



Agenda Item #: 6

Project Title: Amending Section 33.24(15)(e)5.a. of the Madison General Ordinances related to Urban Design Landscaping and Open Space to remove the minimum terrace width requirement with Urban Design District No. 8.

Legistar File ID #: 81908

Members Present: Cliff Goodhart, Chair; Jessica Klehr, Shane Bernau, Christian Harper, Wendy von Below, Marsha Rummel, Rafeeq Asad, and Russell Knudson

Prepared By: Kevin Firchow, AICP, Acting UDC Secretary

Summary

At its meeting of February 28, 2024, the Urban Design Commission **RECOMMENDED TO COUNCIL TO ADOPT** an amendment to Section 33.24(15)(e)5.a. Registered and speaking in opposition was Sandra Ward. Staff gave a brief overview of the amendment.

Discussion by the Commission was as follows:

- We haven't been following our adopted ordinances for most of the last 15 years. I'm gobsmacked, flabbergasted. We have ordinances and they weren't followed, I still struggle with that. Secondly, at some point this came up a while ago, how come it wasn't ever brought to either have the City Attorney write a memo or something we could look at, if we weren't the ones that were supposed to be reviewing the street right-of-way. I'm just really confused by all of this.
- (Firchow) It was discussed with the City Attorney's Office, that's where Complete Green Streets (CGS) being the more contemporary policy took precedence. We could refer this and get a more formal opinion if the UDC would like to see something.
- I ask because it's in an ordinance giving us authority to require 10-foot terraces, and I don't know that we ever really diligently reviewed that but it was in our purview to help design this gateway. It seems to me UDD 8 has quite a few items about requirements for canopy trees, there's at least five pieces in our ordinance related to canopy trees. I understand CGS is more current but why is it preempting that, it seems to have as much specifics for this corridor as general policy guidelines from CGS.
- (Firchow) To speak to the process, Planning asked the Attorney's Office to clarify, as far as right-of-way design, the UDC does not review or approve right-of-way design. While the standards speak to it, nowhere is UDC a part of that process, it goes to Board of Public Works and Common Council. If you look to the standards in UDD 8 it also doesn't specifically say right-of-way design. I'm happy to get additional information.
- When I saw this it did give me reason to pause, as I love my trees and that terrace and root zone is critical to a healthy tree canopy. It would be good to see examples of where 10-foot terraces should be and have been reduced. We could be going backwards on trees as infrastructure, and I'm concerned maybe there's a loophole here where we're giving less consideration to the trees as infrastructure. Or maybe I just need more information.
- (Firchow) Similar to the right-of-way design, the approval of street trees is completely the authority of Forestry. UDC certainly has interplay with the private development with the street trees, the UDC is not an approving body on forestry. There are cases for UDC to make an advisory recommendation regarding terrace design, but again that is an advisory recommendation.

- It seems like it's really a bit of code clean up, but on the other hand it seems like it's potentially moving backwards on something I don't want to move backwards on. I'm still going to vote in favor of trees if given the opportunity.
- Whether we amend this section of the ordinance or not, it's not going to change the fact that we don't have the authority to set the terrace width. If we left it in there, we get a memo from the City Attorney saying, "hey guys, you can't do that, you can't have that in the ordinance." It's still the Forester and Board of Public Works, then Common Council. This requirement was placed in UDD 8 in error, that doesn't mean it's not a good thing, but it is really not binding. The City lets us tell private developers what to do all day long, but they don't like us telling the City what to do, that's for developers to deal with.
- Good point. At some point we are going to review all of the UDDs. If we refer this, can we just do it altogether, is there any reason this has to go forward, are there any projects that somehow shouldn't be confused by the ordinance? It seems to me we're going to do a wholesale, we're ready to introduce the whole thing for our review, it's not like some future date, it's short to medium term that we'll be looking at this.
- (Firchow) Correct, that is one of the upcoming phases. We have seen several amendments to UDD 8, mostly project specific, and this is yet another change to it. I recognize that. The question of UDD code compliance originally brought forward to staff by the Plan Commission Chair. The Plan Commission is not part of the UDD review unless there is an appeal. It's eliminating what is an inconsistency for developments as a whole. This was the only district that has a specific terrace dimensional requirement. From a timing standpoint, it's realistically going to be at least a year plus until we get to that phase of the UDD amendments. It's not in the first phase, which is more or less the process changes. I don't think it would be done this year, the other phases would come before this.
- The CGS guidelines talk about E Washington as an urban avenue. At some point it allows a range of widths from 8-12 feet, calling out up to 12-feet for tree priority areas. You could argue the policy itself doesn't call out E Washington as a tree priority area, but the Capital Gateway Plan called it out, and the ordinance calls out the importance of the tree canopy as one of the reasons for the UDD itself. I don't think it's totally inconsistent depending on how you determine a priority. There's a letter in Legistar showing a visual representation of the E Washington corridor tree coverage compared to the adjacent neighborhood. Maybe we could refer it at least one time and get more information from the City Attorney, more information on how CGS is seen as more preemptive versus working together.
- I don't understand why we're debating something that is non-binding.
- (Firchow) It's a clarification because it is listed as a requirement in the Urban Design District section. The concern is one policy is broader with a range of considerations compared to this that says a terrace shall be 10-feet.
- It's a great requirement but unfortunately, it's on the wrong side of the property line. We have a 15-foot setback requirement along this district, that's within our boundary, I don't know why.
- (Firchow) This was part of the original ordinance. UDD 8 came fairly quickly after the Capital Gateway Plan was adopted, about 15 years ago or so.
- Is this more a question of this doesn't belong in the UDC purview, so delete it because somebody else takes care of this?
- (Firchow) That's part of what would clean it up, this body doesn't enforce it but it's in your part of the code. This doesn't take the 10-foot standards and put it elsewhere, it refers to Complete Green Streets. It's both, from a process standpoint it is not in the UDC's purview but creates conflicts with the policy that was adopted last year.
- (Firchow) We would need five votes to pass a motion here this evening.
- We need a majority of quorum, and we have 8 people here.
- I do plan to continue to advocate for good terrace design when we have the opportunity.

Action

On a motion by Asad, seconded by Knudson, the Urban Design Commission **RECOMMENDED TO COUNCIL TO ADOPT**. The motion was passed on a vote of (5-2-1) with Asad, Knudson, Bernau, Klehr, and von Below voting yes; Harper, and Rummel voting no; and Goodhart non-voting.