

From: [Bill Connors](#)
To: [Urban Design Comments](#)
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Subject: Smart Growth's Comments on Draft Revisions to MGO 33.24--Phase 1
Date: Tuesday, December 12, 2023 5:26:54 PM

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Chair Goodhart and Urban Design Commissioners:

The following are the comments of Smart Growth Greater Madison regarding the most recent draft of revisions to MGO 33.24--Phase 1, Administrative Updates and Clarifications, Legistar 71257, which is item number 9 on your agenda for your meeting on December 13, 2024.

First, Smart Growth appreciates that some of the suggestions and concerns expressed in our memo dated May 10, 2023, which is in the Legistar file, have been addressed in the latest draft.

Below are comments about and suggested improvements for individual provisions in the draft ordinance.

The statement of purpose and intent includes many desired features and outcomes that likely add costs to development projects without any reference to important objectives that should be balanced against those cost-adding desired features and outcomes. If no consideration is given to the costs being added, then we end up with pretty renderings of buildings that are so expensive that they will not be able to obtain the financing needed to construct them or buildings that require such high rents to provide sufficient cash flow to cover the higher costs that only wealthy people can afford to live in them.

Smart Growth requests the addition of some sort of acknowledgment in the statement of purpose and intent regarding the impact of adding costs to projects--potentially fewer projects actually being constructed and higher rents--as a concern to be balanced. In addition, Smart Growth requests that the statement of purpose and intent acknowledge other important city goals that the UDC is expected to help facilitate, such as encouraging the construction of more housing units to meet the growing demand for housing caused by a growing number of households and the city government's need to grow the city's property tax base.

Section 33.24(2)(a) does not mention the new area plans. Please click on the link below for more information about these area plans.

<https://www.cityofmadison.com/dpced/planning/planning-framework/3910/>

Smart Growth requests that a reference to the new area plans be added to section 33.24(2)(a).

Please be advised that it is likely that each time a new area plan is adopted (and, eventually, these new area plans will cover the entire city), all pre-existing neighborhood, neighborhood development, and special area plans applicable to areas within each planning area will become historical documents that will no longer guide future development--the Comprehensive Plan and the area plans will be the only relevant documents for guiding development. (This was the advice of the Plan Commission to city planning staff on December 11.)

Smart Growth appreciates that section 33.24(6)(a) now says something about what the UDC will consider when it provides advice to the Plan Commission about a development project. However, Smart Growth requests that clearly stated design standards be added to this section or another section so that design teams have advance notice of what the UDC is expecting to see in their designs for development projects regarding which the UDC is advisory rather than the approving body (unless the ordinance that refers the development project to the UDC for advice already contains clearly stated design standards).

Smart Growth greatly appreciates the addition of more description of the kinds of actions that may be approved administratively under Section 33.24(6)(k). Smart Growth hopes the Secretary of the Urban Design Commission will broadly interpret the authorization given to her by this provision.

Smart Growth greatly appreciates the inclusion of a separate kind of application, Referrals and Advisory Recommendation Applications, in section 33.24(7)(c) for development projects that the Urban Design Commission does not approve or disapprove but rather provides advice to the Plan Commission (or the body that made the referral). Please note that one practical impact of this provision is that it would end the practice of giving "initial approval" to a development project for which the UDC is advisory rather than the approving body--because an Initial Approval Application is a separate kind of application which appears only to be for development projects regarding which the UDC is the approving body.

Smart Growth requests the addition of a provision saying that if a development team makes changes to its project proposal in response to recommendations included in the UDC's advice to the Plan Commission, the Plan Commission may not seek referral of the project back to the UDC so the UDC could provide advice regarding whether the changes made by the development team satisfy the UDC's recommendations. Regarding development projects for which the UDC is an advisory body, it should be "one and done" at the UDC (unless the developer chooses to make an informational presentation and obtain feedback before submitting its Referral and Advisory Recommendation Application). The fact that ordinances indicate the UDC is charged with providing advice to the Plan Commission means it is envisioned that the Plan Commission is capable of considering that advice when it makes the decisions, e.g., whether a development project's site layout is reasonable. The sending of development projects back and forth between the UDC and Plan Commission when the UDC only has authority to provide an advisory report to the Plan Commission unduly delays and adds costs to projects, which results in fewer projects actually being constructed or higher rents.

In Smart Growth's May 10 memo, we provided the following additional suggestions for improvements that address aspects of administration and process, but which were not addressed in the most recent draft ordinance. Smart Growth hopes these suggestions can be incorporated into the UDC's internal procedure manual.

- Please provide a complete list with clearly worded descriptions of the renderings and other documents that the UDC expects development teams to submit for review, and please make the list and descriptions balance the desire of the UDC to see more complete design documents against the cost of preparing detailed renderings and materials when there is a real risk that a project will not go forward.
- UDC commissioners, please ask questions of the design team after public comments to seek information to address allegations made during public comments or when UDC commissioners believe something is true but have no data to support their belief.

- Please refrain from commenting, making recommendations or adopting conditions regarding issues outside of the UDC's scope, e.g., traffic generated by development and how to manage it (the responsibility of city Traffic Engineering), elevator overruns extending above the Capitol view height limit (the responsibility of the Plan Commission), and the design of green roofs (the responsibility of city Stormwater Engineering).
- If UDC commissioners stray into areas outside of the UDC's scope of authority, please empower city staff to request the UDC's permission to omit such statements from the UDC's report to the Plan Commission.
- Please clearly state that the subjective opinions of individual UDC commissioners about building material colors or small design details or concerns about a creative element the development team has included in the design have been provided only as helpful advice to the development team and are not part of the factors the UDC considers when deciding whether to grant final approval or the advice it will give to the Plan Commission.
- Please clarify which comments made about an informational presentation are the comments of the UDC as a body rather than the comments of individual commissioners.

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