

**AGENDA # 3**

City of Madison, Wisconsin

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**REPORT OF: URBAN DESIGN COMMISSION**

**PRESENTED:** July 9, 2008

**TITLE:** Amending Sec. 28.03(2), creating Sec. 28.04(18)(e); repealing Secs 28.08(2)(c)16., 28.08(9)(c)5., 28.08(11)(c)9., 28.12(13)(a)10.d.; renumbering current Secs. 28.12(13)(a)10.e. through g. to Secs. 28.12(13)(a)10.d. through f., respectively; amending Secs. 30.01(3)(b)5., 30.01(5)(b); repealing Secs. 30.01(9)(c)9. and 11.; renumbering current Sec. 30.01(9)(c)10. to Sec. 30.01(9)(c)9.; amending Sec. 30.05(2); repealing Sec. 30.05(5); renumbering current Secs. 30.05(6) through (17) to Secs. 30.05(5) through (16), respectively; amending Sec. 30.05(9); repealing 30.05(11)(e); creating new Sec. 30.05(13)(d); renumbering current Secs. 30.05(13)(d) through (f) to Secs. 30.05(13)(e) through (g); creating new Secs. 30.05(13)(h), 30.05(15)(b), 30.05(15)(c); renumbering current Secs. 30.05(15)(b) and (c) to Secs. 30.05(15)(d) and (e); and repealing Sec. 33.19(12)(d)3.; renumbering Sec. 33.19(12)(d)4. through 11. to 3. to 10.; repealing Sec. 33.19(12)(f)1.f.; renumbering Sec. 33.19(12)(f)1.g. to f.; repealing 33.19(13)(d)8. and renumbering Sec. 33.19(13)(d)9. through 13. to 8. through 12., respectively of the Madison General Ordinances to update provisions relating to solar/wind systems. (11077)

**REFERRED:**

**REREFERRED:**

**REPORTED BACK:**

**AUTHOR:** Alan J. Martin, Secretary

**ADOPTED:**

**POF:**

**DATED:** July 9, 2008

**ID NUMBER:**

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Members present were: Lou Host-Jablonski, Richard Wagner, Bruce Woods, Marsha Rummel, Bonnie Cosgrove, Richard Slayton, John Harrington and Todd Barnett.

## **SUMMARY:**

At its meeting of July 9, 2008, the Urban Design Commission **VOTED NOT TO RECOMMEND APPROVAL**. Appearing on behalf of the project were Matt Tucker, Zoning Administrator, and Jeanne Hoffman, City of Madison. Hoffman and Tucker spoke to the purpose of the ordinance amendments to provide consistency with Wisconsin State Statute 66.0401, which regulates solar and wind energy system systems. Hoffman referenced a memo by Kitty Noonan, Assistant City Attorney (dated May 29, 2008); it notes that the statute limits the City's authority to regulate health, safety and public welfare by specifying three situations where regulation is allowed – “when the regulation is to preserve and protect public health or safety, when it does not significantly impact the efficiency or cost of the solar or wind energy system, or when an alternative system of comparable cost and efficiency is available.” The ordinance amendments include modifications to existing provisions within the City Zoning Code necessary to be consistent with State law, plus other City ordinances that reflect current solar and wind energy technology. Several provisions of the Landmarks ordinance that restricts such systems in some historic districts are proposed to be repealed with certain amendments, along with a number of changes relevant to the details of installation, materials used and design of solar and wind energy systems. The ordinance amendment also provides a process by which the Director of the Department of Planning and Community & Economic Development will consider denying or modifying a proposed solar or wind energy system under the provision of Wisconsin State Statute 66.04.01. Following the presentation by Hoffman and Tucker, discussion on the various provisions was provided as follows:

- Concern with the lack of Aldermanic and neighborhood review, as well as the need to review the State statute against the proposed ordinance provisions.
- Want to know more about the 15% threshold relevant to “Shading of Solar Collectors.”
- Concern about aesthetics, concern neighborhoods are being impinged on, want to know more about the effect on adjoining properties.
- Concern with balance between urban design and solar related statute.
- State law preempts providing additional choices.
- Concern with panels all over City; ugly. Need to research and edit to further understand what is being requested.
- Issue with the process being all on staff to decide; need to know more.
- Expand Director's role to allow for other opinions, including Commissions.
- Need to make strong statement that State statute and ordinance that are present before us is wrong.
- Concern with a process that doesn't involve feedback from commissions, committees and effected neighbors.

## **ACTION:**

On a substitute motion by Wagner, seconded by Rummel, the Urban Design Commission **VOTED TO NOT RECOMMEND APPROVAL** of Legistar I.D. 11077, Amending Sec. 28.03(2), creating Sec. 28.04(18)(e); repealing Secs 28.08(2)(c)16., 28.08(9)(c)5., 28.08(11)(c)9., 28.12(13)(a)10.d.; renumbering current Secs. 28.12(13)(a)10.e. through g. to Secs. 28.12(13)(a)10.d. through f., respectively; amending Secs. 30.01(3)(b)5., 30.01(5)(b); repealing Secs. 30.01(9)(c)9. and 11.; renumbering current Sec. 30.01(9)(c)10. to Sec. 30.01(9)(c)9.; amending Sec. 30.05(2); repealing Sec. 30.05(5); renumbering current Secs. 30.05(6) through (17) to Secs. 30.05(5) through (16), respectively; amending Sec. 30.05(9); repealing 30.05(11)(e); creating new Sec. 30.05(13)(d); renumbering current Secs. 30.05(13)(d) through (f) to Secs. 30.05(13)(e) through (g); creating new Secs. 30.05(13)(h), 30.05(15)(b), 30.05(15)(c); renumbering current Secs. 30.05(15)(b) and (c) to Secs. 30.05(15)(d) and (e); and repealing Sec. 33.19(12)(d)3.; renumbering Sec. 33.19(12)(d)4. through 11. to 3. to 10.; repealing Sec. 33.19(12)(f)1.f.; renumbering Sec. 33.19(12)(f)1.g. to f.; repealing 33.19(13)(d)8. and

renumbering Sec. 33.19(13)(d)9. through 13. to 8. through 12., respectively of the Madison General Ordinances to update provisions relating to solar/wind systems, but if approved require actual approval by the Director of the Planning and Community & Economic Development Department, not a designee with the Director empowered to ask for additional advice and feedback from relevant committees and commissions such as the Landmarks Commission and the Urban Design Commission. The motion was passed on a vote of (7-1) with Cosgrove voting no.

A previous motion by Wagner, seconded by Cosgrove recommending approval was replaced in favor of the substitute motion. To advance the substitute motion to be the primary motion was (7-1) with Cosgrove voting no on a roll call.

In its discussion on the motion the Urban Design Commission affirmed its support for solar/wind systems but noted the need to make a strong statement that the State statute and ordinance amendments as presently before it ignore important matters as to design and aesthetics.

After the Commission acts on an application, individual Commissioners rate the overall design on a scale of 1 to 10, including any changes required by the Commission. The ratings are for information only. They are not used to decide whether the project should be approved. The scale is 1 = complete failure; 2 = critically bad; 3 = very poor; 4 = poor; 5 = fair; 6 = good; 7 = very good; 8 = excellent; 9 = superior; and 10 = outstanding. The overall ratings for this project are 3, 5.5 and 6.

**URBAN DESIGN COMMISSION PROJECT RATING FOR:** Legistar 11077

	Site Plan	Architecture	Landscape Plan	Site Amenities, Lighting, Etc.	Signs	Circulation (Pedestrian, Vehicular)	Urban Context	Overall Rating
<b>Member Ratings</b>	-	-	-	-	-	-	-	5.5
	-	-	-	-	-	-	3	3
	-	-	-	-	-	-	-	6

General Comments:

- Bravo to facilitate renewables.
- I'm 110% for solar and wind. That said, this zoning change is under-thought-out.
- Needs aesthetic considerations introduced. Otherwise this is great!
- It's a concern that aesthetics play no role at all, but it doesn't seem to be possible under the State statute.
- Would like to see specific process if director thinks proposed system should have Landmarks or UDC review. While City's hands may be tied with State law, we shouldn't merely shrug our shoulders and say "oh well," design and historic character mean nothing...