

Commercial Zoning Update Working Group



Meeting Notes Thursday, August 18, 2022 5:00 p.m.

1. Call to order

The meeting was called to order at 5:03 pm.

2. Roll call

Present: Barbara Kiely Miller, Josh Pollack, Scott Kraehnke, Tr. Kathy Stokebrand, Jake Bresette, Chuck Hagner, Maggie Pipek, Matt Weiss, Gary Brunk, Kate Flynn Post, Leslie Oberholtzer and Bart Griepentrog

Excused: Lybra Loest, Jon Krouse, and Tr. Arthur Ircink

3. Discussion of Module 1 (535-21 Commercial & Mixed-Use Districts)

Ms. Oberholzer reminded the Working Group that they could also send her their comments separately and started discussion of the proposed chapter relating to Commercial & Mixed-Use Districts with the Intent statements. She noted that the Intent Statements are useful for reviewing authorities, particularly when exceptions are sought.

Tr. Stokebrand suggested that “human-scaled” development seemed subjective. Ms. Oberholtzer stated that humans are generally of a certain size and that all of the components of buildings and sites are for human use and should be scaled accordingly. She noted that using materials at a unit scale, such as a brick, was more human-scaled than using paneled materials. She stated that we are drawn more to objects that we know humans have touched. She noted that she would expand upon human-scaled within either the definitions or the intention statement. Mr. Kraehnke noted that humans are differently scaled and that the term is somewhat ambiguous by that nature. He exemplified 8 or 14 ft. ceilings being human-scaled, as opposed to 50 ft. ceilings.

Tr. Stokebrand questioned if the title of Table 535-21-1 should be updated to read Commercial Districts. She also noted that sometimes General Residential-Office Mix is referenced as General Office-Residential Mix and felt that consistency should be used. Ms. Oberholtzer also noted that she would update the numbering of the GX3 district in the District Name.

Mr. Kraehnke questioned the use of Mix within the Residential Mix category. Ms. Oberholtzer noted that mix referred to the available building types. Tr. Stokebrand

questioned the title of the Commercial Storefront district and suggested Commercial/Auto would make more sense for how the district has been designed. Ms. Oberholtzer reiterated that the title related to the mix of building types but said she was open to reconsidering the names.

Tr. Stokebrand questioned if the Post Office would be allowed to have a “drive-through.” Ms. Oberholzer noted that as proposed their site would not qualify for a drive-through use. Tr. Stokebrand questioned why more Commercial Storefront zoning couldn’t be considered. Rather than expanding the presence of that district, Ms. Oberholtzer suggested that allowing drive-throughs in the GX districts subject to requirements may be a better solution but pointed out that within public engagement there was not a desire for additional drive through uses.

Tr. Stokebrand confirmed that the proposed zoning of the gas station at Capitol and Downer would not allow for gas stations. Ms. Oberholtzer reminded her that existing uses can remain as non-conforming uses, and suggested that the site could be rezoned in the future if that were desired.

Mr. Pollack questioned the non-conforming status of drive-throughs as accessory structures, as opposed to a use. Tr. Stokebrand questioned if the drive-through at Walgreen’s could be reused as a drive-through for a different use moving forward. Ms. Oberholtzer noted that she would need to ask her partner Kirk that question.

Ms. Kiely Miller questioned why the Post Office was not zoned as an institutional use similar to other government buildings (P-1). Ms. Oberholtzer noted that the code was forward-looking to possible future changes. She pointed out that future office or residential uses would be conforming.

Ms. Kiely Miller noted that many commercial trips involved driving and parking and questioned if the term walkable was overused. Tr. Stokebrand questioned if we balanced the uses well. Mr. Griepentrog noted that the district offers on-street parking for vehicle trips, which allows drivers to park and walk to the businesses. Ms. Kiely Miller stated that sometimes it was not desirable for the driver to leave their car, particularly if they had children in the car or the weather was inclement. Mr. Pollack noted that people are able to leave their cars in either scenario.

Mr. Pollack stated that he felt the CX district was a little too car focused. Ms. Oberholtzer noted that was based on two things: existing conditions and the Comprehensive Plan, which allowed for more auto-oriented development. Mr. Pollack questioned if that was still desired, particularly in proximity to the school and senior housing. Ms. Kiely Miller noted that seniors could still walk to the Corner Bakery and pointed out that the business owner would not have opened the restaurant without being able to offer drive-through service. Mr. Pollack understood the past history but questioned if others wanted to continue allowing that type of development. Mr. Brunk agreed with Mr. Pollack and said he was acceptable to accommodating cars but not orienting development to them. He preferred focusing

on transit. Ms. Oberholtzer referenced the illustrative images on page 21-15 and noted that future design would need to be more pedestrian-focused. She noted that the Chick-fil-A pictured had a drive-through behind the building. Ms. Pipek agreed that current designs are not walkable because parking was prioritized but believed design could solve for both needs. Mr. Kraehnke stated that he felt that was exactly what this proposed code was doing. He said he was not in favor of eliminating this type of use and felt like it made sense for it to be located on the perimeter of the village on Capitol Dr. Ms. Kiely Miller said that was the intention of the Comprehensive Plan; not all places needed to be the same. Ms. Flynn Post stated that it was important to have a diversity of businesses within the village so that people's needs could be accommodated. Ms. Oberholtzer stated that she has attempted to blend the direction of the Comprehensive Plan with feedback that she heard during public engagement with design solutions that solved for the issues heard. She noted that the vast majority of the district prohibited drive-through uses, but that they were maintained in areas that had been identified as acceptable. She stated that regulations related to stacking could also be considered. Ms. Kiely Miller pointed out that Culver's offers teenagers a place to hang out, which is needed in the community. Mr. Hagner pointed out that traffic is predictably busy on E. Capitol Dr. at certain parts of the day and that it's not related to Culver's. He suggested that it was unavoidable regardless of what uses were permitted. Mr. Weiss noted that the stacking issues at Culver's were exacerbated by COVID and that they have mostly subsided. He also noted that Culver's offered more cost-effective meals for families than other restaurants in the village. Tr. Stokebrand suggested that it was more inclusive as a result.

Ms. Pipek desired to discuss the definition of sustainable on page 21-5. She stated that the description felt very transportation specific and felt that other aspects of sustainability, such as stormwater management or energy consumption could be included. Tr. Stokebrand believed that the intent statement should include those aspects. Ms. Pipek agreed and noted that even if the regulations were found elsewhere, they should be stated in the intention statement. Mr. Hagner agreed and requested that bird-friendly design be included. Ms. Oberholtzer pointed out that this section wasn't drafted as an intention statement for the entire village code and that those intentions and regulations may appear elsewhere. She reminded the group that the intention statement would be referenced when updating regulations or reviewing exceptions found within this section. Mr. Pollack questioned who the intended user of the intent statements was. Ms. Oberholtzer stated that the intent statements are intended to support the regulations and that they would most likely be utilized to help any issues of interpretation. She also noted that zoning regulations are an implementation tool of the comprehensive plan and that these larger intentions are already included within that. She noted that she included these specific clauses because they related to moving towards a more walkable community. Mr. Kraehnke stated that as a designer specifying sustainable goals was less important than simply referencing a desire to be sustainable because that could go in so many directions which could actually conflict. Ms. Oberholtzer asked the

group to provide her with any additional thoughts for inclusion into the intent statements, and she would bring them back up for discussion, if necessary.

Ms. Oberholtzer informed the group that they could also submit questions to her about the names, regulations, and locations of the proposed zoning districts.

Ms. Kiely Miller suggested that three additional districts be considered: MX3, GX4 and RX2. Each of these districts would be limited to three stories in height and be located on Capitol Dr. east of Maryland Ave. She stated that this area of the commercial district was more institutional and residential, and featured a lot of pedestrian traffic to schools, the library or Atwater Park. She suggested that more density would bring more traffic and parked cars to the area. She noted that single-family and duplex properties are located on Capitol Dr. within this area. She acknowledged that existing and proposed buildings in this area would become legal, nonconforming structures, but did not see a problem with that. She also stated that St. Roberts church was a historical landmark that should not be overshadowed by other development. She noted that she brought this concept up during the development of the Comprehensive Plan but was told that implementation of zoning changes would take place through this process.

Tr. Stokebrand questioned when the fourth story building stepbacks are required. Ms. Oberholtzer noted that they are required on the fourth floor of new development when adjacent to R districts or when the new development is of a certain length. Tr. Stokebrand noted that the stepbacks would make the new development less bulky. Ms. Flynn Post questioned what the Comprehensive Plan called for and was informed that it said this area was “generally intended to include buildings up to four stories in height.” Ms. Oberholtzer pointed out that there were several buildings in the area that were at or over four stories in height in this area. Mr. Kraehnke suggested that the proposed limit, as discussed, was intended to actually limit density, not height. Ms. Kiely Miller acknowledged that it would limit both.

Mr. Griepentrog pointed out that allowed uses may have a greater impact on traffic and neighborhood impact than height. He noted that the gas station could be repurposed into a brewery with an outdoor beer garden and suggested that the activities associated with that use would be more intense than a four-story residential building. He noted that the neighborhood pushed back on a proposed doggy daycare that would've reused a single-story building in this area. He also pointed out that the traffic associated with the gas station was well above what a residential apartment building would generate. He suggested that the proposal really came down to scale, as opposed to traffic. Ms. Oberholtzer referenced the traffic generated by the single-story Culver's.

Mr. Kraehnke stated that the way the proposed code treated design and height with required stepbacks solved the scale issue for him. He said that we needed to acknowledge that Capitol Dr. is a commercial corridor. He also acknowledged that not all new development is well designed.

Tr. Stokebrand noted that the presence of single-family residential homes on the corridor made this area different for her. Mr. Bresette noted that multi-unit apartment buildings are also residential. Tr. Stokebrand believed one of the goals of the zoning update was to have similar developments and scales across from each other. Ms. Oberholtzer pointed out that the single-family homes front the side street, not E. Capitol Dr.

Mr. Pollack requested that the proposal for an additional zoning district be refocused. Ms. Flynn Post questioned why three stories was requested and not one or two. Ms. Kiely Miller suggested that three stories was more feasible and related to the scale of the street and activity of the surrounding neighborhood. Ms. Oberholtzer performed an unofficial straw poll to see who agreed with the proposal to limit height to three stories east of Maryland Ave. Ms. Kiely Miller and Tr. Stokebrand expressed a favorable opinion for it, six members were opposed and two were unsure. Ms. Oberholtzer asked if other members had alternative proposals to consider, but none were offered in exchange.

Ms. Pipek stated that the height differentiation mattered less to the character of the area than the potential uses. Mr. Hagner noted a recent visit to a restaurant with a repurposed gas station that was very busy with pedestrian activity. Ms. Kiely Miller acknowledged that changes in uses happen. Mr. Weiss noted that the area in question has always been a commercial corridor.

Ms. Kiely Miller stated that your rights as a property owner should only be limited if they negatively impact your neighbor. Ms. Flynn Post said that what one person sees as a negative might be seen as a benefit to another and referenced the location of a restaurant. She believed that confirming acceptable uses was more important than discussing an additional floor, particularly if that additional floor had setback requirements. She acknowledged that having this discussion without examples to reference was more difficult. Ms. Oberholtzer pointed the Working Group to the Cornerstone building as one that was referenced for both scale and setbacks.

Ms. Oberholtzer concluded that there was not consensus to include the additional three-story districts as suggested. She also noted that the Comprehensive Plan stated up to four stories, and it was not her practice to recommend counter to that unless there was clear direction. She noted that the Plan Commission or Village Board could offer that direction, if desired. She also stated that she did not think the impact of new four-story development would be extreme, since design considerations were built into the code. She noted that a public workshop on the proposed draft also offered opportunity to hear more perspective.

Tr. Stokebrand questioned the minimum streetscape requirements on 21-8. Ms. Oberholtzer noted that where the public streetscape is too narrow that an extended streetscape area into the private lot was required prior to the build-to zone.

Mr. Kraehnke questioned the proposed refuse and recycling requirements on 21-7. He believed that the code should allow it in the rear yard without the need for an exception. Ms. Flynn Post agreed. Ms. Oberholtzer said that she was planning to update it based on the amount of existing development along the corridor. She expected the revision to require it to be located inside the building or in the rear yard, if that is not an option then it could be located in the interior side yard, if that is not an option then an exception could be sought elsewhere.

Ms. Kiely Miller questioned if specifying loading locations precluded businesses from loading from the street. Ms. Oberholtzer noted that the defined locations only related to on-site loading and that she would try to make that clearer.

Mr. Bresette expressed continued concern about only allowing certain types of businesses on the second floor of the MX district. He noted that more service-based businesses are locating in storefronts due to the decline of retail establishments. He would rather see occupied storefronts rather than vacancies. He acknowledged the desire to create a more active business district but questioned if it was realistic. Ms. Oberholtzer recommended starting by adopting a code that defines what you want but be willing to reevaluate it after six months to a year to see if its not working. She noted that “messy” commercial corridors are the result of loose commercial zoning and the best way to get the corridor you want is to tighten up the regulations. She stated that there were not a lot of vacancies in the corridor and believed that out of any other community that she’s worked in during her career that Shorewood could accomplish its goal of a more vibrant district. She also noted that she went through the map and identified where proposed non-conforming uses exist and that there may be a couple of areas where the district classification could change to GX allow them. She also questioned if the group could identify any uses that could be moved into different districts, but she did not believe that there were. Lastly, she noted that a desired use could be identified as a conditional use with specific requirements related to their occupancy, such as walk-in services or retail.

Mr. Kraehnke questioned if there were any size requirements or limitations with the allowable roof types. Ms. Oberholtzer noted that those would be found in the Building Design regulations of Module 2.

Mr. Kraehnke questioned why commercial storefronts were only measured between 2 ft. and 10 ft. from grade. He did not want to preclude “garage door” style storefronts. Ms. Oberholtzer clarified that glass could go all the way to the ground, but that only the percentage of glass within the defined area would count towards the requirement. She stated that this was calculated with years of experience in understanding how storefronts are designed, including necessary columns.

Mr. Kraehnke suggested that only requiring vertical divisions on storefronts every 60 ft. was too big. Ms. Oberholtzer stated that making it smaller may be limiting and noted that smaller divisions were permissible. She said she was willing to revisit it.

Mr. Kraehnke questioned if window mullions qualified and was informed that they did not.

Mr. Kraehnke questioned the 75% maximum site coverage of commercial buildings and suggested that a higher percentage seemed to make more sense for Shorewood's lots. Ms. Oberholtzer noted that this building type has a deep build-to zone that would help accomplish part of the required impervious area. She noted that it would include more suburban-style landscaping, but Mr. Kraehnke noted that did not reflect Shorewood's land use. He said we needed to maximize our lots with usable space. Ms. Oberholtzer noted that developments could occupy more lot area if they included semi-pervious materials or green roofs, as defined on pages 21-34 and 21-35. She said if the maximum number was increased that less people would be inclined to use it. Mr. Griepentrog also pointed out that this requirement only applied to the proposed CX district.

Mr. Kraehnke also questioned the 85% maximum site coverage ratio of general buildings. He referenced the recent approval of the apartment building on Capitol Dr. that only had 9% green space to his recollection. Ms. Oberholtzer pointed out that they could do a section of green roof or impervious material to get that number lowered, but also noted that the intention was to require some landscaping between the right of way and the building. She stated that there should be a clear differentiation between a general building and a storefront building, and this requirement helped to define that. She noted that it helped separate any ground floor residential units from the right of way as well. Mr. Griepentrog suggested that it would be helpful to compare this number to the built reality of the district and hoped he could provide some comparative numbers before the draft is finalized.

Ms. Kiely Miller questioned the requirement of 10 ft. between multiple buildings on the same lot within the general building regulations. Ms. Oberholtzer noted that was on the higher side of development patterns in urban areas, but essentially represented five-foot setbacks from each structure. Ms. Kiely Miller questioned what would be installed in that area. Ms. Oberholtzer suggested that sidewalks and landscaping could be installed and noted that the open area would allow windows to face each other.

Mr. Weiss questioned the garage door visibility regulations found on 21-32. Ms. Oberholtzer noted the garage door location of the town house development on Edgewood between Maryland and Prospect and suggested that those garage doors could be better screened from the street by the inclusion of a wing wall. Mr. Bresette questioned if landscaping could accomplish the same goal, and Ms. Oberholtzer said a wing wall would do a better job for little cost and that landscaping could be installed in front of it. She noted that landscaping often does not get maintained properly.

Ms. Kiely Miller requested to discuss the regulation of Outdoor Sales & Display as proposed on 21-17. She questioned whether such displays were currently allowed

and referenced discussion at the Plan Commission several years ago about the topic. She mentioned that businesses such as the Metro Market continue to have outdoor sales and display on the sidewalk. She questioned if the group wanted to confirm such an allowance through this code update. Mr. Griepentrog noted that the regulations on 21-17 related to the Commercial Building type in the CX district. Ms. Oberholtzer pointed out that the regulations on 21-11 did not allow Outdoor Sales & Display with storefront buildings in the MX district. Mr. Griepentrog noted that storefront buildings do request this type of accessory use for sidewalk sales and that he's never received a complaint about them. He stated that displays at gas stations were different. Ms. Oberholtzer suggested a good way to regulate them would be to require the merchandise to only be displayed during business hours. She noted that she would look to include these types of regulations in the next draft. Mr. Kraehnke liked the idea of allowing them but requiring them to be brought in when not open. Ms. Oberholtzer stated that certain merchandise, such as plants, could be allowed to be kept outside. Mr. Bresette also noted combustible materials, such as propane tanks. Mr. Griepentrog also noted that at least 5 feet of clear sidewalk would need to be maintained. [If the displays were installed within the right of way, a Special Privilege permit would be required.] Mr. Kraehnke stated that subject to the proposed regulations, outdoor displays support walkability. Mr. Bresette noted that it could help to attract more retail, which was desired.

Mr. Hagner questioned if the proposed code would allow for building connectors or "skywalks." Ms. Oberholtzer noted the Village would have to grant access to air rights for that to take place, so already controls that type of development outside of the Zoning Code. Mr. Hagner also noted that connectors could be developed between private buildings or parking garages not over the right of way. Ms. Oberholtzer stated that "connectors" would need to comply with building regulations on private property. She noted that the bird-friendly design section would prohibit glass on both sides.

Ms. Kiely Miller questioned the proposed transparency percentage regulations. Ms. Oberholtzer stated that was covered in the Building Design section and also related specifically to bird-friendliness. She noted the bird-friendly regulations were designed in relation to the United States Green Building Council's (USGBC) credits which utilized standards from the American Bird Conservancy's (ABC) Major Threat Factors (MTF). She stated that requiring glass to have fritting in it would reduce its threat factor and be bird-friendly by design. She calculated the proposed regulations so that building façades would qualify for the credit through their use of materials. She stated that other regulations could also be considered, but she was concerned about cost. Ms. Flynn Post questioned how developers would react to these requirements. Mr. Hagner suggested that other methods, such as screens or dots applied to windows, could be used instead of fritted glass. He referenced the Fiserv Forum as a qualifying bird-friendly building with a lot of glass. Ms. Oberholtzer noted that the easiest way to qualify for the credit without having to calculate it would be to require fritted glass, but that applicants can also get an exception by doing the calculation. She also stated that the applicable triggers for this requirement needed

to be defined, such as new buildings or additions of a certain size. Mr. Griepentrog pointed out that the Village does not require permits for window replacements in the same configuration and questioned if that needed to be considered within these regulations.

Ms. Oberholtzer noted that bird-friendly design was also built into the proposed lighting regulations. She stated that those sections still needed some work. She noted that the regulations require lighting to be turned off, which would require enforcement. Mr. Hagner requested that shielding be required, and Ms. Oberholtzer noted that was already required. She noted that the proposed regulation would reference a BUG rating. Mr. Griepentrog expressed hesitation with regulating anything too technically that would be hard to review or enforce.

4. Introduction of Module 2 (535-22 Building Design and 535-23 Landscape & Site Design)

Ms. Oberholtzer noted that paper copies of these draft sections were available for Working Group members to take home and review in preparation for the next meeting on August 31. Mr. Griepentrog stated that he would provide digital versions to the entire Working Group.

5. Future discussion items

Ms. Kiely Miller questioned what communication efforts would be associated with the draft code when its ready for public comment. She referenced the Shorewood Today as an option. Mr. Griepentrog mentioned that the Shorewood Today will continue to have quarterly project reminders in it until the code is considered. He also stated that if the Village Board wished to mail another post card, as they directed at the project's commencement, that he would be willing.

6. Public comment

No public comment was provided.

7. Adjournment

The meeting adjourned at 8:04 pm.

Respectfully submitted,



Bart Griepentrog, AICP
Planning & Development Director