

**CITY OF MADISON  
OFFICE OF THE CITY ATTORNEY  
Room 401, CCB  
266-4511**

Date: August 26, 2008

**MEMORANDUM**

TO: Jeanne Hoffman, Facilities and Sustainability Manager

FROM: Katherine C. Noonan, Assistant City Attorney

RE: Effect of Amendments to Madison General Ordinances Relating to Solar and Wind Energy Systems on Designated Historic Properties, Lots in Historic Districts, and Lots in Urban Design Districts

**Landmarks Ordinance.**

Under the current ordinances, no person shall reconstruct, alter, or permit any work on a landmark, landmark site or a structure within a Historic District without obtaining a Certificate of Appropriateness. The standards for granting a certificate require a determination of whether a proposal will detrimentally change the exterior; whether it conforms to the objectives and design criteria of the relevant Historic District; and whether, in the case of a new improvement, it harmonizes with existing improvements on the site. *Sec. 33.19(5)(b)4.*

The Landmarks Commission has delegated to the Preservation Planner the authority to make this determination for certain types of projects. All others are considered by the Landmarks Commission, as well as those initially evaluated by the Preservation Planner but are found not to be appropriate for her/his administrative approval of the Certificate.

Under the amended ordinances, the standards for granting a Certificate of Appropriate cannot be the basis for granting the Certificate because they are beyond the scope of allowed restrictions on siting these systems. The standards will be used by the Preservation Planner for an initial determination, as is currently done for certain types of proposals. A proposal that meets the standards will be approved administratively, as are some proposals under the current procedures. Those that are found not appropriate for approval at this point will be referred to Building and Engineering staff who have the expertise to evaluate the effect on cost and efficiency of restricting the system in some way, e.g., location, design, etc.

If staff determines that there is an authorized restriction, the alternate proposal will be submitted with the original proposal to the Landmarks Commission and the Commission will select a proposal for approval. If staff determines that there is no valid alternative, the submitted proposal will be approved administratively.

## **Urban Design Ordinance**

a. Planned Developments, Rowhouses, Public Projects and Large Retail Developments.

All Planned Developments, Rowhouses, Public Projects and Large Retail Developments are subject to the Urban Design Ordinance. Generally, the first three of the above involve new construction and any solar or wind energy system will be incorporated into the initial construction. The Urban Design Commission will consider these projects as they do currently. If, however, there are concerns regarding a solar or wind system that would require changes to the proposal to address, the proposal must be evaluated by Building and Engineering staff to determine whether the concerns can be addressed within the City's limited authority. If they can, the Urban Design Commission will receive alternative proposals from staff that they can consider along with the original proposal. One will be selected.

b. Major Exterior Remodeling Projects.

Currently, staff evaluates remodeling proposals to determine whether they are 'major' and should go to the Urban Design Commission. The standards used are the same as those used by the Urban Design Commission and are set out in the Ordinance. Those that meet the standards are approved administratively. Those that are not considered appropriate for administrative approval are sent to the Urban Design Commission for consideration.

Under the amended ordinance, the existing administrative review/approval will continue. Those remodeling projects that do not receive administrative approval will be referred to Building and Engineering staff, who have the expertise to evaluate the effect on cost and efficiency of restricting the system in some way, e.g., location, design, etc.

If staff determines that there is an authorized restriction, the alternate proposal(s) will be submitted with the original proposal to the Urban Design Commission and the Commission will select a proposal for approval. If staff determines that there is no valid alternative, the submitted proposal will be approved administratively.