



City of Grand Island

Tuesday, May 10, 2011

Council Session

Item E4

Public Hearing on Amendments to Chapter 36 of the Grand Island City Code Relative to Definitions, Yard Requirements, LLR Large Lot Residential Zone, ME Industrial Estates, RD Residential Development and Interpretation of Zoning Regulations

Staff Contact: Chad Nabity

Council Agenda Memo

From: Chad Nabity, AICP
Meeting: May 10, 2011
Subject: Changes to Chapter 36 (Zoning)
Item #'s: E-4 & F-1
Presenter(s): Chad Nabity, Regional Planning Director

Background

Concerning proposed amendments to Chapter 36 of the Grand Island City Code (Zoning) in the following area: §36-08 Definitions, §36-22 Yard Requirements, §36-71 ME Industrial Estates, §36-78 RD Residential Development including changes to Attachment A (Matrix) as it applies to the RD zone, and the addition of §36-24 Interpretation of These Regulations . (C-01-2011GI)

Discussion

The suggested changes are a result of a general review of possible changes to the zoning regulations for the City of Grand Island conducted by the Planning Department and Building Department in cooperation with the Planning Commission. Periodic review of the regulations is consistent with good planning practice and the issues included are ones that city staff has identified over the course of working with the regulations. These proposed changes are designed to clarify issues and make administration of the regulations easier for staff and clearer for the general public.

The proposed changes and the rationale behind each of the changes are attached to the end of this memo.

The Planning Commission discussed these changes at their January meeting. They held a public hearing concerning the changes at their April 6th meeting. No members of the public spoke in favor or against the proposed changes. A motion was made by Eriksen and seconded by Bredthauer to approve the amendments to Chapter 36 of the Grand Island City Code. The motion carried with 9 members present and all voting in favor (O'Neill, Ruge, Eriksen, Bredthauer, Reynolds, Haskins, Hayes, Connelly and Snodgrass) and no members abstaining.

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 9294.

For Discussion:

This item is brought to the planning commission for discussion based on a request from the Grand Island Board of Adjustment. They recently granted a variance for a property located at Davis Lake to modify the existing setback and allow a house to be built that project 20 feet in front of the established set back. All of the houses were placed 60 feet from the ROW and one has been allowed to build 40' from the ROW. This resets the established setback for those houses but does not address the underlying issue. The general purpose of this type of regulation is to require a minimum conformity of setbacks in a neighborhood or along a street. This means that each owner has similar visibility from the front of the structure. The proposed change would impact all lots where the frontage of the lot is 100 feet or greater. The width of the lot is a consideration because on wider lots there is more space for visibility

36-22 front yard requirements LLR from 50ft to 30ft.

§36-22. Yard Requirements

(A) Yard requirements shall be set forth under the Schedule of Lot, Yard, and Bulk Requirements for each zoning district. Front, side and rear yards shall be provided in accordance with the regulations hereinafter indicated and shall be unobstructed from the ground level to the sky, except as herein permitted.

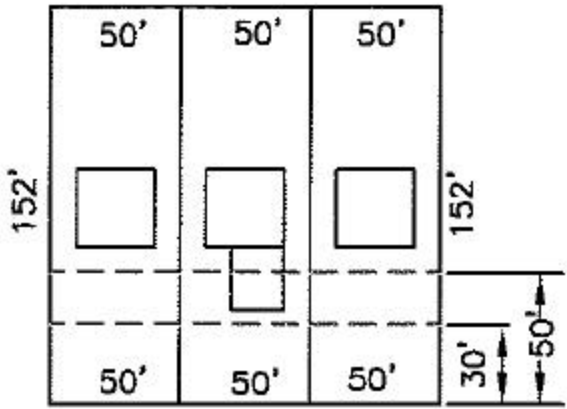
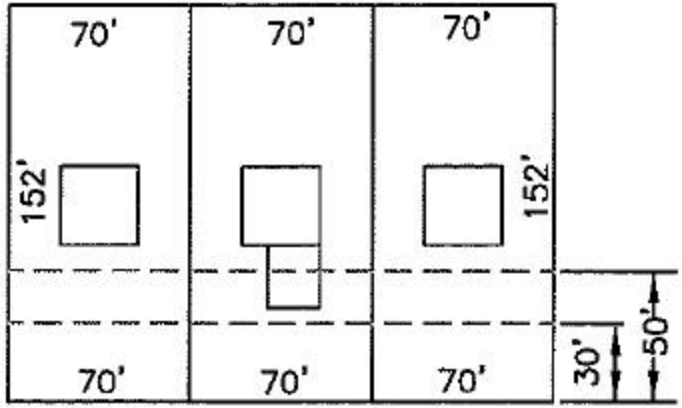
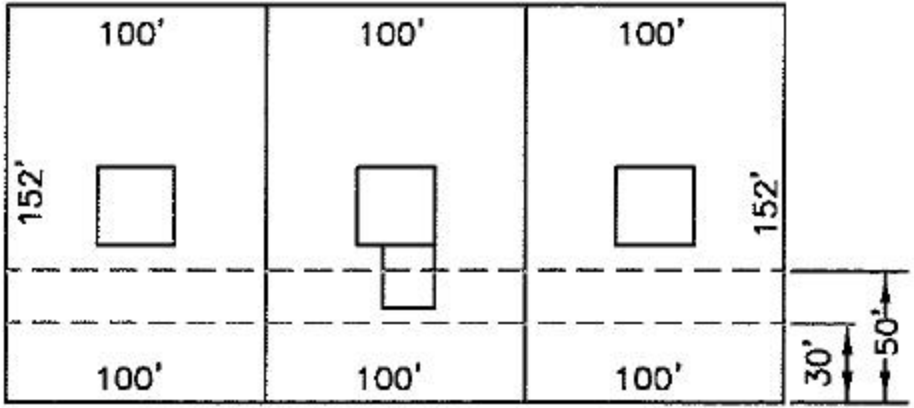
(B) All accessory buildings that are attached to principal buildings (e.g., attached garages) shall comply with the yard requirements of the principal building, unless otherwise specified.

36-22 (C) Front Yard: There shall be a front yard setback as required herein, provided, that where fifty percent or more of the frontage on one street in any block is built up with buildings, no new building setback shall be less than either the required setback or the setback of any existing building which next exceeds the required setback, whichever is greater. This regulation shall not require a setback of more than 50 feet, **and in blocks where the lots have a street frontage of 100 feet or more the regulation shall not require a setback of more than 30 feet.**

(D) Side Yard: Any interior side yard may be reduced to zero; provided, that the opposite side yard meets the required interior side yard setback. Where the zero side yard setback is used, the abutting property must be held under the same ownership at the time of initial construction or the owners of the abutting property must be agreeable to the zero setback. A separation of not less than ten (10) feet shall be provided between adjacent structures on abutting sites where the zero side yard setback is utilized. This requirement shall not apply in an RD Zone or where the same interior property line is utilized for zero side yard construction on both properties.

For the purpose of upkeep and repair of structures located on an interior property line, a four (4) foot maintenance easement shall be recorded between the owner of the property containing said structure and the owner of the property upon which entry must take place in order to perform maintenance activities. Such easement shall be an irrevocable covenant and shall run with the land. Proof of said recorded easement shall be submitted to the Building Department prior to issuance of a building permit.

Amended by Ordinance No. 8947, effective 1-5-2005



For Discussion:

The ME zone allows many uses with trucks and trailer but does not specifically allow Bus, Truck and Trailer Storage. The proposed changes would specify that as an allowed use. This would also be added to the Matrix. The ME zone was approved with landscaping requirements prior to the adoption of the landscaping regulations. Removing the language that allows 2 years for landscaping in the ME zone would make it consistent with the regulations in all other zoning districts.

§36-71. (ME) Industrial Estates Zone

Intent: The intent of this zoning district is to provide for a variety of manufacturing, truck, trailer, and truck/trailer parts retailing, truck, trailer, and truck/trailer parts wholesaling, warehousing, administrative and research uses within an area of comparatively high visibility and having quality standards to promote an industrial park atmosphere.

(A) Permitted Principal Uses: The following principal uses are permitted in the (ME) Industrial Estates Zoning District.

- (1) Any industrial/manufacturing use found in the Zoning Matrix [Attachment A hereto] shall be permitted within this zoning district, provided, such use is in compliance with miscellaneous provisions and performance standards listed in this section, or unless specifically excluded, or a conditional use as listed below.
- (2) Administrative offices for the wholesale distribution of propane when bottles are filled from bulk propane tanks not to exceed 70,000 gallons and when such tanks are installed to provide a source of heat for a building on the lot.

(3) Bus Garaging and Equipment Maintenance, Truck and Trailer Storage, Motor Freight Terminals

(4) Other uses found 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 (ME) Industrial Estates Zoning District as approved by the City Council.

- (1) Explosives manufacturing
- (2) Towers (radio, television, satellite, etc.)
- (3) Gravel, sand or dirt removal, stockpiling, processing or distribution and batching plant
- (4) Trade and vocational schools
- (5) Other uses found in the Zoning Matrix [Attachment A hereto]

(C) Permitted Accessory Uses:

- (1) Buildings and uses accessory to the permitted principal uses or approved permitted conditional uses.

(D) Specifically Excluded Uses:

- (1) Automotive wrecking or salvage yards
- (2) Billboards
- (3) Churches, schools, institutions and other similar public and semi-public uses except for trade and vocational schools
- (4) Concrete or cement products manufacturing and batching plants
- (5) Contractor's storage yard or plant
- (6) Milling or smelting of ores
- (7) Petroleum refining
- (8) Residential uses, any
- (9) Stock or feed yards and auction houses for livestock
- (10) Storage, dump, or yard for the collection, salvage or bailing of scrap paper, bottles, iron, rags, junk, or any other materials
- (11) Storage of explosives
- (12) Storage tanks or facilities for fuel oils, petroleum, acids, flammable liquids and chemicals

- (13) Tanning, curing, or storage of hides or skins
- ~~(14) Other uses found in the Zoning Matrix [Attachment A hereto]~~

(E) Space Limitations:

Uses		Minimum Setbacks						
		A	B	C	D	E		
	Minimum Parcel Area (acres)	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	2.5	250	50	20	20	50	50%	50
Conditional Uses	2.5	250	50	20	20	50	50%	50

Through Lots shall require that the Front Yard Setback be met on both sides adjacent to streets.

(F) Miscellaneous Provisions:

(1) Landscaping shall be provided in the entire area of all required front yards except for necessary paving of walkways and of driveways to reach parking and loading areas in the side or rear yards, provided, that any driveways in the front yard shall not be wider than thirty (30) feet. Landscaping shall include, but is not limited to, screen plantings, lawn area, pools, trees, shrubs, fences, and walls. Crushed rock, gravel, bark chips, etc., shall not substitute for lawn area. ~~Landscaping shall be provided within two years of issuance of the occupancy permit for the principal structure and thereafter be properly maintained.~~

(2) Any outside storage of inoperable or unassembled parts or equipment shall be visually screened from the surrounding area by fences, walls, plantings, earth berm or other barrier and such screening shall be opaque.

(3) No loading facilities shall be located within a required front yard. Loading facilities located between a building and an adjacent street or residential district shall be visually screened to the same standards as any outside storage.

(4) No galvanized or other raw metal sheeting shall be used for the exterior construction of any principal or accessory building.

(5) Supplementary regulations shall be complied with as defined herein.

(6) Only one principal building shall be permitted on one zoning lot except as otherwise provided herein.

Amended by Ordinance No. 9047, effective 6-7-2006
 Amended by Ordinance No. 9154, effective 1-8-2008

For Discussion:

Changes to allow retirement living specifically in the RD zone was discussed during the 2004 update to the comprehensive plan and zoning regulations. It was not specifically added. It is allowed in the R4 zoning district so would be allowed in the RD but these changes and the subsequent changes to the Matrix. The RD zone was not included in the Matrix and has been added to the Matrix as attached.

36-78 RD – Residential assisted living, retirement or assisted living would be allowed as approved conditional use. Would be part of the RD approved through Planning or Council.

§36-78. (RD) Residential Development Zone

(A) Intent: The intent of this zoning district is to permit a more flexible regulation of land use, and so as to more fully implement comprehensive planning for large parcels of land proposed predominantly for residential use.

(B) Boundaries: The boundaries of RD-Residential Development Zone shall be fixed by amendment of the Official Zoning Map at such times in the future as such zoning district is applied to properties within the City's zoning jurisdiction.

(C) Limitations:

(1) In a (RD) Residential Development Zone there shall be provided a minimum size of 1.5 acres.

(2) Any proposed development shall be constructed in accordance with an overall plan of development.

(3) Any proposed plan of development shall be designed as a single architectural scheme with appropriate common landscaping.

(4) Adequate parking space shall be provided for all residential units and for all employee's, visitor's, and user's vehicles, and such parking, loading, or service areas that shall be used for motor vehicles, and shall be located within the boundary lines of the (RD) Residential Development Zone, and shall be physically separated from any public street, right-of-way, or property line by a buffer strip of not less than 30 feet.

(5) No residential building or other permanent residential structure, nor parking lot, shall be located within 30 feet of any public street, right-of-way, or property line.

(6) The maximum ground coverage shall not exceed 30 percent of the property within the (RD) Residential Development Zone.

(7) The minimum off-street parking requirement shall be two parking spaces for every dwelling unit, plus one for each full-time employee.

(8) In the alternative to complying with the 30 foot buffer strip or setback as identified in subsections (4) and (5) above, a ten (10) foot wide landscaped screen compliant with the installation requirements of Section 36-102 shall be followed.

(D) Ownership: A (RD) Residential Development Zone shall require a tract of land which is developed as a unit under single designated control by a common ownership at the time it is certified as an (RD) Residential Development Zone.

(E) Permitted Principal Uses: The following principal uses are permitted in the (RD) Residential Development Zone.

(1) Uses as listed under permitted principal uses of the (TA) Transitional Agricultural Zone, (R-1) Suburban Residential Zone, (R-2) Low Density Residential Zone, (R-3) Medium Density Residential Zone, and (R-4) High Density Residential Zone except as listed under specifically excluded uses.

(2) Nonprofit community buildings and social welfare establishments other than those providing living accommodations.

(3) All other Permitted Principal Uses indicated as permitted within the Zoning Matrix [Attachment A hereto]

(F) 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 (RD) Residential Development Zone as approved by City Council.

- (1) Towers
- (2) Nursing, convalescent & rest home services
- (3) Residential assisted living, retirement or assisted living
- (4) All other Conditional Uses indicated as permitted within the Zoning Matrix [Attachment A hereto]

(G) Permitted Accessory Uses:

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

(H) Specifically Excluded Uses:

- (1) Railway right-of-way, including railway yards or facilities.
- (2) Truck, bush, and tree farming.
- (3) Boarding and lodging housing, fraternity and sorority houses.
- (4) Nonprofit community buildings and social welfare establishments providing living accommodations.
- (5) Nonresidential uses.

(I) Procedure:

- (1) An application to establish a (RD) Residential Development Zone shall be initiated in the manner prescribed in Article X of this chapter.
- (2) Said application shall be filed with the city clerk in such form as shall be required by the city council and shall be accompanied by the following information:
 - (a) Site plan showing preliminary location and dimensions of all building areas, recreation, green or landscaped areas, parking and loading facilities, walkways or malls, screen walls, or plantings, waste disposal areas, illumination facilities, signs, curb cuts, utilities and services, private or dedicated drives or streets, etc.
 - (b) Preliminary drawings or renderings in sufficient detail so that the character of the development may be determined.
 - (c) Evidence as to the methods of retaining, maintaining, and protecting the open space, green areas, recreational facilities, etc.
 - (d) Development schedule as to construction phases of buildings, open space, recreational areas, parking facilities, etc., and estimated completion time.
 - (e) Evidence of ownership or control of the entire parcel to be used as a planned unit development by a single person, association, firm, etc., as defined herein.
 - (f) Evidence of economic feasibility. A copy of such application and supplementary information shall then be forwarded by the city clerk to the Planning Commission for review, hearing, and recommendation.
- (3) In reviewing the application for amendment herein, the Planning Commission shall determine the following factors.
 - (a) That the proposed development will be in the public interest, in harmony with the purpose of this chapter and with comprehensive plans for the City, and will not adversely affect nearby property.
 - (b) That adequate, safe, and convenient pedestrian and vehicular trafficways and facilities are provided.
 - (c) That the development to be permitted shall be for the purpose of developing an integrated site plan in conformity with the regulations for a (RD) Residential Development Zone.
- (4) The Planning Commission shall hold a public hearing on the proposed amendment and shall transmit its recommendation to the city council. A copy of the recommendation shall be sent to the applicant and one copy shall be retained in the permanent files of the Planning Commission.
- (5) Procedure and action by the city council shall be the same in considering an amendment to the (RD) Residential Development Zone as in Article X of this chapter.

(J) Miscellaneous Provisions:

(1) It is intended that plans required for review and approval must be in a form that will satisfy the requirements of Chapter 33 of this code for both the preliminary and final plat, and that approval for plans and plats be considered simultaneously.

(2) The approved and filed final plan and plat shall be the basis for issuance of a building permit in conformity therewith. Plan changes which increase the number of buildings, increase building height or bulk, or change the location of buildings or other features which materially affect the basic design of the development shall require resubmission of the amendment. Minor adjustments in orientation, height or bulk of buildings, or decrease in the number of buildings may be approved by the Planning Director.

(3) Should any successful applicant for an amendment hereunder fail to have completed the construction of the footings and foundations for the initial building permit within eighteen (18) months after the city council shall approve a rezoning to a (RD) Residential Development Zone, the area in its entirety shall be reverted to its former zoning classification by appropriate action of the city council, provided, that the city council shall have the power to extend said period by six months in the event of special and unique hardships and circumstances.

(4) Control of the development following completion:

(a) The chief building official shall issue a certificate certifying the completion of the planned development, and shall note the issuance of the certificate on the final development plan.

(b) After the certificate of completion has been issued, the use of land and the construction, modification, or alteration of any buildings or structures within the residential development will be governed by the approved final development plan exclusively.

(c) After the certificate of completion has been issued, no changes may be made in the approved final development plan except upon application to the appropriate agency under the procedures provided below.

(i) Any minor extensions, alterations, or modifications of existing buildings or structures may be authorized by the Planning Director if they are consistent with the purposes and intent of the final plan. No change authorized by this subsection may increase the density of any building or structure by more than ten percent.

(ii) A building or structure that is totally or substantially destroyed may be reconstructed only in compliance with the final development plan unless an amendment to the final development plan is approved under subsection (iii) hereof.

(iii) All other changes in the final development plan as approved by the city council must be made by the city council under the procedures authorized under Article X of this chapter. No changes may be made in the final development plan unless they are found by the city council to be required for the continued successful functioning of the residential development, or unless they are found by the city council to be required by changes in conditions that have occurred since the final plan was approved or by changes in the comprehensive planning and development policy of the City.

Amended by Ordinance No. 8976, effective 06-08-2005

	RD
Land Use Categories	I
<u>Agricultural operation</u>	P
<u>Artists - painters, sculptors, composers, & authors</u>	P
<u>Athletic field or playfield</u>	P
<u>Bed and breakfast residence</u>	P
<u>Churches, synagogues & temples</u>	P
<u>Convents</u>	P
<u>Country club (Accessory to another use eg. Golf course)</u>	P
<u>Dormitories, college</u>	P
<u>Dwelling, multi-family</u>	P
<u>Dwelling, single-family</u>	P
<u>Dwelling, two-family</u>	P
<u>Electricity regulating substation</u>	P
<u>Farms, commercial forestry</u>	P
<u>Farms, fiber crop</u>	P
<u>Farms, fruits, nuts or vegetables</u>	P
<u>Farms, grain crops</u>	P
<u>Farms, hay & alfalfa</u>	P
<u>Fraternity & sorority houses</u>	P
<u>Golf courses, public</u>	P
<u>Group care home</u>	P
<u>Libraries</u>	P
<u>Manufactured homes on permanent foundation</u>	P
<u>Monasteries</u>	P
<u>Orphanages</u>	P
<u>Parks, public</u>	P
<u>Petroleum pipeline R/W</u>	P
<u>Play lot or tot lot</u>	P
<u>Playfields & athletic fields</u>	P
<u>Playgrounds</u>	P
<u>Private clubs</u>	P
<u>Railroad right-of-way</u>	P
<u>Rectories</u>	P
<u>Schools, pre-primary</u>	P
<u>Schools, primary</u>	P
<u>Schools, professional</u>	P
<u>Sorority & fraternity houses</u>	P
<u>Synagogues, churches, & temples</u>	P
<u>Temples, churches, & synagogues</u>	P
<u>Tot lot or play lot</u>	P
<u>Utility substations, pumping station, water reservoir & telephone exchange</u>	P
<u>Wind energy installation (micro/small)</u>	P
<u>Convalescent, Nursing & rest home services</u>	C
<u>Day care centers</u>	C
<u>Farms, nursery stock</u>	C
<u>Nursing, convalescent & rest home services</u>	C
<u>Radio transmitting stations & towers</u>	C
<u>Residential assisted living, retirement or assisted living</u>	C
<u>Rest, nursing, & convalescent home services</u>	C
<u>Retirement homes</u>	C
<u>Telephone relay towers (microwave)</u>	C
<u>Television transmitting stations & relay towers</u>	C

For Discussion:

The current definition of a principal building does not allow for individual buildings on a single lot using shared services if all of the buildings are used for the same principal use. An example where this might happen is a strip commercial center. There could be several buildings located on a single lot all containing office/retail space. If these buildings were to share an electrical and sewer service this would allow for better utilization of the property in many cases and would encourage building owners to alter the placement of the buildings from a single line of shops/offices.

36-8 Definitions

Building shall mean any structure built and maintained for the support, shelter or enclosure of persons, animals, chattels, or property of any kind, but shall not include temporary buildings as defined in "Structure, Temporary". Operable and licensed trailers, with wheels, shall not be considered as buildings.

Building Accessory shall mean any detached subordinate building that serves a function customarily incidental to that of the main building or main use of the premises. Customary accessory building includes farm buildings, garages, carports, and small storage sheds.

Building, Area of shall mean the sum in square feet of the ground areas occupied by all buildings and structures on a lot.

Building Code shall mean the various codes of the City that regulate construction and requires building permits, electrical permits, mechanical permits, plumbing permits, and other permits to do work regulated by the adopted building code of the City, and other codes adopted by the City that pertain to building construction.

Building, Height shall mean the vertical distance measured from the centerline of the improved street to the highest point of a roof surface, if a flat roof, to the deck line of mansard roofs, and to the mean height level between eaves and ridge for gable, hip, and gambrel roofs.

Building Inspector shall mean the building inspectors for the City of Grand Island, Nebraska.

Building Principal shall mean a building within which the main or primary use on the lot or premises is located **and which is supplied with the main electric and/or sewer utility connections**. (Also, see Use, Principal.)

For Discussion:

The current code does not have any provisions explaining who has authority or granting authority to any individuals within the city for the interpretation of the zoning regulations. Zoning regulations have to be interpreted in order to be enforced. One of the powers of the Board of Adjustment is to determine if an administrative official has made a correct decision in interpreting the regulations so it is obvious that the State recognizes that someone needs to interpret the regulations. The Building Codes have a section that defines who will make those interpretations and gives guidance regarding how those should be made. The proposed language has been modified from the building code and is recommended as an addition to the Grand Island Zoning Regulations. This provision is consistent with the practice that has been in place between the Hall County Regional Planning Department and the Grand Island Building Department.

36-24 Interpretation of These Regulations

The planning director and chief building official together are hereby authorized and directed to enforce the provisions of this code. The planning director and building official together shall have the authority to render interpretations of this code to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.