

Commercial Zoning Update Working Group



Meeting Notes Wednesday, September 21, 2022 6:00 p.m.

1. Call to order

The meeting was called to order at 6:01 pm.

2. Roll call

Present: Barbara Kiely Miller, Josh Pollack, Scott Kraehnke, Lybra Loest, Tr. Kathy Stokebrand, Jake Bresette (arrived at 6:32), Chuck Hagner, Matt Weiss (arrived at 6:18), Gary Brunk, Kate Flynn Post, Leslie Oberholtzer and Bart Griepentrog

Excused: Jon Krouse, Tr. Arthur Ircink, and Maggie Pipek

3. Discussion of Module 2 (535-23 Landscape & Site Design)

Ms. Oberholtzer noted that all landscape and site design regulations are located within this section. She summarized that the table of contents contained both general regulations (A-C) and individual components that would get plugged into particular circumstances, as applicable (D-J). She referenced the existing Einstein Bagels site to show how these elements would be addressed.

Tr. Stokebrand questioned if landscape requirements could reduce the amount of available parking, and Ms. Oberholtzer noted that was very typical. Ms. Loest questioned if buffers were only located adjacent to a parking lot or if they could also be installed between buildings. Ms. Oberholtzer stated that the buffers were only ever required adjacent to vehicular areas. She noted that other areas would be considered yards. Tr. Stokebrand questioned if buffers were new in this code. Mr. Griepentrog pointed out that the existing design guidelines require screening of parking lots.

Ms. Oberholtzer noted that the sections related to commercial lighting and river shorelands were carried over from the existing code, but that a few options/questions would be discussed.

Ms. Kiely Miller questioned the proposed regulation that no more than 30% of any street yard may be covered by a patio. She referenced Fiddlehead's as an example. It was noted that the current percentage was carried over from the existing regulation, which predominantly related to residential patios. Ms. Oberholtzer stated that she would clarify this as it pertains to commercial properties.

Ms. Kiely Miller questioned the proposed deck regulations in relation to the deck at Harry's Bar and Grill. She also noted the rooftop space at the Atrium. Ms.

Oberholtzer responded that rooftop terraces are covered in the roof type regulations in the building design chapter.

Tr. Stokebrand questioned why decks needed to be made of metal, but all the existing parklets in the village are made of wood. Mr. Kraehnke noted that parklets are temporary structures, whereas decks are permanent. Tr. Stokebrand stated that wood did not look offensive, and she had concerns with cost. Ms. Oberholtzer confirmed that Tr. Stokebrand was referring to the proposed deck rail requirements in 535-23B(2)(b)[3]. She pointed out that these regulations only pertain to decks in non-primary street yards. Mr. Kraehnke noted that there was very little regulation on decks in non-street yards. He stated that a wood deck in a commercial street yard would look residential. He believed metal was an appropriate requirement. Ms. Oberholtzer also noted that horizontal surfaces could be wood or composite. Ms. Kiely Miller stated that metal would hold up better in our climate and require less maintenance. Ms. Oberholtzer stated that she would consider adding wood composite as an acceptable deck rail material.

Tr. Stokebrand questioned the applicability standards, particularly the 5,000 sq. ft. expansion number, believing it was too high for Shorewood's building and lot sizes. Ms. Oberholtzer acknowledged that number was a pretty good size. Ms. Kiely Miller pointed out the small size of the UPS Store and the former Ruckus. Mr. Pollack noted that a lower threshold would be more cumbersome for compliance. Mr. Griepentrog noted that "substantial enlargement" was recently defined as an applicability standard for compliance to parking regulations at 25% of the building area or 2,500 sq. ft., whichever is less, and suggested the numbers could align. Ms. Oberholtzer noted that most redevelopments would not have a lot of landscaping due to their urban nature and did not believe it would be too onerous to reduce the standard to 2,500 sq. ft.

Ms. Oberholtzer pointed out that any newly proposed landscaping would need to meet the regulations. Mr. Kraehnke confirmed that related only to the new areas and did not trigger conformance to pre-existing. Ms. Oberholtzer agreed and suggested this section may not be necessary, since it should be known that new elements shall comply. She noted that expansion of parking, loading or vehicular areas would trigger conformance if more than 2,500 sq. ft., which would match the newly updated building expansion number. Lastly, Ms. Oberholtzer pointed out that expansion of outdoor seating/dining would also trigger conformance if above 500 sq. ft. Mr. Griepentrog suggested triggering conformance with any modification (replacement or renovation) of an existing area, believing that current areas were likely already installed to their maximum area and would likely not expand. Ms. Oberholtzer actually believed this section was unnecessary, since new improvements would need to comply. She noted that she would consider removing both (b) and (d) from this section but needed to think more closely about it.

Ms. Oberholtzer noted that Ms. Loest had questioned the inclusion of pine straw as a bedding material. Mr. Kraehnke stated it was available, but not widely used in the area. Ms. Loest said she would not be opposed to it being used, but only ever saw it as a temporary cover while plants established themselves. Ms. Oberholtzer read Ms.

Loest's suggested wording: "natural bark mulch, unpainted and undyed; or, natural decorative stones, 0.75-2.5 inches, may be also used." Ms. Oberholtzer stated that 2.5-inch stone may be too small for a maximum. Ms. Loest said she just wanted to make sure that paver stones weren't acceptable. Ms. Oberholtzer stated that pavers should be considered pavement, not ground cover.

Ms. Oberholtzer noted that she needed to clarify that when she refers to landscaping she's referring either to a planter or planting bed 535-23A(6), or lawn 535-23A(7). She said that she typically refers to these areas as ground plane that is not walking surface. She also noted that last meeting it was discussed to increase the minimum bedding area from 60% to 65%.

Tr. Stokebrand questioned how to enforce landscaping requirements in the winter months when the plants are not present. Ms. Oberholtzer noted that dormancy is expected. Mr. Griepentrog noted that many plants keep their structure in the winter months, but simply don't have leaves. Tr. Stokebrand questioned if clarifying that landscaping was seasonal would help. Ms. Oberholtzer pointed out that annual beds must be maintained seasonally.

Ms. Oberholtzer noted that the current deck and patio regulations in 535-9 would remain but be clarified as applicable to residential properties. The newly proposed deck and patio regulations in 535-23B(2) and 535-23B(3) would pertain to commercial properties. Tr. Stokebrand questioned why plain concrete was not an acceptable patio surface. She questioned if decorative concrete meant stamped concrete. Mr. Kraehnke believed that anything that was done to decorate plain concrete, such as edging, coloring or a center medallion, would qualify. Tr. Stokebrand suggested that stamped concrete could be slippery and not safe for elderly customers. Several members suggested that sealed concrete may be more slippery. Tr. Stokebrand requested feedback from the Senior Resource Center staff on acceptable materials and that greater definition be provided for what qualified as decorative concrete be considered. Ms. Oberholtzer pointed out that the courtyard requirements in the building type chapter required special pavement materials and patterns. She suggested that the wording be kept straightforward and left to the review and approval of the Design Review Board. Mr. Kraehnke noted that it would be unlikely that a property owner would intentionally install a slippery surface.

Tr. Stokebrand stated that the 1-foot minimum setback of a deck from a lot line on a non-primary street yard seemed small. Ms. Oberholtzer noted that patios currently require a 3-foot setback, and that either scenario would be installed in tight spaces. She confirmed that a 3-foot setback for a deck was acceptable in rear or side yards.

Ms. Oberholtzer noted that the requirement of permeable surfaces with tree installation is relatively unique to this code. She stated that urban trees are known to have issues growing in difficult areas and this requirement seeks to improve those conditions. She pointed out that this requirement related to trees on private property, such as parking lots, not streetscape. Ms. Kiely Miller questioned if this requirement would also be applied to the Village's parking lots. Mr. Griepentrog noted that many of the Village's parking lots are zoned P-3, so it would not. He further noted that the improvements to the Village's parking lots are approved by the Village Board and

often include green infrastructure as part of their bidding requirements. Ms. Kiely Miller questioned when suspended pavement systems would be required. Ms. Oberholtzer stated those would apply to new, required trees that don't have the required soil surface area. She stated that property owners could install additional trees beyond the requirements, and those would not need to have the required soil surface area or suspended pavement systems.

Ms. Kiely Miller questioned the inclusion of recommended permeable surface area within Table 535-23-2. Ms. Oberholtzer pointed out that the minimum is the requirement, but more is always better. But from a coding purpose, she would likely just remove this column since its not a requirement.

Ms. Kiely Miller questioned if the reduced need for chemical weed killers could be added to the section explaining why compost, mulch and other organic matter is required. Ms. Oberholtzer noted this requirement dealt with installation and ensuring that the plantings would become established. She pointed out that 220-3 of the Village Code dealt with maintenance. Mr. Griepentrog noted that enforcement of the installation requirements would be difficult but would be passed along to the applicant for reference. He stated that if the landscaping did not become established as required, the Village would be able to enforce its replacement.

Ms. Oberholtzer explained that street yard landscaping related to areas between the building and the lot line adjacent to a street. She noted these areas would generally be small. Tr. Stokebrand noted that the side yard adjacent to Shorewood Press would qualify. Ms. Oberholtzer noted that in certain areas public streetscaping would be required to extend into the property's build-to zone. Ms. Oberholtzer noted that there are two courtyard treatment options: a plaza with 60% or more of pavement or green where less than 60% is paved. Tr. Stokebrand suggested that 5% minimum landscaping in a plaza seemed low. Ms. Oberholtzer pointed out that percentage was derived from the Cornerstone development and noted that other elements were defined in the building type regulations, such as seating, was required. She believed it was a reasonable expectation.

Tr. Stokebrand noted that the code referenced a list of allowed trees in the village. Mr. Griepentrog stated that he would confirm with DPW whether that list exists.

Ms. Kiely Miller questioned the inclusion of design exceptions throughout the code. Ms. Oberholtzer noted that the code sets minimum expectations, which if met, should be approved. But there are instances where other designs may accomplish the same goals and should be considered. She noted that design exceptions are going to be renamed design adjustments. Mr. Griepentrog noted these adjustments will be covered in Module 3.

Ms. Oberholtzer noted that frontage buffers require protection to ensure that they are properly maintained. She noted that a steel fence was required in the proposed code. Ms. Flynn Post questioned if safety was considered in the required frontage buffer and noted a desire to keep parking areas visible. Tr. Stokebrand noted that the proposed maximum height of the fence at 4 ft. and shrubs at 3 ft. was critical to maintaining that visibility. Ms. Oberholtzer also noted that the fence cannot be

opaque; it must be open. Ms. Kiely Miller stated that the low buffer is important to screening views of car grills. Mr. Bresette also noted that the fence provides a level of safety if someone hits the gas pedal instead of the brake.

Ms. Loest questioned the inclusion of colored PVC in the fence material section. Ms. Oberholtzer recommended that only steel be allowed, as aluminum would get bent easily and PVC could look cheap. Ms. Kiely Miller questioned why colors were limited, and Ms. Oberholtzer stated that the fence should blend into the landscaping, not stand out from it.

Ms. Oberholtzer noted that Tale 535-23-3 would be moved to the next page, so that it can be read alongside its associated regulations.

Ms. Oberholtzer stated that there were not going to be a lot of situations where a side or rear buffer would be required. She noted they were only required adjacent to vehicle or service areas. She pointed out that "other" areas could also be determined by the Plan Commission.

Tr. Stokebrand noted that privacy fences were allowed to be made of composite wood. Ms. Oberholtzer noted that a privacy fence is on the rear or side, not on the front of the property.

Ms. Oberholtzer pointed out that rear and side buffers must contain landscaping, which would be on the inside of the fence. She noted that she usually includes lawns as an acceptable buffer, since it would not be very visible. Ms. Kiely Miller referenced the landscaping inside the fencing at the North Shore Bank, which she said looks nicely finished. Mr. Kraehnke stated it looks nice but that he would not require it. Ms. Oberholtzer noted that the property would also have a frontage buffer that would screen view from the public right of way. Mr. Griepentrog questioned the requirement of a landscape buffer in a small space where landscaping may not grow or could be hard to maintain. Ms. Oberholtzer believed that landscaping could grow within the required buffer area. Mr. Kraehnke questioned the definition of what people often refer to as "green space" and stated that ground cover other than pavement, such as mulch, qualified in his perspective. Ms. Oberholtzer pointed out that the Village's current code referenced "landscaping, plantings and other decorative surface treatments." Ms. Oberholtzer noted that she intended to clarify the code to say that any surface areas that are not covered by pavement must be covered by either a planter or planting bed, or lawn, which would prohibit them from being covered fully by decorative rock or mulch. Mr. Griepentrog noted that these vehicular buffered areas are likely to be piled with snow and salt in the winter. Ms. Loest confirmed that a curb would be required and asked to clarify if the measurement included the curb or not. Ms. Oberholtzer said the buffer was to be measured from the back of the curb. She noted part of the purpose of the buffer was to keep the parking lot from being located up to the property line. Mr. Kraehnke stated that he would be fine removing the required landscaping in this buffer because the only people who benefit from this aesthetic addition is the property owner itself, not the public. Ms. Oberholtzer acknowledged that the frontage buffer at the street should stop the view into the property. Mr. Griepentrog questioned the need to aesthetically buffer inside of the actual buffer, which is the fence. Ms. Oberholtzer questioned if we wanted to

allow the area to be paved and suggested that she would require it to be landscaped. Tr. Stokebrand desired to keep the required landscape buffer. Ms. Kiely Miller agreed.

Ms. Oberholtzer stated that the other option would be to allow the buffer to be landscaped or covered in other permeable materials. Mr. Kraehnke stated that in these locations he would prefer to allow something with low maintenance, which would allow stone or mulch. He noted that we need to understand these properties are being maintained by commercial property owners. Mr. Weiss agreed and acknowledged that landscaping is a recurring cost. Mr. Bressette noted that it was more realistic to expect this level of landscaping for residential, but not commercial property owners. Ms. Flynn Post agreed. Ms. Loest believed that permeable materials were a good option in these locations because it allowed water to infiltrate. Ms. Oberholtzer noted that under this scenario the important investment is being placed in the frontage buffer.

Ms. Oberholtzer noted that the same question could be posed for the required ground covering within interior parking lot landscape islands. She stated that she would clarify the requirements of what qualified as permeable ground cover in the revised draft.

Ms. Oberholtzer noted that screening had been previously discussed and wondered if there were any remaining issues. Tr. Stokebrand questioned if Metro Market would be required to have gates on their loading zone if built under these regulations. Ms. Oberholtzer noted that would be regulated by the building type, not screening. Mr. Griepentrog noted that these regulations would be helpful and very transparent to applicants who are required to screen these components. Ms. Oberholtzer noted that she would revisit the footnotes on page 23-12 while developing the updated draft. Ms. Kiely Miller noted that the current version includes an extra "within" in 535-23H(5)(b)(2)[a].

Ms. Oberholtzer stated that the proposed outdoor lighting regulations would be maintained. Mr. Griepentrog noted that updates could be considered, if desired or suggested. For example, he questioned if string lights could be more explicitly allowed, since they've been a popular request, but don't actually shield the light source as required. Mr. Griepentrog also suggested that the existing regulations could be reviewed for bird-friendliness and requested that Mr. Hagner take a look at the current language. Mr. Bressette questioned if these regulations would apply to holiday decorations and was informed that they would not.

4. Presentation of Module 3 (Review Procedures, Planned Development Districts, and Legal Nonconformities)

Ms. Oberholtzer noted that Module 3 was a bit of a mishmash because it was reshuffling a few sections of the code into a new procedures article. She noted that section 225-12, which deals with the Design Review Board, would be split. The establishment language would be kept in 225-12, but the design review process would be relocated into the zoning chapter.

Ms. Oberholtzer noted that a new section pertaining to adjustments (535-32), which has been renamed from exceptions, would be created. She noted that the defined design adjustments would be reviewed by the Design Review Board and the defined planning adjustments would go to the Plan Commission.

Ms. Oberholtzer explained that the current Planned Development District is being proposed to be removed but would be kept as an overlay for any previously approved districts. Ms. Oberholtzer noted that the overlay would maintain any agreements that were set up at the time of their approval but clarify that the newly proposed underlying zones would be utilized for routine administration. Mr. Griepentrog noted that it would be more predictable for new developments to follow the regulations in the new zoning code than to allow a process to obtain exceptions from them. Amendments to the zoning regulations and requests for rezonings would still be allowed.

Ms. Oberholtzer noted that some additional language was proposed to be added to the nonconformity section that would relate to façades and roofs. She explained that typical nonconformities relate to setbacks and height, but in a form-based code façade and roof elements may also be nonconforming. She noted that damage would not trigger conformance, but voluntary renovations would need to comply.

Ms. Oberholtzer provided a brief overview of the proposed design review process. She noted that the existing conditional use and special exception processes would also be moved to this Review Procedures section.

Ms. Oberholtzer summarized that Design Adjustments only apply to elements explicitly defined within the code. She exemplified principal entryways within the building design section. She noted that design adjustments run parallel with the overall design review process and would be considered concurrently. She noted that adjustments would require additional review in conjunction with the defined criteria of this section, which included specific building or site characteristics that make something unique or that the alternate design is equal or better than the regulation's intended purpose.

Ms. Oberholzer stated that the Planning Adjustment process related to dimensional or land use matters, such as required buffers.

Ms. Kiely Miller questioned if there was ever an application for an adjustment that would trigger the Zoning Administrator to simply reject it. Ms. Oberholtzer noted that only specified things qualify for an adjustment, so if it was not listed, they could not apply for one.

Ms. Oberholtzer noted that her consulting partner could not make the next meeting but would be able to answer any questions relating to the proposed Planned Development District and Nonconforming Structures regulations, if provided in advance. She asked that members review these sections and submit those questions for response.

Ms. Oberholtzer introduced Figure 535-21-A Design Review Process. She noted that she would be adding reference numbers. She pointed out that the first step is the

submission of a complete application with enough detail to show how the project meets the regulations. If information was missing, the Zoning Administrator would not move the application forward until that information was provided. Tr. Stokebrand questioned if the title should be Design or Plan Review Process. Ms. Oberholtzer noted that Planning Adjustments were considered part of the Design Review Process. Upon submission of a completed application, the Zoning Administrator would complete a checklist to confirm that all regulations have been met or that adjustments have been applied for. If a Planning Adjustment was required, it would go the Plan Commission for review first and notice would be provided as required. Tr. Stokebrand questioned if the 7-day notice referred to when it was mailed or received. She questioned if it should be 10 days. Once the Planning Adjustment review is completed, the plans, including any necessary revisions, would be noticed prior to consideration of the Design Review Board. Ms. Oberholtzer noted that new commercial or mixed-use development required at least two review meetings, whereas all other projects could be considered in one. She noted that the process ended with approval, approval with conditions or rejection with justification. Ms. Kiely Miller questioned what happened if rejected applications wanted further consideration. Mr. Griepentrog noted that they would need to re-submit plans or appeal the rejection to the Board of Appeals. Mr. Hagner questioned how often plans could be resubmitted. Ms. Oberholtzer stated that the code should be predictable so that rejected applicants know why they were not approved and would not seek approval for the same project.

5. Future meetings and discussion items

Mr. Griepentrog confirmed that the date and time with the most availability for the next meeting was Thursday, September 29 from 5:00 – 7:00 pm. This meeting is expected to be the final Working Group meeting before the public review draft is presented to the Plan Commission on October 25th. Comments on Module 3 and any remaining issues are scheduled to be discussed.

6. Public comment

No public comment was provided.

7. Adjournment

The meeting adjourned at 8:00 pm.

Respectfully submitted,



Bart Griepentrog, AICP
Planning & Development Director