

Regulatory Framework for Sustainable Development

...in 10 minutes or less

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Sustainable Development

- ▶ Sustainable development means many things to many people.
- ▶ Sustainable development initiatives mentioned to OCA In Last 2 years
 - ▶ Bird-Friendly Glass
 - ▶ Solar Installations
 - ▶ Green Roofs
 - ▶ Stormwater Control Measures
 - ▶ Electric Vehicle Charging Stations
 - ▶ Gray Water Pipes

Through Conditional Use? Maybe.

- ▶ Can we attach conditions requiring these kind of sustainable development initiatives to a conditional use approval? Maybe.
- ▶ Analyze whether CU condition will address impact of proposed CU.
- ▶ Relevant CU standards = public health, safety, or general welfare; uses, values and enjoyment; and adequate drainage.
- ▶ When evaluating these standards, state law (Wis. Stat. Sec. 66.23(de)2.a.) states that any CU denial or condition must be based on “substantial evidence.”
- ▶ State law defines substantial evidence as “facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet.”
- ▶ State law also says that conditions must “be reasonable and, to the extent practicable, measurable.”
- ▶ Bottom line - would need to closely evaluate and justify on case-by-case basis

Most effective path forward?

- ▶ Some have identified three key components to successfully implementing sustainable development initiatives.
 1. Remove Obstacles.
 2. Create Incentives.
 3. Create Requirements.

By removing obstacles? Probably.

- ▶ Are there currently clear obstacles in the zoning code or other city ordinances preventing the implementation of sustainable development? Probably, large and small.
 - ▶ Example = until recently in the City's zoning code, solar installation at a property zoned PD or subject to a CU required an alteration. Ordinance recently eliminated this requirement, making it easier to install solar at property zoned PD or operated under a CU.
 - ▶ AKA - the Jeanne Hoffman Amendment

By giving incentives? Yes.

- ▶ Like other Cities, Madison could provide incentives to developers who integrate sustainable building initiatives.
 - ▶ Direct financial incentives.
 - ▶ Density or height bonuses.
 - ▶ Development review process modifications.
 - ▶ Waiver of fees.
 - ▶ Many others.

By establishing requirements? Yes.

- ▶ Generally can impose sustainable development initiatives as requirements provided the State has not otherwise restricted the City from doing so with regard to any particular initiative (e.g., min/max building code).
- ▶ Lots of options for requirements.
 - ▶ What do we want to require and how?
- ▶ Numerous options for implementation.
 - ▶ In Zoning Code?
 - ▶ Outside of Zoning Code?
 - ▶ As one large sustainable development bill?
 - ▶ On an initiative-by-initiative basis?

Possible key considerations.

- ▶ Are there currently obstacles to sustainable development?
- ▶ Should City implement through incentives, requirements, or both?
- ▶ Should implementation be done through multiple stand-alone ordinances or one omnibus sustainable development ordinance?
- ▶ Should implementation be through the Zoning Code, other MGOs, or both?
- ▶ Should implementation apply to the entire City or to specific districts?
- ▶ Should requirements be flexible, interchangeable, or allowed to play off of each other?
- ▶ How does sustainable development policy relate, if at all, to other important policy considerations (e.g., affordable housing)? Hinder? Help? Complement?