

REPORT TO CITY COUNCIL

SUBJECT

Adopt a Resolution to Update the Green Building Program for Residential Projects, Non-Residential Projects and Public Facilities

REPORT IN BRIEF

On May 6, 2014, the City Council considered an update to the City Green Building program, and directed staff to return in August in order to allow more discussion with the community on the potential changes. After hearing from the community and meeting further with green building professionals, staff has revised the recommendation on the update to the green building program (Attachment 1).

The proposed green building update was prepared after: holding two community workshops to discuss and receive feedback on the changes; meeting with green building experts who provided the most current understanding of the subject; and, conducting other meetings and discussions with individuals and groups. In order to best understand how the recommended program compares with the one presented to Council in May and the program currently in effect, the tables have been revised to provide common terminology and formatting (see Attachment 2).

A key element of discussions with the experts and community was that when the other groups (the State, LEED, Build It Green) raise the minimum green building levels, each existing level (e.g. LEED Gold) becomes more difficult to achieve. If the City also increases the required rating level there is a compounded increase in the requirements. The revised recommendation for the green building program takes into account the compounding issue, and the green building tables have been adjusted accordingly.

The main change is to reduce the Moffett Park allowance for a 10% density increase from LEED Platinum to LEED Gold (i.e. maintain existing standard), **plus** require approval by the Council of a special development permit to ensure the applicant provides additional green building features and/or community elements to the project in exchange for the ability to add square footage to projects.

The GreenPoint requirements for residential developments have been maintained at the same levels as the existing program because the GreenPoint requirements have increased in concert with recent State mandated increases to CALGreen and the Energy Code.

Another recommended change is to lock in the green building program requirements when a planning application is deemed “complete” rather than at building permit submittal stage as is currently required. Projects without a planning permit would need to meet the requirement in place at building permit application submittal. This change allows a project designed under a specific green building requirement to maintain that standard throughout the planning and building permit approval

process.

Staff is recommending the proposed changes to be effective January 1, 2015.

On July 21, 2014, the Sustainability Commission considered the item at a noticed public hearing and discussion included how to create standards that focus on long-term operation and assurance that sustainable efforts are met through the life of the building. The Commission voted 5-0 (one absent) to recommend to Council the staff recommendation with two changes: require applicants that request an extension on their planning permits to adjust the green building requirements to reflect the level in place at the time of the extension; and, remove all incentives except the 10% additional FAR in Moffett Park, unless a method of tracking on-going building performance is established to ensure projects meet the green building standards on a long-term basis.

On July 28, 2014, the Planning Commission considered the item at a noticed public hearing and discussion included how to maintain reasonable, leading edge sustainable building standards, and finding appropriate project size thresholds for each requirement. The Commission voted 6-1 to recommend to Council the staff recommendations with a change to the non-residential threshold from 100,000 to 75,000 square feet projects that shall meet minimum LEED Gold standards.

BACKGROUND

On May 6, 2014, the City Council held a public hearing to consider updates to the City's green building program. After feedback from different groups, organizations and individuals requesting additional time to review the requirements and to have the ability to meet with staff to further discuss the options, the Council continued the item to August 12.

A City-wide green building policy and zoning incentive program were adopted in 2004. Mandated green building requirements were implemented first in Moffett Park in 2004 and then City-wide in 2009. When the mandated requirements were adopted in 2009, Council asked staff to periodically review the standards and return to the Council with proposed upgrades. The current proposal represents the third update to the standards. The green building program uses three general green building standards, which include the following:

California State Requirements (all projects)

CALGreen is the California Green Building Standards Code developed by the State of California and is a part of the building codes. This code sets standards for green construction in California. Initially, CALGreen was limited to new construction. However, the current version requires additions and many non-residential alterations to existing buildings to meet CALGreen requirements for the area under construction.

The 2013 CALGreen standards became effective on January 1, 2014. This code version greatly increased the type of projects that are covered by the CALGreen standards. When first applicable in January of 2011, CALGreen only applied to new construction. Various modifications were made over the past few years and now the CALGreen standards applies to all residential additions, non-residential additions/alterations with a permit valuation of greater than \$200,000 as well as to all new construction.

CALGreen includes mandatory standards as well as optional Tier 1 and Tier 2 standards. The

mandatory requirements are minimum standards that are applicable to all covered projects. The Tier 1 and Tier 2 standards are optional levels of higher green standards that can be adopted by local jurisdictions. However, even the highest CALGreen Tier 2 level represents a lower standard than the GreenPoint Rated and LEED levels proposed below.

The 2013 Energy Code (Title 24) establishes the minimum requirements for energy systems in new projects. These new code requirements took effect July 1, 2014.

Build It Green (residential projects)

Build It Green (BIG) is an independent non-profit organization committed to promoting green building. They have developed the GreenPoint Rated Checklist, which is a point based system providing options for a variety of green building techniques, allowing project designers and owners to select the items that are applicable or desirable for a specific project. The rating system is divided into categories for energy, indoor air quality, resource conservation, water conservation, and community connectivity, with a minimum number of points required in each category.

LEED (mainly commercial projects)

LEED, or Leadership in Energy and Environmental Design, is a rating system developed by the United States Green Building Council (USGBC) that provides credits for green building features and assigns a LEED level (Certified, Silver, Gold, or Platinum) based on the number of credits achieved. Similar to the GreenPoint Rated Checklist, the LEED rating system includes categories for Location and Transportation, Sustainable Sites, Water Efficiency, Energy and Atmosphere, Materials and Resources, Indoor Environmental Quality, Innovation, and Regional Priorities.

EXISTING POLICY

Community Vision Statement: A regional leader in environmental sustainability ... advocating to reduce dependence on non-renewable resources by providing greater transportation options, reducing waste, protecting our natural resources, and promoting alternative energy usage and research. We take environmental preservation and protection seriously and consider how each action will affect Sunnyvale for future generations.

Community Vision Goal III. Environmental Sustainability: To promote environmental sustainability and remediation in the planning and development of the City, in the design and operation of public and private buildings, in the transportation system, in the use of potable water and in the recycling of waste.

Green Building Requirements (Title 19)

19.39.030

- (h) The city council shall establish by resolution, and shall periodically review and update as necessary, green building standards for compliance. The standards for compliance shall include, but are not limited to, the following:
- (1) The types of projects subject to regulation (covered projects);
 - (2) The green building rating system to be applied to the various types of projects;
 - (3) Minimum thresholds of compliance for various types of projects; and
 - (4) Timing and methods of verification of compliance with these regulations.

ENVIRONMENTAL REVIEW

A Negative Declaration was prepared for the 2009 green building ordinance and program, and the

proposed changes do not substantially exceed or create any negative impacts not already contemplated and studied in that negative declaration. Therefore, no additional environmental analysis is required to be performed to update the Green Building Tables.

DISCUSSION

Subsequent to the May 2014 Council date, staff held several meetings with developers, architects, sustainability professionals, businesses, organizations and the general public to gain feedback on the proposed modifications to the standards. Each meeting was useful in gaining feedback on the challenges and opportunities available to the development community and residents in meeting the City standards. Listed below are significant information items discussed:

1. The State's building code regulations continue to push for greater sustainable elements. This can be seen by the recent changes to the State Energy Code (Title 24), which took effect on July 1, 2014, and the State CALGreen standards.
2. Build It Green and LEED continue to raise the points needed and methods to meet the established standards (e.g.. LEED Silver, BIG 100 points).
3. LEED is a national program administered by the U.S. Green Building Council (USGBC). The USGBC periodically adjusts their minimum standards to meet specific green building levels. There are currently two different standards in place, LEED 2009 (or version 3) and the more recent version 4. In July 2015, LEED Version 4 will be the only applicable program for new projects; until then, either can be used. It was described to staff that Version 4 raises the minimum sustainable efforts necessary to reach their four levels: Certified, Silver, Gold and Platinum, making attainment of those levels more difficult and costly.
4. Build It Green uses a GreenPoint rating system, primarily for single and multi-family residential projects. The GreenPoint system is basically based on achieving a 10% increase in sustainable building elements over what is required by the State 2013 Energy Code (see letter from Build It Green, Attachment 3). The new standards became effective when GreenPoint version 6.0 became effective January 1, 2014.

Current Green Building Program

The current green building tables (Attachment 2, pages 5 - 6) include graduated requirements based on the scope of projects. These tables require some level of green building for many projects, though there are small projects that do not have a green building requirement (such as re-roofing projects, small residential additions, and minor tenant improvements). This approach has been used since 2009 to educate the public about green measures and to influence their development decisions. The minimum green building standards increase for larger projects and include voluntary incentives for higher levels of green building.

The structure of the current program has been well received by the development community and property owners. Staff has received positive feedback that the program requirements are clearly described and that the use of standardized green building checklists (LEED and GreenPoint Rated) is helpful as most design professionals are familiar with them. A more thorough discussion of the programs is included in the May 2014 Report to Council in Attachment 4.

Options to Consider

The goal of the green building update is to require increased levels of sustainable building elements in projects. Concern was raised by the development community that the May 2014 proposed changes would create a significant hardship given the corresponding changes to the state, LEED and

BIG standards. After speaking to the community, staff is modifying its recommendation to propose less aggressive standards to address the concerns. Attachment 2 shows three program options: the requirements proposed as a part of this report (pages 1 - 2); the proposal submitted to Council in May 2014 (pages 3 - 4); and the current requirements (pages 5 - 6).

The following discusses the differences between the requirements proposed as part of this report and the May 2014 staff proposal:

Non-residential (Commercial/Office/Industrial)

1. Increase the middle range from 5,000-25,000 square feet to 100,000 square feet for new construction and initial tenant improvements and maintain the standard of LEED Silver for these projects. This proposed change recognizes that it is generally more difficult for smaller projects to meet the higher LEED standards.
2. For new construction and initial tenant improvements over 100,000 square feet, maintain the previously proposed standard of LEED Gold for these projects.
3. The requirements for the voluntary green building incentive (additional 10% Floor Area Ratio or 10-foot height increase), which is available City-wide, were simplified and changed to address concerns raised by the development community. The LEED Platinum standard has been reduced to LEED Gold with USGBC certification.
4. Projects within Moffett Park can continue to take advantage of two levels of incentives:
 - a. First level incentive (15%-20% Floor Area Ratio increase based on the zoning district): require LEED Gold with USGBC certification; and
 - b. Second level incentive (additional 10% Floor Area Ratio density bonus or 10-foot height increase): require LEED Gold with USGBC certification **AND** a Major Moffett Park Special Development Permit. The green building standard for the second level incentive has been reduced from LEED Platinum to LEED Gold. The proposed change acknowledges the difficulty in meeting the new LEED Platinum standard. Requiring a Major Moffett Park Special Development Permit provides an opportunity for the Council to require projects to include additional green building or other sustainable elements. This approach relies less on the parameters of the LEED program and allows for other options to meet the City's sustainability goals (e.g. Climate Action Plan) in addition to achieving a LEED Gold project.
5. "Major Alterations" have been clarified by providing the type of projects and a definition in the table. LEED Silver is required for alteration projects over 10,000 square feet; projects less than or equal to 10,000 square feet are subject to the applicable state-wide CALGreen provisions.

Residential (Single and multi-family)

1. Staff proposes to maintain the same GreenPoint levels from the existing program. Since GreenPoint is a program focused in California, when the State CALGreen and Energy Code requirements increase, the GreenPoint level increases at least 10% above that. Since the state levels have recently been adjusted, the existing 80 and 110 point levels are sufficient to result in a more aggressive program.

Implementation of Updated Requirements

1. Staff continues to recommend the effective date of the updated green building tables to be January 1, 2015.
2. The existing program and May 2014 staff proposal established the submittal of a complete

building permit application as the date when a project locks in its green building requirement. The revised staff proposal changes the lock in date to an earlier point when a planning application is deemed “complete.” Therefore, if a complete planning application is submitted by December 31, 2014, the project would be subject to the current green building requirements even if building permit applications are submitted after January 1, 2015. This revision responds to comments that green building requirements are typically considered at an early design stage to assess the financial feasibility of a project. This often occurs before a formal planning application is submitted and well before the preparation of building permit plans. Changes in green building requirements later in the process can have adverse financial and design impacts.

3. The program would also clarify that the tenant improvements in non-residential buildings that have utilized a green building incentive need to meet the “green level” required of the building. Residential projects don’t experience “tenant improvements” the same as commercial and office buildings, but if significant changes are made to the building, they would also be required to meet the green level required as part of an incentive.

FISCAL IMPACT

The staff recommended changes to the green building program would not have a fiscal impact. If further modifications are made to the green building program, there may be a fiscal impact to the Building Division as additional plan review and inspection resources may be needed if significant new requirements are implemented.

PUBLIC CONTACT

Public contact was made through posting of the {Planning Commission agenda on the City’s official-notice bulletin board, on the City’s website, and the availability of the agenda and report in the Office of the City Clerk.

Notices were sent to the neighborhood associations, developers and design professionals involved in development in Sunnyvale, and posted at the One-Stop Permit Center.

Two community outreach meetings were held during the morning and evening on June 5, 2014, at which a total of 40 people attended. Attendees included businesses, developers, architects, building industry representatives, green building specialists, and members of the community. A meeting was also held on July 17, 2014, with representatives of the Moffett Park Business Group.

One member of the public spoke at the Sustainability Commission in support of the revised requirements.

Several people spoke on the item at the Planning Commission. Generally, they spoke in favor of the revised requirements. Speakers with experience using the Sunnyvale green building program described how the building industry keeps pace with the green building requirements, and that high tech tenants come to expect sustainable buildings when looking to occupy space.

ALTERNATIVES

1. Adopt the Resolution in Attachment 1 to Update the Green Building Tables using the July 2014 draft requirements for Non-Residential Projects, Residential Buildings, and Public Facilities which include the following:

Non-Residential Projects and Public Facilities:

- Maintain the LEED Silver level for new construction and initial tenant improvements for projects less than 100,000 square feet.
- Increase the LEED level from Silver to Gold for new construction and initial tenant improvements for projects equal or greater than 100,000 square feet.
- Maintain the LEED Gold level with USGBC certification for projects that take advantage of the voluntary city-wide green building incentives.
- For Moffett Park projects that take advantage of the voluntary incentives, require LEED Gold with USGBC certification; for projects proposing the additional 10% FAR incentive, require a Major Moffett Park Special Development Permit.
- Increase the standard for major alterations, so that projects over 10,000 square feet must meet LEED Silver level.

Residential Projects:

- Maintain the existing GreenPoint Rated Checklist requirements for new construction (minimum 80 points) and incentives (minimum 110 points).
- Maintain the CALGreen requirements for remodels, alterations and additions, but eliminate the valuation thresholds since CALGreen now applies to all projects.

Public Facilities:

- Maintain the current standards for new construction, which requires LEED Gold for new buildings greater than 5,000 square feet (unless determined infeasible).
- Increase the standard for major alterations to match that of the non-residential projects.

2. Adopt the Resolution in Attachment 1 to Update the Green Building Tables for Residential Buildings, Non-Residential Projects, and Public Facilities with modifications, such as suggested by the Planning Commission and/or Sustainability Commission.
3. Take no action and maintain the current green building standards.

RECOMMENDATION

Alternative 1: Adopt the Resolution in Attachment 1 to Update the Green Building Tables for Residential Buildings, Non-Residential Projects, and Public Facilities.

The staff recommendation considers the Council's adopted policy to have the City be a leader in green building and sustainability, while also providing a balance with feasible building options. The staff recommendation has been revised from May 2014 to reflect the additional input received from green building professionals and community members. Staff is recommending continued use of the standardized programs (GreenPoint Rated and LEED), but require a higher level than most other jurisdictions. This approach provides some level of consistency for design professionals in that they can familiarize themselves with these programs. While a higher point level may be the standard in Sunnyvale, it is based on the same overall programs. Although the Planning Commission recommended amending the threshold for non-residential projects from 100,000 square feet to 75,000 square feet, staff recommends keeping the 100,000 square foot threshold based on comments from green building professionals that the smaller projects have more difficulty meeting higher green building standards.

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ATTACHMENTS

1. Draft Resolution to Update the Green Building Tables for 2015
2. Comparison of existing, May 2014 draft and currently proposed and Green Building Program Requirements
3. Build It Green letter dated June 23, 2014
4. Report to Council 14-0339 (May 6, 2014)
5. Sustainability Commission draft minutes July 21, 2014
6. Letters from Interested Parties
7. Planning Commission draft minutes July 28, 2014