

## Cleveland, Julie

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**From:** Vaughn, Jessica L  
**Sent:** Wednesday, March 27, 2024 9:13 AM  
**To:** Bill Connors; Urban Design Comments  
**Cc:** Smith, Kate; cjarperwisco58@gmail.com; cliffgoodhart@outlook.com; jklehr@madisoncollege.edu; Rummel, Marsha; sbernau@bernau-design.com  
**Subject:** RE: More Written Comments in Support of Public Comments on March 27

Good morning, Bill!

Thank you for your email – great question.

To clarify, the highlighted paragraph below applies to projects that, for example the Plan Commission, Parks Division, alders, or other departments, etc. refer to the UDC for design review, but are projects that **would not** otherwise come before the UDC.

The goal is to set parameters for the UDC's review in the event that the referring agency, alder, etc. does not clarify specific design-related concerns for the UDC on which to focus their review.

This paragraph **does not** add additional requirements or guidelines for the review of projects that are specifically enumerated in subparagraphs that follow. All of which are projects that are required to come before the UDC and that have specific criteria outlined in the ordinance.

I hope this helps to clarify.

If you have any additional questions, please do not hesitate to reach-out.

Best,

Jessica



**Jessica Vaughn, AICP** (she/her)  
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**From:** Bill Connors <bill@smartgrowthgreatermadison.org>  
**Sent:** Wednesday, March 27, 2024 8:28 AM  
**To:** Urban Design Comments <urbandesigncomments@cityofmadison.com>  
**Cc:** Smith, Kate <kmsmith@cityofmadison.com>; cjarperwisco58@gmail.com; cliffgoodhart@outlook.com; jklehr@madisoncollege.edu; Rummel, Marsha <district6@cityofmadison.com>; sbernau@bernau-design.com; Vaughn, Jessica L <JVaughn@cityofmadison.com>  
**Subject:** More Written Comments in Support of Public Comments on March 27

Caution: This email was sent from an external source. Avoid unknown links and attachments.

Chair Goodhart and Urban Design Commissioners:

The following is one example of why I am urging you to bring the draft Phase 1 ordinance back to the Urban Design Commission for review, discussion and possible revisions before it is formally introduced as an ordinance at a meeting of the Common Council.

According to earlier staff memos, the following new language (highlighted in yellow) will be included in the Phase 1 ordinance:

(6) Powers And Duties.

(a) General Powers and Duties. In addition to other duties specifically enumerated herein, in Chapter 31 (Sign Control Ordinance), and elsewhere in these ordinances, the Urban Design Commission shall make recommendations to the City Plan Commission, Common Council and any other concerned commission on all matters referred or assigned to it under the provisions of this ordinance and other City ordinances. Upon referral, the Commission shall provide advice and make recommendation to the concerning department, agency, commission or division on the design, appearance and aesthetics of each proposed project, including but not limited to general site layout, landscape and building design, exterior materials, lighting, etc. Except where otherwise specified, the review authority of the UDC does not include improvements within the public right-of-way. In addition, the Commission may provide advice and make recommendations concerning urban design problems at the request of any City department, agency, commission or division.

In a situation where the Madison General Ordinances refer a development project to the UDC to give advice to the Plan Commission, is this highlighted new language intended to create new design standards that replace the specific design standards (if any) regarding which the UDC is supposed to give advice to the Plan Commission? For example, the UDC is charged with providing advice to the Plan Commission regarding whether a proposed development project complies with the specific design standards for larger buildings located in the Downtown Core District and UMX zoning districts.

Or is the highlighted new language above intended to add more, vague design standards on top of the existing specific design standards and give the UDC broader review authority in situations where it is providing advice to the Plan Commission regarding design standards?

Or is the highlighted new language above intended to do something else, and if so, what is it intended to do?

I don't recall a clear discussion and agreement on this point in previous UDC meetings.

There appears to be a considerable amount of work that remains to be done to clarify the scope of review and process where the UDC is charged with providing advice to the Plan Commission.

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**From:** [Bill Connors](#)  
**To:** [Urban Design Comments](#)  
**Cc:** [Smith, Kate](#); [cjharperwisco58@gmail.com](mailto:cjharperwisco58@gmail.com); [cliffgoodhart@outlook.com](mailto:cliffgoodhart@outlook.com); [jklehr@madisoncollege.edu](mailto:jklehr@madisoncollege.edu); [Rummel, Marsha](#); [sbernau@bernau-design.com](mailto:sbernau@bernau-design.com); [Vaughn, Jessica L](#)  
**Subject:** Written Comments in Support of Public Comments on March 27  
**Date:** Monday, March 25, 2024 4:30:33 PM

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Caution: This email was sent from an external source. Avoid unknown links and attachments.

Chair Goodhart and Urban Design Commissioners:

I intend to make some comments during the public comment period at your meeting on March 27 (item 1 on that agenda). But since my time to speak will be very limited, I will provide some additional information in this email.

On May 10, May 31 and November 8, 2023, I asked you to allow stakeholders, including my organization, Smart Growth Greater Madison, to review a draft of the UDC's Phase 1 ordinance and allow us to comment on it before it was formally introduced.

Shortly before your meeting on December 13, 2023, we were able to review a staff memo including two lengthy attachments, which contained some possible actual ordinance language. On December 12, I sent an email to you containing comments about that draft language. I have included the contents of that earlier email at the bottom of this email.

Unfortunately, during that meeting, the UDC did not address most of the comments in my email. In contrast, staff asked for and the UDC provided feedback to additional issues raised in the staff memo. During the meeting, Jessica Vaughn also indicated that the City Attorney's Office likely would make some revisions to the ordinance language contained in the staff memo and two lengthy attachments.

Consequently, stakeholders, including Smart Growth, have some idea of what is likely to be included in the proposed Phase 1 ordinance, but we certainly have not seen nor had an opportunity to comment on a complete draft ordinance.

I am writing to renew my request to allow stakeholders, including Smart Growth, to have an opportunity to review and comment on the complete draft Phase 1 ordinance before it is introduced.

Once a Madison ordinance is formally introduced at the Common Council and referred to committees or commissions, it has been our experience that the ordinance is essentially set in stone and the public input at committees or commissions has almost no chance of making any substantial impact--especially when city staff and members of a task force, committee or commission have been working on ideas for the ordinance for months. When the proposed Phase 1 ordinance is introduced (probably in April) and referred to the UDC by the Common Council, there likely will be a rush by the UDC to send it back to the Council with the UDC's recommendation to adopt it. People testifying to the UDC about the proposed Phase 1 ordinance will be permitted to speak only for a few minutes, even if they have pages of serious

concerns.

In addition to other concerns, Smart Growth continues to be concerned about the UDC's and Plan Commission's practice of having the UDC give initial "advice" to the Plan Commission, then Plan Commission grants approval of the (for example) Conditional Use Permit conditioned on the development team fixing the design issues identified by the UDC, and then the Plan Commission sends the project back to the UDC for its final "approval." This practice continues to be a concern because it appears to be contrary to provision of the Madison General Ordinances that mandate certain kinds of development projects go to the UDC to review and give advice to the Plan Commission.

In her Secretary's 2023 Year In Review presentation to the UDC during the meeting on March 13, 2024, Jessica Vaughn suggested a form of motion for situations like this:

"The UDC recommends to the Plan Commission that the development project be approved/denied with the following findings and conditions . . . the project returned to the UDC for Final review and approval."

This form of motion invites the Plan Commission to attempt to give the UDC authority to grant or deny final approval of a project regarding which the UDC is only advisory, contrary to the relevant provisions of the Madison General Ordinances. Has anyone asked the City Attorney's Office whether the Plan Commission has authority to give the UDC the power to grant or deny final approval of a development project when the Madison General Ordinances explicitly do not give the UDC that power?

If the UDC believes development projects that go to the UDC to review and give advice to the Plan Commission should be situations where the UDC has authority to grant or deny final approval, perhaps the Phase 1 ordinance should add provisions to the Madison General Ordinance explicitly giving the UDC that authority.

I hope that you will authorize Jessica Vaughn and the City Attorney's Office to make a complete draft of the Phase 1 ordinance available to review and comment before the ordinance is introduced. One way to do this would be to put the complete draft ordinance on an upcoming UDC meeting agenda before the ordinance is introduced at the Common Council.

[My email to UDC sent December 12, 2023:](#)

[Chair Goodhart and Urban Design Commissioners:](#)

[The following are the comments of Smart Growth Greater Madison regarding the most recent draft of revisions to MGO 33.24--Phase 1, Administrative Updates and Clarifications, Legistar 71257, which is item number 9 on your agenda for your meeting on December 13, 2024.](#)

[First, Smart Growth appreciates that some of the suggestions and concerns expressed in our memo dated May 10, 2023, which is in the Legistar file, have been addressed in the latest draft.](#)

[Below are comments about and suggested improvements for individual provisions in the draft ordinance.](#)

The statement of purpose and intent includes many desired features and outcomes that likely add costs to development projects without any reference to important objectives that should be balanced against those cost-adding desired features and outcomes. If no consideration is given to the costs being added, then we end up with pretty renderings of buildings that are so expensive that they will not be able to obtain the financing needed to construct them or buildings that require such high rents to provide sufficient cash flow to cover the higher costs that only wealthy people can afford to live in them.

Smart Growth requests the addition of some sort of acknowledgment in the statement of purpose and intent regarding the impact of adding costs to projects--potentially fewer projects actually being constructed and higher rents--as a concern to be balanced. In addition, Smart Growth requests that the statement of purpose and intent acknowledge other important city goals that the UDC is expected to help facilitate, such as encouraging the construction of more housing units to meet the growing demand for housing caused by a growing number of households and the city government's need to grow the city's property tax base.

Section 33.24(2)(a) does not mention the new area plans. Please click on the link below for more information about these area plans.

<https://www.cityofmadison.com/dpced/planning/planning-framework/3910/>

Smart Growth requests that a reference to the new area plans be added to section 33.24(2)(a).

Please be advised that it is likely that each time a new area plan is adopted (and, eventually, these new area plans will cover the entire city), all pre-existing neighborhood, neighborhood development, and special area plans applicable to areas within each planning area will become historical documents that will no longer guide future development--the Comprehensive Plan and the area plans will be the only relevant documents for guiding development. (This was the advice of the Plan Commission to city planning staff on December 11.)

Smart Growth appreciates that section 33.24(6)(a) now says something about what the UDC will consider when it provides advice to the Plan Commission about a development project. However, Smart Growth requests that clearly stated design standards be added to this section or another section so that design teams have advance notice of what the UDC is expecting to see in their designs for development projects regarding which the UDC is advisory rather than the approving body (unless the ordinance that refers the development project to the UDC for advice already contains clearly stated design standards).

Smart Growth greatly appreciates the addition of more description of the kinds of actions that may be approved administratively under Section 33.24(6)(k). Smart Growth hopes the Secretary of the Urban Design Commission will broadly interpret the authorization given to her by this provision.

Smart Growth greatly appreciates the inclusion of a separate kind of application, Referrals and Advisory Recommendation Applications, in section 33.24(7)(c) for development projects that the Urban Design Commission does not approve or disapprove but rather provides advice to the Plan Commission (or the body that made the referral). Please note that one practical impact of this provision is that it would end the practice of giving "initial approval" to a development project for which the UDC is advisory rather than the approving body--because an Initial Approval Application is a separate kind of application which appears only to be for

development projects regarding which the UDC is the approving body.

Smart Growth requests the addition of a provision saying that if a development team makes changes to its project proposal in response to recommendations included in the UDC's advice to the Plan Commission, the Plan Commission may not seek referral of the project back to the UDC so the UDC could provide advice regarding whether the changes made by the development team satisfy the UDC's recommendations. Regarding development projects for which the UDC is an advisory body, it should be "one and done" at the UDC (unless the developer chooses to make an informational presentation and obtain feedback before submitting its Referral and Advisory Recommendation Application). The fact that ordinances indicate the UDC is charged with providing advice to the Plan Commission means it is envisioned that the Plan Commission is capable of considering that advice when it makes the decisions, e.g., whether a development project's site layout is reasonable. The sending of development projects back and forth between the UDC and Plan Commission when the UDC only has authority to provide an advisory report to the Plan Commission unduly delays and adds costs to projects, which results in fewer projects actually being constructed or higher rents.

In Smart Growth's May 10 memo, we provided the following additional suggestions for improvements that address aspects of administration and process, but which were not addressed in the most recent draft ordinance. Smart Growth hopes these suggestions can be incorporated into the UDC's internal procedure manual.

- Please provide a complete list with clearly worded descriptions of the renderings and other documents that the UDC expects development teams to submit for review, and please make the list and descriptions balance the desire of the UDC to see more complete design documents against the cost of preparing detailed renderings and materials when there is a real risk that a project will not go forward.
- UDC commissioners, please ask questions of the design team after public comments to seek information to address allegations made during public comments or when UDC commissioners believe something is true but have no data to support their belief.
- Please refrain from commenting, making recommendations or adopting conditions regarding issues outside of the UDC's scope, e.g., traffic generated by development and how to manage it (the responsibility of city Traffic Engineering), elevator overruns extending above the Capitol view height limit (the responsibility of the Plan Commission), and the design of green roofs (the responsibility of city Stormwater Engineering).
- If UDC commissioners stray into areas outside of the UDC's scope of authority, please empower city staff to request the UDC's permission to omit such statements from the UDC's report to the Plan Commission.
- Please clearly state that the subjective opinions of individual UDC commissioners about building material colors or small design details or concerns about a creative element the development team has included in the design have been provided only as helpful advice to the development team and are not part of the factors the UDC considers when deciding whether to grant final approval or the advice it will give to the Plan Commission.
- Please clarify which comments made about an informational presentation are the comments of the UDC as a body rather than the comments of individual commissioners.

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