From:	Bill Connors
To:	May, Gregg
Subject:	Smart Growth"s Comments re Proposed Street Tree Protection Ordinance
Date:	Friday, August 22, 2025 4:23:44 PM
Attachments:	SGGM Recommended Changes to Madison Street Tree Protection Ord 2025-08-22.pdf

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Sustainable Madison Committee Members:

Attached to this email are recommended changes from Smart Growth Greater Madison to the proposed street tree protection ordinance and changes to the Standard Specifications for Public Works Projects, Legistar 89254. Smart Growth is seeking more time to work with the ordinance's sponsors and staff on language that achieves the objectives of the proposed ordinance while minimizing negative consequences.

Smart Growth asks that you adopt a motion asking the Common Council to re-refer this ordinance to your committee to allow additional time to work collaboratively on the ordinance and standard specifications language.

There was no attempt to reach out to developers and contractors who are active in Madison regarding the concept for and text of the proposed ordinance before it was introduced. Smart Growth would have welcomed being able to hear from the sponsors about the problem they are seeking to fix and to share ideas about how to fix the problem while minimizing added risk, delays and costs to housing construction in Madison. Unfortunately, we have only started those conversations with City Forester Ian Brown.

Smart Growth encourages you to read the memo in Legistar from Alex Saloutos, dated August 11, 2025, about the lack of data and analysis to support the proposed ordinance. Smart Growth agrees with Mr. Saloutos's memo.

This proposed ordinance is yet another way that the city government makes housing more expensive in Madison. For example, developers of multi-family housing buildings will need to find a way to pass along to tenants the cost of a tree replacement plan produced by a certified arborist and the required contribution to the new street tree replacement fund. Although these costs might appear relatively small, they are on top of many other costs that the Madison city government imposes on new housing construction, including bird-friendly glass and green roofs.

Smart Growth recommends using Park Fee revenue to make the required contributions to the street tree replacement fund, if that is permitted by state law, to avoid increasing the cost of housing. Park Fee revenue is rarely spent to benefit residents of the greater Downtown area.

Smart Growth's greatest concern is about the provisions in the proposed ordinance authorizing the revocation of permits to use the street or other parts of the right of way (e.g., the terrace) to stage construction equipment and materials. In the tight spaces for infill development and redevelopment projects, it is often essential to be able to use the street and terrace to stage equipment and materials. The safety of workers, passing pedestrians and motorists, and nearby properties is of paramount importance when deciding where to stage equipment and materials for a substantial construction project.

The draft ordinance provides that if an employee of one of the contractors or

subcontractors mistakenly damages or kills a street tree that was supposed to be preserved, the city government may revoke the permits to use the street and terrace. For many infill development projects, the revocation of these permits would be a death sentence—the new building could not be completed.

City Forester Brown has said in that situation, the developer could apply for new permits to use the street and right of way. But under the proposed ordinance, the new permits might be denied.

Developers will be extremely reluctant to take the risk that their project might be hit with a death sentence in the midst of construction if a contractor's or subcontractor's employee makes a mistake. Lenders will be extremely reluctant to make loans for development projects if a project might be hit with a death sentence in the midst of construction if a contractor's or subcontractor's employee makes a mistake. If this proposed ordinance is enacted in its current form, many developers will not even explore projects on possible infill development sites because of the risk created by the presence of street trees. You will not see the housing development projects that never happen because they are never even explored as a result of this ordinance.

Smart Growth has recommended different ordinance text to address this concern.

Most of the other changes recommended by Smart Growth make the text of the ordinance and Standard Specifications match statements that City Forester Brown has made about how this new regulatory regime would work in practice.

Thank you for your consideration.

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