

# Commercial Zoning Update Working Group



## Meeting Agenda Wednesday, September 21, 2022 6:00 p.m. – Village Hall Court Room 3930 N. Murray Ave., Shorewood WI

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Written comments on any of the following agenda items may be submitted to [bgriepentrog@shorewoodwi.gov](mailto:bgriepentrog@shorewoodwi.gov) through 3:00 pm the day prior to the meeting. Comments received prior to the deadline will be shared with the Working Group. Comments after that deadline will need to be shared verbally within the meeting during available public comment periods.

1. Call to order
2. Roll call
3. Discussion of Module 2 (535-23 Landscape & Site Design)
4. Presentation of Module 3 (Review Procedures, Planned Development Districts, and Legal Nonconformities)
5. Future meetings and discussion items
6. Public comment
7. Adjournment

**Dated at Shorewood, Wisconsin, this 16<sup>th</sup> day of September, 2022**

Village of Shorewood  
Toya Harrell  
Village Clerk

Should you have any questions or comments regarding any item on this agenda, please contact Bart Griepentrog, Planning Director, Planning & Development Department, at (414) 847-2640. Upon reasonable notice, efforts will be made to accommodate the needs of all individuals.

It is possible that members of and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above stated meeting to gather information; no action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to above in this notice.

# 535-23. LANDSCAPE & SITE DESIGN

- 535-23A General Regulations ..... 23-2
- 535-23B Site Structures ..... 23-2
- 535-23C Landscape Installation ..... 23-4
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# 535-23 Landscape & Site Design

## 535-23A General Regulations

### 535-23A GENERAL REGULATIONS

#### 535-23A(1) PURPOSE

The landscape and site design regulations of this article are intended to provide the following.

- (a) To protect the appearance of the village through context-sensitive, high-quality landscape and fencing that supports the goal of walkable corridors.
- (b) To increase the compatibility of adjacent uses and minimize the adverse impacts created by adjoining or neighboring uses.
- (c) To promote the prudent use of water through sustainable, functional landscapes.
- (d) To reduce energy demands through the shading of buildings and pavement, reducing urban heat island effects.

#### 535-23A(2) APPLICABILITY

The regulations of this section 535-23 apply to all commercial and mixed-use zones as follows<sup>1</sup>:

- (a) **New Development and Expansions.** New buildings constructed or whenever an existing building is enlarged or expanded by 5,000 square feet or more, unless otherwise stated in this article.
- (b) **New Landscape and Site Elements.** New landscape and site development elements constructed that are regulated by this section, [535-23](#), such as landscaping, parking or loading areas, outdoor seating or dining areas, and other vehicular areas (e.g. drive-through facilities, fueling stations).
- (c) **Expansion of Existing Parking, Loading Areas, or other Vehicular Areas.** Whenever an existing parking, loading, or other vehicular area (e.g. drive-through facilities, fueling stations, vehicular sales lots) is enlarged or expanded by more than 2,500 square feet, parking lot landscape, frontage buffers, and side and rear buffers must be applied per this article.
- (d) **Expansion of Outdoor Seating/Dining Areas.** Whenever an existing outdoor seating or dining area is enlarged or expanded by more than 500 square feet.

#### 535-23A(3) VISION SETBACK

See 535-32B(3) for regulations requiring clear vision on corner lots at street intersections.

#### 535-23A(4) STORMWATER

Stormwater detention, retention, or filtration systems, such as bioswales or rain gardens, may be located in any street

<sup>1</sup> These have not yet been fully vetted with staff.

yard or other required site landscape area, provided all other regulations are met.

#### 535-23A(5) SIDEWALK CONNECTIONS

Continuous sidewalks must connect all building entrances to public sidewalks via the shortest possible route.

- (a) A minimum of 6 feet of pavement area must be clear to count as a sidewalk connection.
- (b) Building entrances located in the rear are exempt from this requirement when directly opening onto a public alleyway.

#### 535-23A(6) PLANTERS OR PLANTING BEDS

All planters or planting beds must include shrubs, ornamental grasses (not turf or lawn grass), ground cover, vines, annuals, or perennials.

- (a) A minimum of 60% of any bed area must be covered in plant material at maturity. The remaining portion of the bed may be covered with natural, non-living permeable materials, such as mulch or pine straw. Colored rock is not allowed.<sup>2</sup>
- (b) Annual beds must be maintained seasonally, replanting as necessary.
- (c) All species in planting beds must be native or naturalized for the area, and non-invasive per [220-1B](#).

#### 535-23A(7) LAWNS

See [220-3](#) for grass lawns and natural lawn management plans.

### 535-23B SITE STRUCTURES

#### 535-23B(1) RETAINING WALLS

The following applies to all retaining walls in any street yard:

- (a) **Height.** Retaining walls must be no more than 18 inches in height above grade.
- (b) **Material.** Retaining walls must be faced in an allowable major facade material.
- (c) **Steep Slopes.** Multiple retaining walls with sloped landscape in between may be used to accommodate taller elevations. Landscape beds may not be sloped greater than 3:1.
- (d) **Design Exception.** Alternative retaining wall designs may be approved through a design exception by the DRB provided the walls are necessary for development of a site.

<sup>2</sup> This would allow natural rock or gravel. Okay?

**535-23B(2) DECKS<sup>3</sup>**

**(a) Yard Location.** Decks may not be located in any primary street yard.

**(b) Non-Primary Street Yards<sup>4</sup>.** In non-primary street yards, the following applies:

- [1] Decks must be located a minimum of 1 foot from any lot line with landscape planting bed between any public streetscape sidewalk and the deck.
- [2] Deck floors may not be located more than 12 inches above any public sidewalk.
- [3] Deck rails must be metal, or a metal frame with wood and no higher than 42 inches.

**(c) Rear or Side Yards.** In rear or side yards, the following applies:

- [1] Decks must be set back a minimum of 3 foot from any lot line.
- [2] Decks may be no higher than 3 feet above the grade of the abutting lot line.

**535-23B(3) PATIOS**

**(a) Definition.** Patios include any hard-surfaced outdoor area, minimum 64 square feet and with minimum dimensions of length and width of at least 6 feet, that is designed for people and not for the storage or access of motor vehicles.

**(b) Street Yards.** Patios may be located in any street yard only when constructed within the following parameters:

- [1] No more than 30% of any street yard may be covered by a patio.
- [2] One entire side of a patio must be adjacent to the principal structure of the lot.
- [3] Street yard patios shall not be located closer than 3 feet to the any lot line abutting a street.
- [4] Patios may not exceed six inches above grade in any street yard.
- [5] All materials must be of high quality, such as cut stone, Lannon or blue stone, or decorative concrete
- [6] The patio surface must be screened from public view by year-round, continuous, natural vegetation

of at least 18 inches in height, such as shrubs, ornamental grasses or perennial plants that provide screening through the winter months. High quality, decorative masonry or concrete walls, and permanent planters, no higher than 3 feet as measured from the surface of the patio, may be used in combination with natural vegetation to achieve year- round screening. No fences shall serve as the primary screening materials.

**(c) Side and Rear Yard.** ~~Patios shall not be located in the minimum side setback or rear setback of the building type.~~ Patios must be set back a minimum of 3 foot from any lot line.

**(d)** ~~A scaled drawing of the proposed layout of the front yard or street side yard patio must be completed, along with a list of proposed materials to be used in construction, all of which shall be submitted to the Design Review Board for review and approval.<sup>5</sup>~~

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<sup>5</sup> Will be handled through site plan review. Proposing that the patio in a commercial -mu district does not require a design exception.

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<sup>3</sup> Commercial decks and patios are moved from 535-9 to consolidate regulations specific to commercial and mixed-use sites. 535-9 will later be rewritten specifically for R districts.

<sup>4</sup> Allow here?

535-23 Landscape & Site Design  
**535-23C Landscape Installation**

**535-23C LANDSCAPE INSTALLATION**

**535-23C(1) INTENT**

The following provisions aid in ensuring that all required landscaping is installed and maintained properly.

**535-23C(2) APPLICABILITY**

These provisions apply to landscape installation required by this section, [535-23](#).

**535-23C(3) GENERAL INSTALLATION REQUIREMENTS**

**(a) Plant Size Requirements.** Plant material must be sized according to [Table 535-23-1](#) unless otherwise noted in this section.

**(b) Condition and Selection of Planting Materials.** The plant materials used must be free from visible signs of disease, infestation, or physical defect at the time of planting. Plant materials must:

- [1] Be appropriate for the conditions of the location, including sun and wind exposure, air quality, salt exposure, soil type, expected moisture content of soil, and slope.
- [2] Not be an invasive or a potentially invasive species.
- [3] Be, wherever possible, native or naturalized to the Shorewood region.

**(c) Compost, Mulch, and Organic Matter.** Compost, mulch, and organic matter must be utilized within the soil mix to reduce the need for fertilizers and increase water retention.

**(d) Maintenance.** All installed plant material must be fully maintained, including watering, mulching, fertilizing, and replacement as necessary per [220-3](#).

**535-23C(4) TREE INSTALLATION**

**(a) Permeable Surface.** For each tree planted, a minimum amount of permeable surface area is required, unless otherwise stated in this code. See [Table 535-23-2](#) for estimated tree canopy sizes at maturity, soil volumes, and permeable area recommended per tree.

- [1] At least 50% of the limits of the mature canopy must be located above a permeable surface.
- [2] Permeable area for one tree cannot count towards that of another tree.

**(b) Suspended Pavement System.** When the required soil surface area of a tree (see [Table 535-23-2](#)) will extend below any pavement, a modular suspended pavement

system (Silva Cells, Root Space, or an approved equivalent), must be used below that pavement to ensure root growth and access to air and water

**Table 535-23-1. Plant Material Size at Installation**

PLANT MATERIAL TYPE	MINIMUM SIZE
Deciduous Shade/Overstory Tree	1.5 in. caliper/ 8 ft. height
Evergreen Tree	8 ft. height
Understory Tree	6 ft. height
Ornamental Tree	1.5 in. caliper
Shrubs - Deciduous	5 gallon container or 18 in. balled & burlapped
Shrubs - Evergreen	5 gallon container or 18 in. balled & burlapped
Groundcover	3 in. height

**Table 535-23-2. Estimated Canopy & Permeable Surface Area by Tree Size**

TREE SIZE	ESTIMATED MATURE CANOPY SIZE	MINIMUM REQUIRED PERMEABLE SURFACE AREA	RECOMMENDED PERMEABLE SURFACE AREA (70% OF CANOPY SIZE)
Small	300 sq. ft.	100 sq. ft. (e.g. 4 ft. x 25 ft.)	210 sq. ft. (e.g. 4 ft. x 52.5 ft.)
Medium	700 sq. ft.	225 sq. ft. (e.g. 4 ft. x 56.25 ft.)	490 sq. ft. (e.g. 5 ft. x 98 ft.)
Large	1,000 sq. ft.	400 sq. ft. (e.g. 4 ft. x 100 ft.)	700 sq. ft. (e.g. 7 ft. x 100 ft.)

## **535-23D STREET YARD LANDSCAPE**

Street yard landscape addresses treatment of the private street yard, the area between any building facade and the lot line abutting the street right-of-way.

### **535-23D(1) INTENT**

To ensure the space between any building and the street is treated as a cohesive landscape design, including planting and paving areas, that enhances the pedestrian experience.

### **535-23D(2) PUBLIC STREETScape**

- (a) Any damage to any existing public streetscape during construction or as a result of any construction on the private lot must be repaired or replaced per [Article V of Chapter 466](#).
- (b) Replacement or revision of any element of public streetscape requires approval of the public works department. The new design must be consistent with the existing public streetscape and coordinated with any street yard landscape design.

### **535-23D(3) MINIMUM STREETScape AREA**

In locations where the minimum streetscape area of [535-21D\(8\)](#) applies, the minimum area located in the street yard must be treated as part of the streetscape, matching the abutting and adjacent public streetscape design.

### **535-23D(4) STREET YARD AREAS**

All areas between the lot line abutting the street right-of-way and the building must be designed as an extension to the existing public streetscape, but may include varying degrees of landscaped and paved areas as follows:

- (a) **Storefront Windows.** Streetscape pavement must extend up to the storefront windows in the build-to zone on any Storefront Building, continuing the pavement design of the Village-installed public streetscape.
- (b) **Maximum Site Coverage.** Landscape areas, decks per [535-23B\(2\)](#), and patios per [535-23B\(3\)](#) may be incorporated into street yards, but the site must not exceed the maximum site coverage area. See building type regulations in [535-21](#).
- (c) **Courtyards.** Courtyards in the street yard are allowed or required as part of the building type. See Primary Streetwall Variation in supplemental regulations of certain building types, [535-21](#).
- (d) **Outdoor Seating Areas.** Outdoor seating or dining areas in the build-to zone are allowed or required as part of the building type. See Primary Streetwall Variation in supplemental regulations of certain building types, [535-21](#).

### **535-23D(5) STREET YARD LANDSCAPE ELEMENTS**

The following applies to landscaped and paved areas in any street yard:

- (a) **Paving.** Additional paving materials may be introduced, provided the design incorporates elements of and coordinates with the public streetscape. For example, expansion or control joints in concrete in the streetscape and street yard must align.
- (b) **Courtyards and Seating Areas.** Courtyards and outdoor seating or dining areas in the supplemental regulations for each building type ([535-21](#)) have specific requirements for furnishings and other amenities. Additionally, one of the following landscape area requirements must be utilized:
  - (1) **Plaza.** Where 60% or more of the area is paved, a minimum of 5% of the area must include landscape planters or pots, tree wells, or in-ground or raised planter beds.
  - (2) **Green.** Where less than 60% of the area is paved, a minimum of 30% of the area must include landscape planters or pots, tree wells, or in-ground or raised planter beds.
- (c) **General Street Yard Planting Bed.** The following applies to any street yard area outside of a courtyard or seating/dining area, per the building type:
  - [1] When any unpaved street yard area is shallower than 6 feet, the entire area must be planting bed per [535-23A\(6\)](#).
  - [2] When any unpaved street yard area is deeper than 6 feet, the unpaved area must include a minimum of 30% planting bed planting bed per [535-23A\(6\)](#).
- (d) **Trees.** Street yard areas must include at least one tree per every 1400 square feet of courtyard area. See [535-21](#) for allowed courtyards in building types. See [village tree list for allowed trees](#).<sup>6</sup>
- (e) **Fences and Walls.** Metal fences or masonry walls may be incorporated into any street yard area to separate distinct seating areas.
  - (1) **Primary Street Yard.** In the primary street yard, fences and walls may not exceed 24 inches in height.

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<sup>6</sup> To be coordinated with DPW.

535-23 Landscape & Site Design  
**535-23E Frontage Buffer**

- (2) **Non-primary Street Yard.** In the non-primary street yard, fences and walls may not exceed 48 inches in height.<sup>7</sup>
- (3) **Fence Materials.** Metal fences must be steel or iron, and have a maximum opacity of 60%.<sup>8</sup>
- (4) **Design Exception.** Other fence or wall designs may be approved by the DRB as a design exception.<sup>9</sup>

**535-23E FRONTAGE BUFFER**

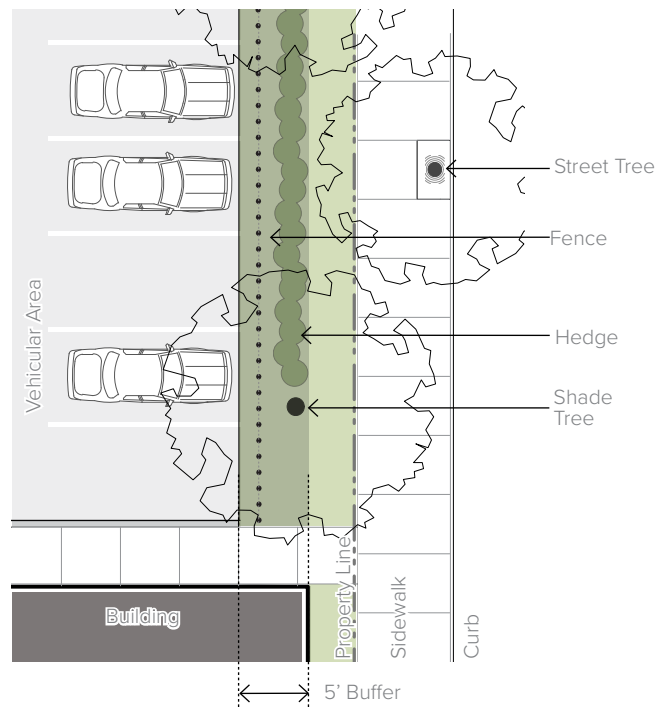
**535-23E(1) INTENT**

To lessen the visual impact of on-site vehicular parking, loading, and other activities from the street.

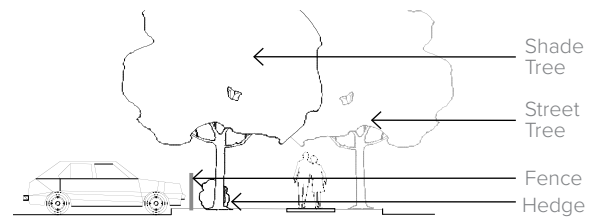
**535-23E(2) APPLICABILITY**

The frontage buffer is required on all lots for all building types in the commercial and mixed-use zoning districts in accordance with the following:

- (a) **Vehicular Areas along Street Frontages.** Along the perimeter of any off-street surface parking, driveway, loading, fuel pump, drive-through, or other vehicular areas fronting a street right-of-way, not including along any alley.



Front Buffer Plan



Front Buffer Section

**Figure 3-A. Frontage Buffer Plan & Section**

7 Height of Fiddleheads fence. Is it aluminum?  
 8 Allow aluminum? Not as big an issue since cars will not be parked next to it.  
 9 Is there a minimum height for fences separating areas that serve alcohol anymore?

**(b) Vehicular Areas along Open Space.** Along the perimeter of any off-street surface parking, driveway, or loading areas abutting any P3 zoning district or other open or civic space.

**535-23E(3) REQUIREMENTS**

Refer to [Figure 3-A](#) for illustration of these requirements.

**(a) Buffer Depth.** The required buffer area must be a minimum 5 feet in depth, measured from the street-facing lot line into the lot.

**(b) Buffer Location.** The required buffer area must extend the width of the vehicular area, but may allow for the perpendicular crossing of driveways.

**(c) Fence.** A continuous fence is required in the frontage buffer as follows:

- (1) Fence Location.** The fence must be located 2 feet from the back of curb or edge of the vehicular area into the buffer and a minimum of 3 feet from the front of the buffer.
- (2) Fence Alignment.** The fence must be either aligned directly with any adjacent buildings or deeper into the lot than the building. In order to align the fence with the building, the buffer may need to be located deeper into the lot to maintain the fence location requirements in (1), above.
- (3) Gate or Opening.** One pedestrian opening, maximum 4 feet in width, is permitted for every 30 feet of fence.

**(4) Fence Materials.** The fence must be black, gray, or dark green aluminum, steel or colored PVC. Masonry columns (maximum 2.5 feet in width) and base (maximum 18” in height) are allowed, but not required.

**(5) Fence Height.** The fence must be a minimum of 3 feet and a maximum of 4 feet in height.

**(6) Fence Opacity.** The fence must be a minimum of 25 percent and a maximum of 60 percent opaque.

**(d) Buffer Landscape.** The following landscape is required within the buffer.

**(1) Shade Trees.** If no street trees exist in the streetscape abutting the buffer area, medium or large shade trees are required at a minimum of 40 feet on center, with at least one shade tree required for each segment of buffer. If street trees exist, any buffer trees provided should alternate spacing with street trees.

**(2) Shrubs.** A single row of shrubs is required on the street side in front of and along the fence.

- [a] The shrubs must have a minimum mature width and height of 24 inches.
- [b] The height of the shrubs must be maintained at no more than 36 inches.
- [c] The shrubs must be spaced no more than 36 inches on center.

**(3) Existing Vegetation.** The **DRB** may credit existing vegetation toward meeting buffer requirements.

**Table 535-23-3. Side & Rear Buffer Required**

BUFFER REQUIRED ON LOTS ZONED:	ABUTTING LOTS ZONED:					
	CX	MX1, MX2	GX1, GX2, GX3	RX	R	P2, P3
CX	-	-		BUFFER	BUFFER	BUFFER
MX1, MX2	-	-		BUFFER	BUFFER	BUFFER
GX1, GX2, GX3	-	-	-	BUFFER	BUFFER	FENCE
RX	-	-	-	-	FENCE	-

See [535-23F\(4\)](#) for activities triggering buffer requirement.



**535-23F SIDE & REAR BUFFERS**

**535-23F(1) INTENT**

To minimize the impact that one zoning district may have on a neighboring district and to provide a transition between districts.

**535-23F(2) APPLICABILITY**

A side and rear buffer is required along the side and rear lot lines of all lots for all building types per this subsection, [535-23F](#).

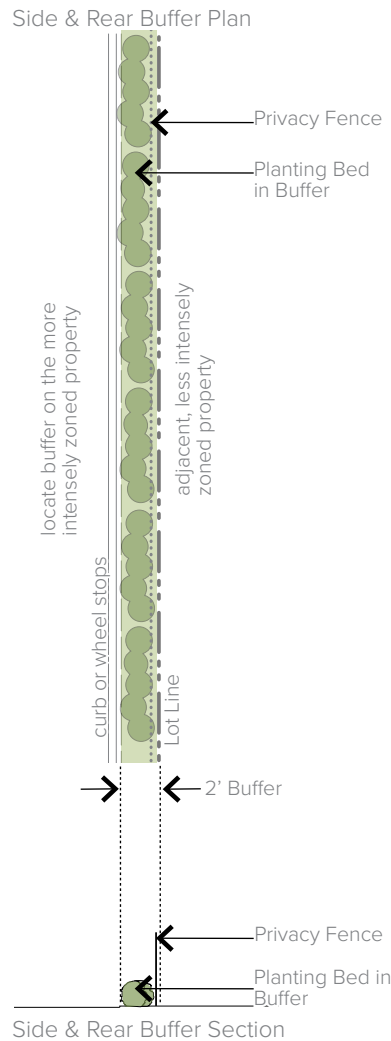
**535-23F(3) EXCEPTIONS**

The buffer width may be reduced in accordance with the following:

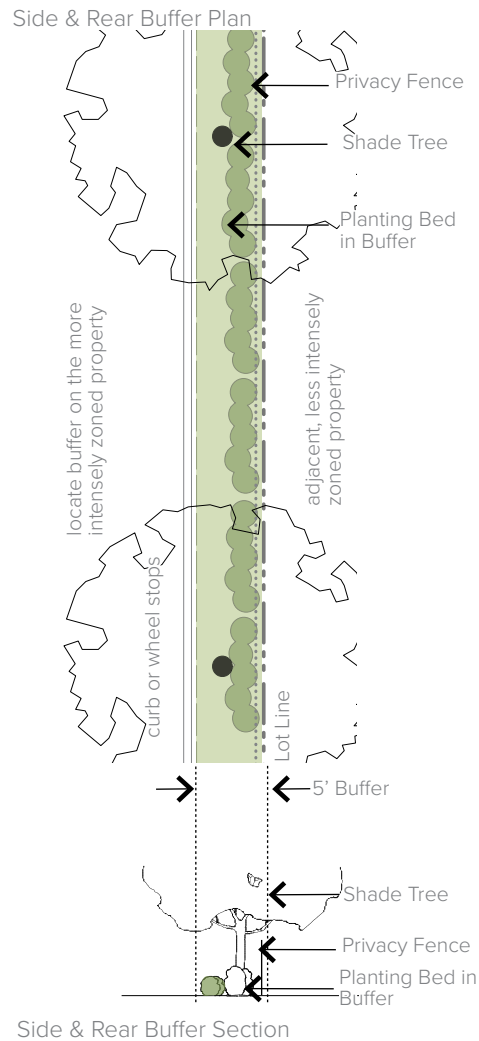
- (a) **Alleys.** Buffers are not required abutting alleys.
- (b) **Existing Landscape.** Where the buffer will interfere with existing mature, healthy landscape, the **DRB** shall determine the extent of the needed buffer.
- (c) **Access Points.** Driveways and other access points may interrupt buffers as necessary.

**535-23F(4) ACTIVITIES REQUIRING BUFFERS**

- (a) Side and rear buffers are required where the following occurs in the rear or side yards of a lot:
  - (1) **Motor Vehicle Areas.** Any vehicular areas, abutting or adjacent to districts designated in [Table 535-23-3](#). Vehicular areas include such areas as parking



**Figure 3-B. Fence Buffer**



**Figure 3-C. Landscape Buffer**

lots or spaces, drives, drive-through uses, fueling stations, truck parking, and structured parking.

- (2) **Loading Areas.** Any loading areas abutting or adjacent to districts designated in [Table 535-23-3](#). Loading areas include such areas as loading bays, loading docks, service bays, garage doors, other outdoor trucking facilities.
- (3) **Service Areas.** Any service areas abutting or adjacent to districts designated in [Table 535-23-3](#). Service areas include such areas as delivery doors, refuse and recycling areas, outdoor employee break areas.
- (4) **Other Areas.** Other outdoor activities emitting sounds, smells, or other by-products, such as outdoor dining, as determined by the plan commission<sup>10</sup>.

#### **535-23F(5) BUFFER LOCATION ON LOT**

Side and rear buffers must be installed in one of the following locations on the lot:

- (a) **Abutting the Lot Line.** Along the lot line of lot requiring the buffer.
- (b) **Abutting the Activity.** The buffer may be located at the edge of the activity being buffered, provided the area between the buffer and the lot line is landscaped and includes at least one tree per every 2,000 square feet.

#### **535-23F(6) FENCE BUFFER**

See [Table 535-23-3](#) where required. See [Figure 3-B](#) for illustration.

- (a) **Buffer Depth.** A minimum 2-foot wide buffer, measured from the lot line onto the subject lot, is required.
- (b) **Privacy Fence.** A 6-foot opaque, privacy fence screening the activity must be located in the buffer adjacent to the lot line.

[1] Allowed materials include PVC, composite wood, FSC wood (cedar, redwood, or other approved by the zoning administrator), stone, or brick. Concrete panels and concrete masonry units are not allowed, except when faced on all sides with brick or stone.

[2] When located abutting an R or RX district front yard, the fence must step down to a 3-foot height within 20 feet of the street right-of-way or the depth of the abutting R or RX district yard, whichever is less.

- (c) **Curbs or Wheel Stops.** A curb or wheel stops must be provided along the buffer edge, minimum 18" from the fence, at any vehicular area to prevent motor vehicles from damaging the fence. Parking may not overhang into the buffer.

- (d) **Landscape.** The buffer area must be landscaped.

#### **535-23F(7) LANDSCAPE BUFFER**

See [Table 535-23-3](#) where required. See [Figure 3-C](#) for illustration.

- (a) **Buffer Depth.** A minimum 5-foot wide landscape buffer, measured from the lot line onto the subject lot, is required.
- (b) **Privacy Fence.** A privacy fence is required. See [535-23F\(6\)\(b\)](#) for fence requirements.
- (c) **Shade Trees.** Medium or large shade trees are required at a minimum of 40 feet on center, with at least one shade tree required for each segment of buffer.
- (d) **Landscape.** The buffer area must be landscaped with a continuous shrub hedge, consisting of a staggered, double row of shrubs with a minimum mature width of 24 inches each, spaced no more than 36 inches on center, and height maintained between 48 and 72 inches.

<sup>10</sup> Need to revisit this -- what triggers the plan commission determining it?

535-23 Landscape & Site Design  
**535-23G Interior Parking Lot Landscape**

**535-23G INTERIOR PARKING LOT LANDSCAPE**

The parking lot interior is the area dedicated to parking on a given parcel from the edge of pavement to edge of pavement, and including any islands or medians. See [Figure 3-D](#) for illustration of these requirements.

**535-23G(1) INTENT**

To provide shading of pavement surfaces to reduce heat island effects and to improve the appearance of parking lots by breaking up the large expanses of pavement with trees and landscaped islands.

**535-23G(2) APPLICABILITY**

All off-street surface parking lots with more than 10 spaces and/or more than one drive aisle must meet the interior parking lot regulations.

- (a) See [535-23E](#) for required perimeter buffer along street frontages and [535-23F](#) for required perimeter buffers at side and rear lot lines.
- (b) When the number of required off-street parking spaces on a lot conflicts with the provision of the required landscape islands, the landscape islands shall be supplied and the number of off-street parking spaces reduced by the least amount possible.

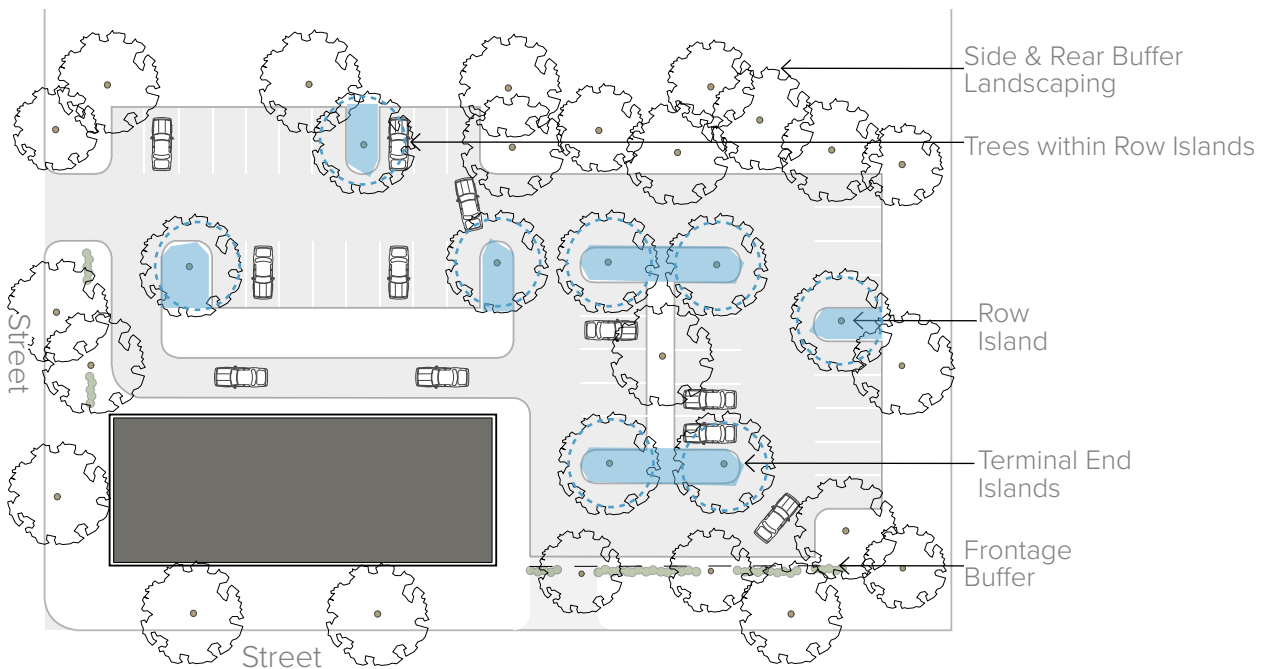
**535-23G(3) REQUIRED LANDSCAPE ISLANDS**

- (a) **Terminal End Islands.** Landscape islands are required at the terminal ends of freestanding rows or bays of parking. Freestanding rows or bays of parking are those not abutting the parking lot perimeter or building face, and may have a single or double row of parking.
- (b) **Row Islands.** For rows of parking with more than 10 spaces, a landscape island is required to result in no more than 10 continuous parking spaces in a row without a landscape island.
- (c) **Island Width.** The minimum width for an island is 5 feet, measured perpendicular to the adjacent parking space, and the depth of the island is equal to the depth of the adjacent parking space.

[1] Islands less than 15 feet in width must utilize a suspended pavement system per [535-23C\(4\)](#) under any paved surface within a tree's critical root zone equal to 50% of the mature canopy diameter.

[2] Islands less than 9 feet in width must install an aeration system and utilize permeable paving within the mature tree canopy area.

- (d) **Minimum Number of Trees.** All of the following must be met for any interior parking lot.



**Figure 3-D. Interior Parking Lot Landscape**

- (1) **Island Trees.** A minimum of 1 medium or large shade tree is required within each island.
- (2) **50-foot Rule.** Each parking space must be located within 50 feet of a tree.
- (3) **Shading Requirement.** At maturity, tree canopies must shade a minimum of 30 percent of the interior of the parking lot. Refer to [Table 535-23-2](#) for mature canopy sizes.

**535-23G(4) LANDSCAPE AREAS**

Areas in the parking lot not specifically designed for use as drive aisles, parking spaces, loading, refuse, or sidewalks must be unpaved, landscape areas. The intent is to reduce pavement area to that which is required for a functioning parking lot.

**535-23H SCREENING OF REFUSE & UTILITY AREAS**

**535-23H(1) INTENT**

To reduce the visibility of open storage, refuse areas, loading, and utility appurtenances from public areas and adjacent properties.

**535-23H(2) APPLICABILITY**

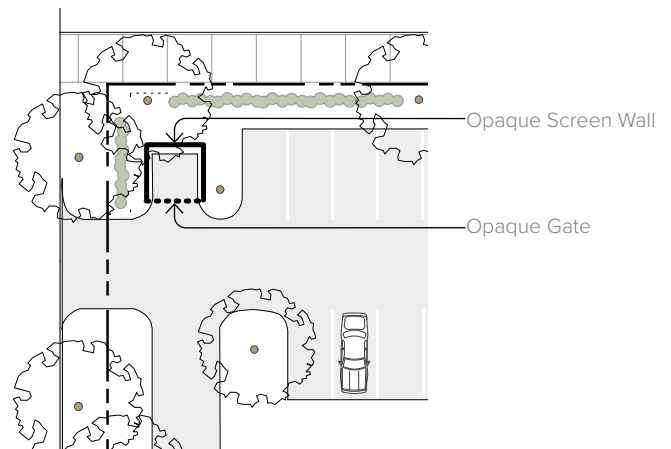
All dumpsters, loading areas, refuse areas, mechanical equipment, and utility appurtenances must be screened as follows.

**535-23H(3) LOCATION**

- (a) **Refuse and Recycling.** See [535-21D\(5\)](#) for building type regulations, including allowed location of refuse and recycling areas.
- (b) **Loading.** See [535-21D\(6\)](#) for building type regulations, for the allowed location of loading areas.
- (c) **Utility Equipment.** See [535-22G](#) for the allowed location of mechanical and utility equipment and appurtenances.

**535-23H(4) LOADING AND REFUSE AREAS**

- (a) **Concrete Pad.** For all loading, refuse and recycling areas, a concrete pad is required.
- (b) **Opaque Screen.** An opaque masonry, wood, or composite wood screen wall is required on at least 3 sides of the loading or refuse area.
- (c) **Screen Height.** The height of the screen wall must be tall enough to screen the use inside, and a minimum



**Figure 3-E. Screening of Refuse Area**

## 535-23 Landscape & Site Design

### 535-23H Screening of Refuse & Utility Areas

of 6 feet. The DRB may request additional height as needed for complete screening.<sup>11</sup>

(d) **Gate.** An opaque gate is required on the 4th side.

#### 535-23H(5) UTILITIES

##### (a) Large Private Mechanical Equipment.<sup>12</sup>

- (1) **Definition.** Large private mechanical equipment includes ground-mounted equipment at least 4 feet in height.
- (2) **Fence or Wall.** An opaque wood fence or brick-faced masonry screen wall is required on all sides facing street right-of-way.
- (3) **Shade Trees.** Medium or large shade trees are required at a minimum of 40 feet on center, with at least one shade tree required for each segment of buffer.<sup>13</sup>
- (4) **Shrubs.** Planting beds consisting of a double row of mixed shrubs with a minimum mature width of 24 inches each, spaced no more than 36 inches on center, and height maintained between 30 and 72 inches.

##### (b) Small Private Mechanical Equipment.

- (1) **Definition.** Small private mechanical equipment includes ground-mounted equipment less than 4 feet in height.
- (2) **Screening.** Landscape screening with shrubs is required as follows:
  - [a] Shrubs must be spaced no more than 30" on center, fully screening the equipment within within 2 years.
  - [b] Shrubs must be incorporated into a larger landscape bed and design.

<sup>11</sup> What is the trigger for DRB to request additional height? Site plan review?

<sup>12</sup> Not sure this would occur anywhere in the commercial-mixed-use zones?

<sup>13</sup> Purpose of the trees to avoid a fence and shrubs surrounding it sitting in the landscape without any context. Too much?

## 535-23I COMMERCIAL OUTDOOR LIGHTING<sup>1</sup>

[Added 2-16-2016 by Ord. No. 2060]

#### 535-23I(1) PURPOSE AND INTENT

The purpose of this subsection is to provide for adequate and safe lighting and limit light spillover and glare onto adjacent properties and public streets.

#### 535-23I(2) APPLICABILITY

Except as set forth in this subsection, all outdoor lighting installed or any interior lighting fixture that projects light outside the structure in the commercial and mixed-use districts after the effective date of this subsection shall comply with the requirements of this subsection.

#### 535-23I(3) PERMITS AND APPROVAL PROCESS

- (a) Installation or modification of any outdoor light fixture in commercial and mixed-use districts shall require an electrical permit.
- (b) On all developments or projects requiring site plan approval, all exterior light fixtures shall be depicted and described on said site plan, required prior to development of a property or project, or on a separate lighting plan submitted with the site plan.
- (c) A photometric plot plan, indicating the location of all lighting fixtures proposed, mounting and/or installation height in feet, and overall illumination levels (in footcandles) all around the site and at property lines.
- (d) The Design Review Board must review and approve all lighting plans.

#### 535-23I(4) GENERAL REQUIREMENTS.

- (a) Light fixtures shall be selected with care to ensure that they are appropriately scaled in relation to their setting and to ensure that they are of a style that is compatible with the character of their immediate environment.
- (b) Luminaires shall be aimed, shielded, or relocated so as to minimize glare. All light fixtures shall be located, aimed or shielded so as to eliminate stray light trespassing across property boundaries.
- (c) All luminaires mounted or recessed into the lower surface of service station canopies shall be shielded and utilize flat lenses.
- (d) The maximum allowable light spillover to an adjacent property shall be 2 average footcandles, measured across three photometric points.

<sup>1</sup> Current regulations verbatim, reformatted.

535-23 Landscape & Site Design  
**535-23H Commercial Outdoor Lighting**

- (e) Illumination of uses shall be in accordance with Illuminating Engineering Society of North America (IES) standards.

**535-23I(5) LIGHT COLOR**

Correlated color temperature of any outdoor light source shall not exceed 4,000 Kelvins within the commercial and mixed-use districts unless the light fixture is fully shielded, preventing glare.

**535-23I(6) EXTERIOR LIGHTING (ALTERNATIVE SYSTEM)<sup>1</sup>**

Site, building, and canopy-mounted lighting is intended to enhance safety and provide light levels appropriate with minimal glare, light trespass and excess site brightness. Lighting shall not be a nuisance or a hazard and shall be designed to reduce bird injury and mortality from in-flight collisions with buildings.

- (a) **Canopy-Mounted Fixtures.** Light fixtures mounted under fueling station or other canopies shall be completely recessed into the canopy with flat lenses that are translucent and completely flush with the bottom surface (ceiling) of the canopy.

[1] Lights shall not be mounted on the top or sides (fascias) of the canopy.

[2] Internally illuminated/entirely translucent canopies are prohibited, except accent lighting on the sides (fascias) of the canopy may be provided.

- (b) **Maximum Lighting.** Table 535-23-4 shows the maximum lumens per site and the maximum backlight, uplighting, and glare (BUG) ratings for luminaires by lighting zone, using the lighting zone designations from the Illuminating Engineering Society of North America (IESNA) recommended practices.

- (c) **Light Orientation.** Luminaires must be mounted with its backlight perpendicular to any lot line located within the mounting height distance of the lot line and facing into the lot.

<sup>1</sup> This is a more detailed approach to lighting regs taken from a model lighting ordinance prepared by the International Dark Sky Association and IESNA. <https://www.darksky.org/our-work/lighting/public-policy/mlo/>  
 Should this updated method of review be substituted? or is the current system working.  
 BUG ratings are supposedly pretty standard, though I do not find them on any Home Depot or Build.com outdoor lights.

- (d) **Automatic Shut-Off.<sup>2</sup>** Exterior building fixtures that are not necessary for safety, building entrances, and circulation shall be automatically shut off from midnight until 6 a.m. Manual override capability may be provided for occasional after-hours use.

- (e) **Additional Lighting.** Additional exterior lighting for a site may be approved by the DRB, using the lighting zone designations from the Illuminating Engineering Society of North America (IESNA) recommended practices.

**Table 535-23-4. Maximum Lighting by Zone**

LOCATION	COMMERCIAL & MIXED-USE ZONING DISTRICTS (LIGHTING ZONE 2)
Maximum lumens allowed per square feet of hardscape area	2.5
<b>MAXIMUM BACKLIGHT RATING</b>	
>2 mounting heights from lot line	B4
1 to <2 mounting heights from lot line	B3
0.5 to <1 mounting heights from lot line	B2
>0.5 mounting heights from lot line	B0
<b>MAXIMUM UPLIGHT RATING</b>	
Maximum Uplight Rating	U2
Allowed light emission above 90 degrees for area lighting	0%
Maximum Glare Rating	G1

<sup>2</sup> This is new bird-friendly regs that should be added.

## 535-23 Landscape & Site Design

### 535-23J River Shorelands

#### 535-23J RIVER SHORELANDS<sup>12</sup>

##### 535-23J(1) FINDINGS OF FACT

Uncontrolled use of the shorelands and pollution of the navigable waters in the village would adversely affect the public health, safety, convenience, and general welfare and impair the tax base.

##### 535-23J(2) PURPOSE

For the purpose of promoting the public health, safety, convenience and welfare, this subsection, [535-23J](#), has been established to:

(a) Further the maintenance of safe and healthful conditions and prevent and control water pollution through:

- [1] Limiting structures to those areas where soil and geological conditions will provide a safe foundation.
- [2] Controlling filling and grading to prevent serious soil erosion problems.

(b) Protect spawning grounds, fish and aquatic life through:

- [1] Preserving wetlands and other fish and aquatic habitat.
- [2] Regulating pollution sources.
- [3] Controlling shoreline alterations.
- [4] Reducing effluent and controlling nutrients.

(c) Control placement of structures and activities through:

- [1] Prohibiting certain activities detrimental to the shoreland area.
- [2] Regulating building setbacks from the river.

(d) Preserve shore cover and natural beauty through:

- [1] Restricting the removal of natural shoreland cover.
- [2] Preventing shoreline encroachment by structures.
- [3] Controlling shoreland excavation and other earthmoving activities.

##### 535-23J(3) AREAS TO BE REGULATED.

(a) Areas regulated by this subsection, [535-23J](#), shall include all the lands (referred to herein as "shorelands") in the village which are located within the described boundaries:

<sup>1</sup> [Added 10-23-2006 by Ord. No. 1917]

<sup>2</sup> This is an existing section moved from 535-9H with the goal of 535-9 being clearly defined as applying to residential districts.

[1] South of Capitol Drive. The Milwaukee County Park System Trail to the east, East Capitol Drive to the north, the ordinary high-water mark of Milwaukee River to the west, and Village limits to the south.

[2] North of Capitol Drive. Estabrook Parkway Road, Village limits to the north, the ordinary high-water mark of Milwaukee River to the west, and East Capitol Drive to the south.

- (b) The area regulated by this subsection, [535-23J](#), generally described herein, is shown on a map dated October 1, 2006, that is maintained and available for inspection at the Village Hall. This map shall be known as the "Shoreland Zoning Map." "Ordinary high-water mark" means the point on the bank or shore up to which the presence and action of surface water are so continuous as to leave a distinctive mark, such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.

##### 535-23J(4) COMPLIANCE

The use of any land or water, the size, shape and placement of lots, the use, size, type and location of structures on lots, the installation and maintenance of water supply and waste disposal facilities, the filling, grading, or dredging of any lands, the cutting of shoreland vegetation, and the subdivision of lots shall be in full compliance with the terms of this subsection, [535-23J](#), and other applicable local, state or federal regulations. Buildings, signs and other structures shall require a permit unless otherwise expressly excluded by a provision of this subsection, [535-23J](#). Property owners and their agents or lessees, including builders and contractors, are responsible for compliance with the terms of this subsection, [535-23J](#).

##### 535-23J(5) PERMIT.

- (a) Persons and entities seeking a permit under this subsection, [535-23J](#), shall submit an application on a form provided and with the information and certifications as described in this subsection, [535-23J](#).
- (b) The applicant shall reimburse the Village for all of the Village's costs and expenses, including professional and attorney fees, as may be incurred in reviewing the application.
- (c) If the permit application is disapproved, the Village shall detail in writing all deficiencies or reasons for disapproval.

##### 535-23J(6) INTERPRETATION

In their interpretation and application, the provisions of this subsection, [535-23J](#), shall be held to be minimum

requirements and shall be liberally construed in favor of the Village of Shorewood and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin Statutes.

**535-23J(7) CERTIFICATION BY A PROFESSIONAL ENGINEER**

Within the area regulated by this subsection, [535-23J](#), a registered professional engineer hired by the owner of the lot shall certify to the Village that any grading or earthmoving, construction of footings, buildings or structures, the methods of construction and the materials used therein are adequate from an engineering standpoint so as not to:

- (a) Adversely affect the slope stability of the bluff;
- (b) Increase the runoff of water on the surface of the bluff;
- (c) Create or add to a problem of erosion on the shoreland or bluff; or
- (d) Adversely affect the structural integrity of any structure located on adjoining or adjacent lots.

**535-23J(8) SETBACKS**

(a) All setbacks are measured on a horizontal plane from the roof overhang and any cantilevered portions of the structure at the point of the structure that is nearest to the ordinary high-water mark or bluffline. Except as may be allowed under [535-23J\(8\)\(c\)](#) and (d), all buildings and structures shall be set back the greater of:

- [1] Twenty feet measured horizontally to the east from the bluffline;
  - [2] Seventy-five feet as measured horizontally from the ordinary high-water mark; or
  - [3] Such distance as to not adversely impact the stability of the bluff slope; sufficient distance from the bluff area as to prevent injury or damage to adjacent property; and sufficient distance from the bluff area to provide for the natural runoff of surface water or provide for an approved drainage according to applicable law.
- (b) The bluffline is defined as the line along the top of the bluff where the slope riverward is 12% or more as measured horizontally for a distance of not more than 50 feet or less than 25 feet. Portions of the bluffline defined herein have been surveyed and marked on the Shoreland Zoning Map dated October 1, 2006.
- (c) Conditional use permit application. Property owners and their agents and lessees, including builders and contractors, must apply for and obtain a conditional use permit under the procedures established in Article V

of this chapter before commencing activities within the area between the river ordinary high-water mark and the setbacks described within subsection, [535-23J\(8\)\(a\)](#), including:

- [1] Filling, excavation, alteration or modification of the land or modification to grade.
  - [2] Removal of vegetation as described in [535-23J\(9\)](#) and [535-23J\(11\)](#).
  - [3] Temporary access uses when these described areas may be affected by construction or other activities in the adjacent area.
  - [4] Construction of any building or structures.
- (d) Conditional use permit consideration. In considering an application for conditional use permit, the Plan Commission shall follow the process for review and approval established in [535-28](#), taking into account the purposes of this subsection, [535-23J](#), as described in [535-23J\(2\)](#) and those standards contained in [535-28](#) as may be applicable.

**535-23J(9) SHORELINE CUTTING**

Tree and shrubbery cutting is prohibited without a conditional use permit in the area bound by the ordinary high-water mark of the Milwaukee River and the bluffline described within [535-23J\(8\)\(b\)](#) or, in those portions where there is no bluffline, in the area 75 feet inward from the ordinary high-water mark.

- (a) The cutting of dead, diseased, or dying trees or shrubbery shall be subject to Village approval.
- (b) Natural shrubbery shall be preserved as far as practicable and, where removed, it shall be replaced with other native vegetation that is equally effective in minimizing runoff, preventing erosion and preserving natural beauty.
- (c) The removal of vegetation requires an application for a conditional use permit where the following information shall be provided:
  - [1] Existing vegetation with a tree inventory of all trees larger than four-inch diameter at breast height;
  - [2] Identification of any species on the Wisconsin Department of Natural Resources' Natural Heritage Inventory Working List;
  - [3] Proposed cutting and vegetation removal; and
  - [4] Proposed maintenance, landscaping and replanting plan.



## 535-23 Landscape & Site Design

### 535-23J River Shorelands

#### **535-23J(10) SHORELINE GRADING**

Any grading, excavation or filling in the area bound by the ordinary high-water mark of the Milwaukee River and the setbacks described within [535-23J\(8\)\(a\)](#) is prohibited without a conditional use permit.

#### **535-23J(11) GRADING INLAND OF THE BLUFFLINE**

Any grading within the area regulated by this subsection, [535-23J](#), but inland of the bluffline described within [535-23J\(8\)\(b\)](#) shall require a permit and approval. In addition to the requirements of Chapter 250, Article I, Construction Site Erosion Control, of the Village Code the following conditions shall be met:

- (a) The smallest amount of bare ground shall be exposed for as short a time as feasible.
- (b) Temporary ground cover (such as mulch or jute netting) shall be used and permanent vegetative cover shall be established.
- (c) Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods shall be used to prevent erosion.
- (d) Bare ground shall be stabilized according to accepted engineering standards.
- (e) Grading shall comply with the County Floodplain Zoning Ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain.<sup>3</sup>
- (f) Grading shall comply with state and federal regulations pertaining to adverse impacts on wetlands.

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<sup>3</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

# MODULE 3

Note: This module includes revisions to existing sections of the code. Pages are numbered sequentially, 1 to 12, to avoid multiple numbering systems.

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## **ARTICLE VI. PROCEDURES<sup>1</sup>**

### **535-31. REVIEW PROCEDURES**

#### **535-31A DESIGN REVIEW<sup>2</sup>**

##### **535-31A(1) PURPOSE<sup>3</sup> & INTENT**

The design review procedures of this section are intended to ensure timely, competent review of building designs and site improvements by the Design Review Board. The design review process is intended to promote the public health, safety, convenience, prosperity, comfort, and general welfare of the citizens of the Village and to strike a reasonable balance between the desire of the property owner to choose the design of proposed buildings and site improvements and the continuing interest of the Village in:

~~Protecting the general appearance of buildings, structures, landscaping, and open areas;~~

~~Encouraging and promoting acceptability attractiveness and compatibility of new buildings, development, remodeling and additions so as to maintain established standards and property values.~~

- (a) Promoting high-quality, durable, well-designed, well-constructed, and attractive buildings, structures, landscaping, and open space areas to maintain and enhance established Village standards and property values;
- (b) Protecting the walkable, human scale of the village as a whole, including its architecture and land use, with an accompanying recognition that the village is characterized by a substantial amount of pedestrian and bicycle traffic;
- (c) Supporting a diversity of architectural styles, which are, at the same time, compatible with their surroundings;
- (d) Ensuring adequate light, air, and privacy for village residents; and
- (e) Complying with applicable building design regulations of this zoning ordinance.

1 Moving the 2 items in the previous "Modifications" article to Article III, section 535-10 (formerly Uses).

2 This is a new proposed section of the zoning ordinance outlining the procedures for review and approval by the Design Review Board. It is based in part on provisions now found in 225-12 of the village code.

3 Purpose statement moved from 225-12B combined with design criteria pulled from 225-12H.

##### **535-31A(2) APPLICABILITY<sup>4</sup>**

Except as expressly exempted in accordance with [535-31A\(3\)](#), the design review procedures of this section shall apply to all:

- (a) New building construction, building additions, and exterior building modifications that require a permit;
- (b) Installation, placement, or modification of any structure or sign (per [445-20A](#)) that requires a permit;
- (c) Outdoor lighting in MX, CX, GX, or RX districts;
- (d) Circular driveways in R districts per [535-9F\(4\)](#);
- (e) Other activities expressly requiring review and approval by the Design Review Board under the terms of this zoning ordinance, such as land management plans per [220-3](#); and
- (f) Other matters pertaining to planning, zoning, building or design that are referred to the Design Review Board for findings and determination.

~~Findings and determination regarding sign proposals shall be in accordance with § 445-20A of the Village Code.<sup>5</sup>~~

~~Findings and determination regarding land management plans shall be in accordance with § 220-3 of the Village Code.~~

~~Circular driveways shall be subject to the review and approval of the Design Review Board in accordance with § 535-9F(4) of the Village Code.~~

##### **535-31A(3) EXEMPTIONS<sup>6</sup>**

The following structures and site improvements are expressly exempt from the design review procedures of this section when located in R, PDD, or P zoning districts:

- (a) Concrete walks, patios, and slabs, when located within rear yards of residences.
- (b) Parking slabs on alley frontages;
- (c) Grade- or first floor-level decks within rear yards of residences; and
- (d) Structural landscape features located within rear yard areas that are not visible from public rights-of-way.

4 Moved from 225-12E(1)

5 The references from (g), (h), and (i) were moved up to each item in the list above.

6 Exemptions moved from § 225-12.E(1)(a).

**535-31A(4) APPLICATIONS**

Design review applications shall be submitted to the Zoning Administrator on forms furnished by the Planning and Development Department. Applications shall include at least the following information, as applicable:

- (a) Names and addresses of the applicant, owner of the site, architect, professional engineer, and contractor;
- (b) Address of the subject property; type of structure; description of proposed improvements, and proposed use;
- (c) Building **site plans**, drawn to scale, showing all proposed buildings, building additions, structures, **signs**, and site improvements. Building designs including **floor plans**, roof plans, and **building elevations**, as required to illustrate the building meets all regulations. Site design plans and details including **landscaping (including trees to be removed and retained)** and off-street parking areas;
- (d) A description of exterior building and structure materials, including color and texture;
- (e) The required review fee, as specified in the Village Fee Schedule<sup>7</sup>; and
- (f) Any additional information required by the Zoning Administrator or Design Review Board to determine whether the proposed activity complies with all applicable provisions of this zoning ordinance and the Village Code.

**535-31A(5) REVIEW AND DECISION-MAKING AUTHORITY**

The Design Review Board is authorized to review and take final action on all design review applications, unless otherwise specified.

**535-31A(6) REVIEW PROCESS**

See Figure 535-31-A for an illustration of the review processes.

- (a) **Zoning Administrator Review.** Following receipt of a complete application, the Zoning Administrator, or their designee, shall review the building design and/or site plan to determine whether the proposal complies with applicable provisions of this zoning ordinance.
- (b) **Meetings.** The Design Review Board shall conduct the following meetings:

---

<sup>7</sup> May be appropriate to consider a tiered fee structure for different types of review applications.

- [1] **New Commercial or Multi-Unit Residential Buildings.** At least 2 meetings are required on all design review applications that involve the construction of a new commercial or mixed-use building or a residential building occupied by more than 4 dwelling units.
- [2] **Other.** All other design review applications may be acted upon after a single meeting.

(c) **Notice.** Notice of the Design Review Board's consideration of any design review application involving the construction of a new building or construction of a building addition of 200 square feet or more shall be provided to all property owners within ~~100 feet~~ 250 feet of the subject property at least 7 days before the first Design Review Board meeting at which the design review application will be considered.

(d) **Board Process.** The Design Review Board shall hear all interested parties and shall consider all data relevant to the application prior to making its findings and determination.

- [1] Where appropriate, the Design Review Board may make site inspections to better familiarize itself with the proposal.
- [2] The Design Review Board may adjourn to closed session, at its discretion, to deliberate after all presentations have been made and the public has been heard.

(e) **Board Action.** After conducting the required meeting(s), the Design Review Board shall act to approve, approve with modifications or conditions, or reject the proposed building design and/or site plan. In taking action, the Design Review Board may recommend modifications or conditions that, in its judgment, will help the project comply with applicable regulations and ensure consistency with the purposes of subsection [535-31A\(1\)](#).

- [1] **Approval.**<sup>8</sup> In order for the Design Review Board to approve an application, it shall find and determine that the applicant's proposal complies with all applicable regulations, is consistent the purposes of subsection [535-31A\(1\)](#), and will not contribute to substantial depreciation in the value of the applicant's property or neighboring properties.
- [2] **Modifications or Conditions.** If building design and/or site plans are approved subject to specific modifications or conditions, the applicant shall revise the building design and/or site plan

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<sup>8</sup> From Findings and Determination 225.121

## DESIGN REVIEW PROCESS

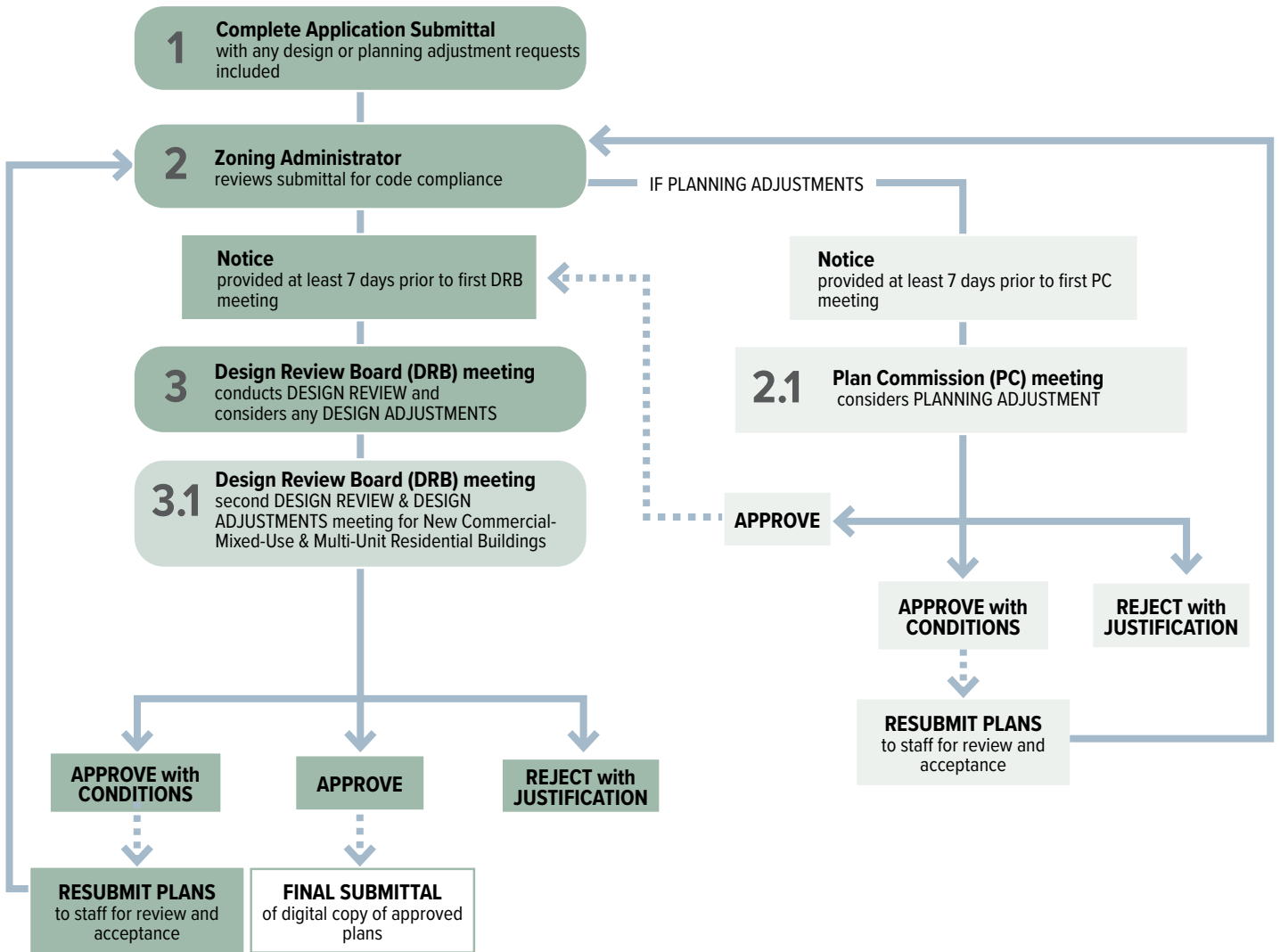


Figure 535-21-A. Design Review Process

in accordance with those modifications and conditions and submit the revised plan(s) to the Zoning Administrator, or their designee. The Zoning Administrator (or designee) is authorized to determine whether the plan(s) comply with modifications or conditions imposed by the Design Review Board.

[3] **Rejection.** If the Design Review Board acts to reject the proposed plans, the minutes of the Design Review Board's meeting shall include a statement of justification.

(f) **Written Findings.** The Board shall file its written findings and determination pursuant to a majority vote of all Board members present as soon as is practicable.

[1] The written findings and determination shall be signed by the Chair and filed with ~~and be binding upon the Building Inspector and the Planning and Development Department.~~

[2] A copy of the written findings shall be provided to the applicant or appellant.

(g) **Approved Plan Submittal.** Once a building design and/or site plan is approved, the applicant shall submit a dated digital copy of the approved plan(s) to the Planning and Development Department.

[1] A copy of all approved building design and site plans shall be retained in the permanent files of the Village, and the approved plans shall then govern the issuance of building permits and other required approvals in accordance with this zoning ordinance.

#### **535-31A(7) REVIEW AND APPROVAL CRITERIA**

(a) In making its findings and determination concerning each proposed project, the Design Review Board shall give substantial weight to the intent of the Village that the decisions of the Design Review Board perpetuate and further the character of Shorewood, fulfilling the purpose and intent statements for this procedure in [535-31A\(1\)](#) and the zoning regulations.

(b) The Design Review Board may adopt and amend, from time to time, as appropriate and consistent with the contents of this section, written design guidelines and design review procedures.

#### **535-31A(8) EFFECTIVE DATE OF DESIGN REVIEW APPROVAL**

A building design and/or site plan approved under the design review procedures of this section becomes effective upon approval.

#### **535-31A(9) LAPSE OF DESIGN REVIEW APPROVAL**

A building design and/or site plan approved under the design review procedures of this section shall lapse and have no further effect one year after it is approved, unless:

- (a) A building permit has been issued (if required);
- (b) The use or structure has been lawfully established; or
- (c) A different lapse of approval period or point of expiration has been expressly established by the Design Review Board at the time of design review approval.

#### **535-31A(10) MODIFICATION TO APPROVED DESIGN**

(a) Minor modifications to approved design review applications may be reviewed and approved by the Zoning Administrator, provided the modifications do not substantially affect any aspect of the approved design, such as the building footprint and location, facade design, site layout, or parking layout and location, and the application continues to comply with applicable regulations and is consistent with the purposes of subsection [535-31A\(1\)](#).

(b) The Zoning Administrator may request a review and approval of the Design Review Board for a minor modification.

(c) Major modifications that substantially affect aspects of the design, such as the building footprint and location, facade design, site layout, or parking layout and location, must be reviewed and reapproved by the Design Review Board as a revised design review application.

#### **535-31A(11) PERMITS AND CONTINUING COMPLIANCE**

(a) No permit may be issued for any development or construction subject to the design review procedures of this section until a design review application has been submitted and approved for such development in accordance with this section.

(b) No permanent certificate of occupancy may be issued for such development or construction until all terms and conditions of the approved building design and/or site plan have been satisfactorily completed or provided for.

(c) Construction, grading, or other development activities may be carried out only in compliance with the approved plan(s).

(d) When a building design and/or site plan has been approved for a property pursuant to this section, the property shall be used and maintained in compliance with the approved plan(s).

## 535-32A. Design Adjustments

### 535-31A(12) APPEALS OF DESIGN REVIEW BOARD DECISIONS

Any person aggrieved by a final decision of the Design Review Board may appeal the decision to the Board of Appeals in accordance with 535-56. An application, including written notice of and basis for the appeal, shall be filed with the Village Clerk within 30 days of the date of the action from which the appeal is sought. The fee for appealing in each case shall be as provided by the Village Fee Schedule.

## 535-32. ADJUSTMENTS

### 535-32A DESIGN ADJUSTMENTS<sup>9</sup>

#### 535-32A(1) PURPOSE

The design adjustment procedures of this section provide a mechanism by which certain expressly identified regulations in the zoning ordinance may be modified by the Design Review Board.

#### 535-32A(2) APPLICABILITY

The Design Review Board is authorized to review and approve design adjustments expressly authorized in this zoning ordinance as a "design adjustment."

#### 535-32A(3) BURDEN OF PROOF OR PERSUASION

The burden is on the applicant to demonstrate that the requested design adjustment meets the criteria for approval.

#### 535-32A(4) APPLICATIONS

Design adjustment applications shall be submitted to the Zoning Administrator on forms furnished by the Planning and Development Department in conjunction with a Design Review application. Applications shall include at least the following information, as applicable:

- (a) Applications for design adjustments shall be accompanied by the required fee established in the Village Fee Schedule.
- (b) The application shall include a written statement describing why the design adjustment is necessary and an explanation of all efforts that will be taken to mitigate any adverse impacts resulting from approval of the design adjustment.
- (c) Any additional information required by the Zoning Administrator or Design Review Board to enable competent review of the requested design adjustment.

#### 535-32A(5) APPROVAL CRITERIA

The design adjustment provisions of this section are intended to authorize the granting of relief from strict compliance with certain design-related regulations in the following instances:

- (a) When specific building or site features or characteristics of the subject property, including the presence of existing buildings, create conditions that make strict compliance with applicable regulations impractical or undesirable; or

<sup>9</sup> This is a new proposed section of the zoning ordinance authorizing the Design Review Board to approve "adjustments" (formerly called "exceptions") to specified design-related provisions.

- (b) When an alternative design would result in equal or better implementation of the regulation's intended purpose, the purpose and intent of the Design Review procedure, and consistency with the Comprehensive Plan.

**535-32A(6) REVIEW PROCESS**

Requested design adjustments shall be processed concurrently with a design review application (see [535-31A](#)).

- (a) **Zoning Administrator Review.** Following receipt of a complete application, the Zoning Administrator, or their designee, shall review the design adjustment application.
- (b) **Meetings.** The design adjustment review must be considered concurrently with the design review process, conducting the number of meetings required per [535-31A\(6\)](#).
- (c) **Notice.** The design review notice required per [535-31A\(6\)](#) must also include notification of any design adjustments.
- (d) **Process.** The process the Design Review Board shall include consideration of the design adjustment.
- (e) **Action.** After conducting the required meeting(s), the Design Review Board shall act to approve, approve with modifications or conditions, or reject the proposed design adjustment per the design review process in [535-31A\(6\)](#).
- (f) **Written Findings.** The Board shall include its findings and determination of the design adjustment in its findings for the design review.

**535-32B PLANNING ADJUSTMENTS<sup>10</sup>**

**535-32B(1) PURPOSE**

The planning adjustment procedures of this section provide a mechanism by which certain expressly identified regulations in the zoning ordinance may be modified by the Plan Commission.

**535-32B(2) APPLICABILITY**

The Plan Commission is authorized to review and approve planning adjustments per the following:

- (a) Decrease any minimum and increase any maximum building siting or parking and accessory structure regulation in the commercial and mixed-use zones building types (535-21) by 10% or one foot, whichever is greater.
- (b) Increase any floor-to-floor story heights in the height regulations that apply to the commercial and mixed-use zones building types (535-21) by one foot;
- (c) Any other provision of this zoning ordinance that expressly authorizes a "planning adjustment."

**535-32B(3) BURDEN OF PROOF OR PERSUASION**

The burden is on the applicant to demonstrate that the requested design adjustment meets the criteria for approval.

**535-32B(4) APPLICATIONS**

Planning adjustment applications shall be submitted to the Zoning Administrator on forms furnished by the Planning and Development Department. Applications shall include at least the following information, as applicable:

- (a) Names and addresses of the applicant, owner of the site, architect, professional engineer, and contractor;
- (b) Address of the subject property; type of structure; description of proposed improvements, and proposed use;
- (c) A site plan, drawn to scale, showing all proposed buildings, building additions, structures, signs, and site improvements, including landscaping (including trees to be removed and retained), and off-street parking areas;
- (d) A written statement describing why the planning adjustment is necessary and an explanation of all efforts that will be taken to mitigate any adverse impacts resulting from approval of the planning adjustment;

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<sup>10</sup> This is a new proposed section of the zoning ordinance authorizing the Plan Commission to approve adjustments to specified design-related provisions.



## 535-32 Adjustments

### 535-32B. Planning Adjustments

- (e) The required review fee, as specified in the Village Fee Schedule; and
- (f) Any additional information required by the Zoning Administrator or Plan Commission to enable competent review of the requested planning adjustment.

#### 535-32B(5) APPROVAL CRITERIA

The planning adjustment provisions of this section are intended to authorize the granting of relief from strict compliance with certain regulations as defined in [535-32B\(2\)](#), based upon the following criteria:

- (a) When those specific building or site features or characteristics of the subject property, including the presence of existing buildings, create conditions that make strict compliance with applicable regulations impractical or undesirable; or
- (b) When relief defined would result in equal or better implementation of the regulation's intended purpose and consistency with the Comprehensive Plan.

#### 535-32B(6) REVIEW PROCESS

Requested planning adjustments must be submitted with the design review application (see [535-31A](#)).

- (a) **Design Review Process.** Notification and commencement of the Design Review Board's review of a design review application shall not occur until any requested planning adjustment has been reviewed by the Plan Commission.
- (b) **Zoning Administrator Review.** Following receipt of a complete application, the Zoning Administrator, or their designee, shall review the planning adjustment.
- (c) **Meetings.** The Plan Commission shall conduct a meeting on all planning adjustment applications.
- (d) **Notice.** Notice of the Plan Commission's consideration of any planning adjustment application involving the construction of a new building or construction of a building addition of 200 square feet or more shall be provided to all property owners and tenants within 250 feet of the subject property at least 7 days before the Plan Commission meeting at which the planning adjustment application will be considered.
- (e) **Process.** The Plan Commission shall hear all interested parties and shall consider all data relevant to the application prior to making its findings and determination.

- [1] Where appropriate, the Plan Commission may make site inspections to better familiarize itself with the proposal.
- [2] The Plan Commission may adjourn to closed session, at its discretion, to deliberate after all presentations have been made and the public has been heard.

- (f) **Action.** After conducting the required meeting, the Plan Commission shall act to approve, approve with modifications or conditions, or reject the requested planning adjustment. In taking action, the Plan Commission may recommend conditions or modifications that, in its judgment, will help the project comply with applicable regulations and avoid adverse land use impacts on the nearby properties.

- [1] **Approval.** If the planning adjustment is approved by the Plan Commission, the written findings must be forwarded to the Zoning Administrator for inclusion in the Design Review application for the project.

- [2] **Modifications or Conditions.** If the planning adjustment is approved subject to specific modifications or conditions, the applicant shall revise the plan(s) in accordance with those modifications and conditions and submit the revised plan(s) to the Zoning Administrator, or their designee. The Zoning Administrator (or designee) is authorized to determine whether the plan(s) comply with modifications or conditions imposed by the Plan Commission.

- [3] **Rejection.** If the Plan Commission rejects the planning adjustment, the minutes of the Plan Commission's meeting shall include a statement of justification.

- (g) **Written Findings.** The Plan Commission shall file its written findings and determination pursuant to a majority vote of all Board members present as soon as is practicable.

- [1] The written findings and determination shall be signed by the Chair and filed with the Planning and Development Department.

- [2] A copy of the written findings shall be provided to the applicant or appellant.

#### 535-32B(7) EFFECTIVE DATE OF PLANNING ADJUSTMENT APPROVAL

A planning adjustment approved under the planning adjustment procedures of this section becomes effective upon approval of the design review application.

**535-32B(8) LAPSE OF PLANNING ADJUSTMENT APPROVAL**

A planning adjustment approved under the planning adjustment procedures of this section shall lapse and have no further effect one year after it is approved, unless:

- (a) A building permit has been issued (if required);
- (b) The use or structure has been lawfully established; or
- (c) A different lapse of approval period or point of expiration has been expressly established by the Plan Commission at the time of planning adjustment approval.

**535-32B(9) APPEALS OF PLAN COMMISSION DECISIONS**

Any person aggrieved by a final planning adjustment decision of the Plan Commission may appeal the decision to the Board of Appeals in accordance with 535-56. An application, including written notice of and basis for the appeal, shall be filed with the Village Clerk within 30 days of the date of the action from which the appeal is sought. The fee for appealing in each case shall be as provided by the Village Fee Schedule.

**225-12. DESIGN REVIEW BOARD<sup>11</sup>**

**A. ESTABLISHED**

There shall be a Design Review Board in and for the Village of Shorewood.

~~**INTENT AND PURPOSES<sup>12</sup>**~~

~~This section is adopted, for all zoning districts and for all uses in the Village, to promote the public health, safety, convenience, prosperity, comfort and general welfare of the citizens of the Village and to strike a reasonable balance between the desire of the property owner to choose the design of his or her land use ("the project") and the continuing interest of the Village in the design and appearance of that property, by:~~

- ~~(a) Protecting the general appearance of buildings, structures, landscaping and open areas;~~
- ~~(b) Ensuring adequate light, air and privacy for property; and~~
- ~~(c) Encouraging and promoting acceptability, attractiveness and compatibility of new buildings, development, remodeling and additions so as to maintain established standards and property values.~~

**B. MEMBERSHIP**

The Design Review Board shall consist of 9 members, appointed by the Village President with the approval of the Village Board, who shall serve without compensation.

- (1) The membership shall include at least 2 architects, 2 additional architects or other design professionals, one real estate broker, and 4 additional members, all of whom shall be residents of the Village. In addition, 3 former members of the Design Review Board may serve as alternate members pursuant to 225-12C(5) of this section.
- (2) The Village Manager, Village Attorney and Zoning Administrator, or their designees, shall be ex officio nonvoting members.
- (3) Members of the Board shall elect their own Chair and adopt such rules as they deem advisable, but which shall not conflict with the provisions of this section.
- (4) All appointments shall be for staggered terms of 3 years commencing June 1 of the year of appointment, provided that any vacancy shall be filled for the

<sup>11</sup> This a mark-up of the current Design Review Board provisions of the village code, with strike-through showing which provisions are proposed to be moved to the zoning ordinance.

<sup>12</sup> moved to Design Review Procedure

## 225-12. Design Review Board

unexpired term of the original appointment. Members shall serve until their successors have been appointed.

### C. ORGANIZATION

- (1) Meetings shall be held at the call of the Chair, when requested by the Building Inspector, or when a ruling and determination is required hereunder.
- (2) All meetings shall be open to the public except as allowed by applicable law.
- (3) Minutes shall be kept showing all actions taken and shall be a public record.
- (4) A quorum shall be 4 members and all action shall require the concurring vote of at least the majority of those members present.
- (5) In the event that there are at least 3 members present, a specified former member may serve as a voting member for the purpose of providing a quorum to conduct the meeting.

### DUTIES AND RESPONSIBILITIES.<sup>13</sup>

No building permit for any new structure or for any exterior alterations or additions to any structure and no sign permit shall be issued unless the application therefor shall have been referred to the Design Review Board and said Board shall have made the necessary findings and determinations as hereinafter required:

- [1] Excepted from the requirement of this subsection shall be the following:
  - [a] All concrete walks, patios, and slabs, when located within rear yards of residences:
  - [b] Parking slabs on alley frontage:
  - [c] Grade or first floor level decks within rear yards of residences:
  - [d] Structural landscaping located within rear yards not visible from the public right-of-way:
- [2] Recommendations regarding proposals filed under the Village Planned Development Ordinance shall be in accordance with § 535-22D(3) of the Village Code:
- [3] Findings and determination regarding sign proposals shall be in accordance with § 445-20A of the Village Code:

- [4] Findings and determination regarding land management plans shall be in accordance with § 220-3 of the Village Code:
- [5] Circular driveways shall be subject to the review and approval of the Design Review Board in accordance with § 535-9F(4) of the Village Code:
- [6] Other matters pertaining to planning, zoning, building or design may be referred to the Design Review Board for findings and determination:

### NOTICE OF MEETING

Matters referred to the Design Review Board shall be noticed for the next scheduled meeting of the Board seven or more days after receipt of application. The Building Inspector shall give written notice to each member of the Design Review Board, to the applicant or appellant, to such other parties as he deems advisable, and, in case of new construction or construction that adds 200 square feet or more to an existing structure, to all owners of property located within 100 feet of any boundary line of the applicant's or appellant's property. Written notice shall be given by mail or in person and shall include the time, place and purpose of the meeting:

### CONSIDERATION OF APPLICATION

The Design Review Board shall hear all interested parties and shall consider all data relevant to the application prior to making its findings and determination. Relevant data shall include, but shall not be limited to, where applicable, site plan, floor plans, elevations, landscaping plan, including the location of existing trees to be retained or moved or removed, renderings and specifications, signs, parking area plans, and description of materials, including color and texture. All illustrations shall be drawn to scale. Where appropriate, the Board may make site inspections to better familiarize itself with the proposal. The Board may recommend changes that, in its judgment, will help the project meet the design criteria stated in this section. The Board may adjourn to closed session, at its discretion, to deliberate after all presentations have been made and the public has been heard:

### DESIGN CRITERIA:

- (f) In making its findings and determination concerning each proposed project, the Design Review Board shall give substantial weight to the intent of the Village that the decisions of the Board perpetuate and further the character of Shorewood, including, without limitation by enumeration, the following:
  - [1] A human scale in the Village as a whole, including its architecture and land use, with an accompanying

<sup>13</sup> Moved to Design Review Procedure

## 535-24. Planned Development District

recognition that the Village is characterized by a substantial amount of pedestrian and bicycle traffic;

- [2] A high quality of design and construction;
  - [3] A consistency in the design of commercial properties with the primarily residential nature of the Village; and
  - [4] A diversity of architectural styles, which are, at the same time, compatible with their surroundings.
- (g) The Design Review Board may adopt and amend, from time to time, as appropriate and consistent with the contents of this section, written design guidelines and design review procedures.

### FINDINGS AND DETERMINATION:

- (h) In order for the Board to approve an application, it shall find and determine that the applicant's proposal is consistent with design criteria and will not contribute to substantial depreciation in the value of the applicant's property or neighboring properties. In all instances when the determination is to reject the application for the proposed project and in all other cases in which the Board believes it appropriate, the minutes of the Board's meeting shall include a statement of the findings which a majority of those present rely on in support of the Board's decision.
- (i) The Board shall file its written findings and determination pursuant to a majority vote of all Board members present as soon as is practicable. The written findings and determination shall be signed by the Chair and filed with and be binding upon the Building Inspector and the Planning and Development Department. A copy shall be given to the applicant or appellant by mail or in person.

### APPEALS

Any person aggrieved by a determination of the Design Review Board may appeal to the Board of Appeals of the Village in accordance with the provisions of § 535-56 of the Village Code, except as otherwise provided hereunder. The fee for appealing in each case shall be as provided by the Village Fee Schedule

## 535-24. PLANNED DEVELOPMENT DISTRICT

### 535-24A. LEGACY DISTRICT STATUS<sup>14</sup>

- (1) Land classified in a PDD zoning district on [Insert Effective Date of CZU Amendments] will continue to be classified in the PDD zoning district, which shall function as an overlay zoning district. Overlay zoning districts "over-ly" the underlying base zoning district classification to alter some or all of zoning regulations that apply to particular sites.
- (2) Applications to establish new PDD zoning districts or to expand the boundaries of existing PDD zoning districts will not be accepted for processing after [Insert Effective Date of CZU Amendments].
- (3) Except as expressly approved by the Village as part of any plans, agreements, or written conditions of approval of a PDD zoning district established before [Insert Effective Date of CZU Amendments], the regulations of the underlying base zoning district shall govern all new development within a PDD overlay district, including physical improvements and the review of new uses and occupancies.
- (4) Amendments to existing PDD overlay districts shall be processed in accordance with the Changes and Amendments procedures of Article XI. Any approved amendments shall comply with all applicable regulations of the underlying base zoning district.

14 All new replacing any existing PDD

## ARTICLE VII. Legal Nonconformity

### ARTICLE VII. LEGAL NONCONFORMITY<sup>15</sup>

#### Definition in 535-6: **NONCONFORMING USES OR STRUCTURES**

Any structure, land or water lawfully used, occupied or erected at the time of the effective date of this chapter or amendments thereto which does not conform to the regulations of this chapter or amendments thereto. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, building type, building design, parking, loading, or distance requirements shall be considered a nonconforming structure and not a nonconforming use.<sup>16</sup>

### 535-34. CLASSIFICATION AND REGULATION

For the purpose of administration, such nonconformity shall be classified and regulated as follows:

#### 535-34A. NONCONFORMING STRUCTURE

- (1) **Expansion or Enlargement.** No such structure shall be expanded or enlarged if such expansion or enlargement will add to or increase the degree of nonconformity, unless such structure is made to conform to the regulations of the district in which it is located.
- (2) **Restoration of Significantly Damaged Structures.** ~~When such structure is damaged to the extent of more than 50% of its current assessed value as equalized, it shall not be restored except in conformity with the regulations of the district in which it is located.~~ A nonconforming structure damaged or destroyed by violent wind, vandalism, fire, flood, ice, snow, mold or infestation ~~after March 2, 2006,~~ may be restored in accordance with the provisions of § 62.23(7)(hc), Wis. Stats.[1]
- (3) **Facades.** In the commercial districts, if more than 50% of the area of a nonconforming facade is replaced, the entire facade must conform with the facade regulations of an allowed building type in the district per 535-21 and with the building design regulations in 535-22, except as defined in (2) of this subsection 535-34A.
- (4) **Roofs.** In the commercial districts, if more than 50% of a nonconforming roof is replaced, the replaced roof must conform with a roof type of an allowed building type

in the district per 535-21 and with the roof type design regulations in 535-22, except as defined in (2) of this subsection 535-34A. Resurfacing and repairing a roof does not count as roof replacement.

<sup>15</sup> Existing section copied to show proposed addition (c)

<sup>16</sup> Separate the definitions into nonconforming use and nonconforming structure