They asked and it was confirmed that either version of the changes would allow Mr. Buettner to request that council make an exception for his proposed tower. This would also impact other properties near detention cells and drainage structures in the City.

Questions were asked if Council could grant an exception for Mr. Buettner’s tower near Highway 30 and then deny a similar request near another cell such as the Riley Cell on Stolley Park Road and Blaine. Nabity explained that this change gives Council the ability to consider the request; it does not require that they make the exception. Council should be able to justify the difference between waiving the setback next to a rough cell with very limited public access and a park like cell with lots of accessible street frontage.

Following some additional discussion a motion was made by Reynolds and seconded by Ruge, to recommend the approval of the above Text Amendment (the version recommended by staff as opposed to the version originally requested by Mr. Buettner) as presented. A roll call vote was taken and the motion passed with 7 members present all voting in favor (Aguilar, O’Neill, Ruge, Hayes, Bredthauer, Heineman and Reynolds).

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.

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.

(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.

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 recommends that the Grand Island City Council **approve** the changes to the Grand Island Zoning Ordinance as suggested by staff.

_____ Chad Naby AICP, Planning Director