

AGENDA # 4

City of Madison, Wisconsin

REPORT OF: URBAN DESIGN COMMISSION

PRESENTED: September 3, 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.

REFERRED:

REREFERRED:

REPORTED BACK:

AUTHOR: Alan J. Martin, Secretary

ADOPTED:

POF:

DATED: September 3, 2008

ID NUMBER:

Members present were: Lou Host-Jablonski, Ronald Luskin, Jay Ferm, Marsha Rummel, Bruce Woods, Richard Slayton, John Harrington and Richard Wagner.

SUMMARY:

At its meeting of September 3, 2008, the Urban Design Commission **RECOMMENDED APPROVAL**. Appearing on behalf of the project were Ald. Satya Rhodes-Conway, Jeanne Hoffman, Facilities Sustainability Manager for the City of Madison and Assistant City Attorney Kitty Noonan. Speaking in support of the ordinance amendments was Ald. Satya Rhodes-Conway. She elaborated on the ordinance amendments' purpose to be consistent with State law, make it easy to do renewable energy in the City of Madison, facilitate sustainability and reduce cost of energy. She noted that further amendments would be provided to deal with wind tower issues as a result of previous discussions with various Commissions including the Urban Design Commission. Hoffman and Noonan provided additional input on the purpose of the combination of ordinance amendments. Noonan emphasized that State statute limited the regulation of solar and wind systems, to those that serve to preserve and protect the public health and safety, or not suddenly increase the cost of the system or simply decrease its efficiency, or allow for alternative system of comparable cost and efficiency. They elaborated on the process for administrative approval by the Director of Planning & Community & Economic Development following input by Engineering staff as to cost of alternatives consistent with statute provisions. They further elaborated on the Commission's role in reviewing potential solar/wind facilities as part of their ordinance supported role for review of Planned Developments, rowhouses, public projects, large retail developments, as well as major exterior remodeling projects customarily considered by the Urban Design Commission. Noonan emphasized that the statute limits the City's police power by eliminating and restricting powers in their "welfare related regulation" allows only on their health and safety which reflects a loss of ability to legislate aesthetics and property values. Following the presentation the Commission noted the following:

- Issue is are we making good law; want to enhance need to address health and safety issues as allowed by State law to get the Commission more comfortable with amendments.
- Poor public policy to not involve commissions in decision making process based on "cost" criteria. Noonan noted bodies making decisions on "cost" not appropriate.
- The row of commissions in the decision making process appears arbitrary.
- No problem with administrative approval, problem with notion that Commission has no role in the decision making process relevant to cost.
- There is an arbitrariness in how the ordinance is played. Noonan remarked that there is no problem with the ordinance, specifying process is the issue.
- Look at what can be done to address concerns as to the process with the Urban Design Commission.
- Look at solar as new proposed amendments to wind towers relevant to the issue of falling and further regulation.
- Need to change page one of the packet materials relevant to the role of the Director of the Department of Planning & Community & Economic Development process to include the following:
 - That new construction in Urban Design Districts shall require review by the Urban Design Commission consistent with State statute.

ACTION:

On a motion by Wagner, seconded by Luskin, the Urban Design Commission **RECOMMENDED APPROVAL**. The motion was passed on a vote of (7-1) with Harrington voting no. The motion required that new construction in Urban Design Districts shall require review by the Urban Design Commission consistent with State statute, in addition to the record should reflect that the Urban Design Commission adds value and that it has the ability to make decisions relevant to health and safety consistent with the State law, and alternative costs as part of its design review.

URBAN DESIGN COMMISSION PROJECT RATING FOR: Solar Ordinance

	Site Plan	Architecture	Landscape Plan	Site Amenities, Lighting, Etc.	Signs	Circulation (Pedestrian, Vehicular)	Urban Context	Overall Rating
Member Ratings								

General Comments:

- Staff presentation to the effect that “this is the only way it can be” is not only off-putting, but is inaccurate and leads to distrust of staff.
- Presentation of information could have been more engaging and may have assisted with process.
- It’s better with flowchart to explain role of UDC and Landmarks.