

**Mandatory Green Building Requirements in the City of Oakland**

**May 11, 2009**

<b>Project Name:</b>	<b>Citywide</b>
<b>Proposal:</b>	Discussion and comment on the historic component in the proposed green building requirements for private development as a referral from Special Projects Committee public hearing.
<b>Applicant:</b>	City Planning Commission
<b>Environmental Determination</b>	Under Review
<b>Status</b>	Recommendations contained within staff report
<b>For further information:</b>	Contact case planner Heather Klein at (510) 238-3659 or hklein@oaklandnet.com.

**SUMMARY**

The demolition, construction, and use of buildings have an impact on the environment, the economy, and our health. Green buildings reduce energy use, conserve water indoors and out, limit solid waste during construction, and in urban areas reduce the amount of vehicle miles traveled by residents. All of these benefits have been found to reduce emissions of carbon dioxide, a green house gas (GHG) and contributor to global warming. In addition, green buildings are constructed from sustainable products that preserve natural resources through the use of local materials and recycled products. Green buildings benefit occupants through the use of healthy building materials, including zero to low Volatile Organic Compound (VOC) and formaldehyde free products. In addition, green buildings encourage the growth of additional businesses and jobs in order to support the needs of the green building industry.

The purpose of this report is to continue the discussion of March 9<sup>th</sup> regarding the proposed mandatory green building threshold requirements for historic properties as a referral from the Special Projects Committee. Staff requests that the Landmarks Preservation Advisory Board (LPAB) review the report and provide a recommendation to be forwarded to the full Planning Commission for consideration.

**BACKGROUND**

Staff presented the proposed thresholds to the LPAB on March 9, 2009. Attachment A and B contain the previous reports to the LPAB and the Special Projects Committee for reference. In the reports, staff described the Leadership in Energy and Environmental Design (LEED) and Build It Green's GreenPoint Rated programs as the basis for the proposed Green Building Ordinance as directed by the Planning Commission and the Community and Economic Development Committee of City Council. There was a lengthy discussion regarding the thresholds with numerous comments from both the LPAB and the public. Since the hearing, staff has met with members from the U. S. Green Building Council and conducted more analysis regarding historic structures.

**SUMMARY OF THE PROPOSAL**

Based on information collected, staff has modified and clarified the proposed thresholds which are outlined below. Changes are indicated in cross-out and underline text along with a discussion of the modifications.

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<b>New Construction projects resulting in demolition of a Potentially Designated Historic Property rated C or higher on the Local Register- LEED: New Construction (NC) or other appropriate LEED rating system for commercial construction OR Single-Family Green Point Rated (GPR) Checklist or Multi-Family Green Point Rated (GPR) Checklist for residential construction.</b>			
<i>Year</i>	<b>Year 1</b>	<b>Year 2</b>	<b>Ongoing</b>
<b>Mandatory Requirements</b>	Mandatory submittal of LEED NC checklist <b>OR</b> GreenPoint Rated checklist	LEED Gold for new construction of commercial buildings with certification <b>OR</b> 100 GPR points for residential projects with certification	LEED Gold <b>AND</b> deconstruction of the historic structure with Certification required for commercial construction <b>OR</b> 100 GPR points <b>AND</b> deconstruction of the historic structure with Certification required for residential projects

Staff removed “on the Local Register” from the threshold language per Betty Marvin of the Oakland Cultural Heritage Survey’s request. There have been no further changes to the proposed thresholds for demolition of a historic resource and new construction.

<b>Single-Family Residential Additions/Alterations/Remodels of a Potentially Designated Historic Structure rated C or higher on the Local Register that exceed 1,000 sq. ft. of total floor area: Build it Green Existing Home Green Points Checklist</b>			
<i>Year</i>	<b>Year 1</b>	<b>Year 2</b>	<b>Ongoing</b>
<b>Mandatory Requirements</b>	Voluntary requirements; Mandatory submittal of Existing Home GPR checklist	13 point minimum for Elements; Mandatory submittal of Existing Home GPR checklist	Elements certification (25 point minimum)

Staff removed “on the Local Register” from the threshold language per Betty Marvin of the Oakland Cultural Heritage Survey’s request. There have been no further changes to the proposed thresholds for additions, alterations, or remodels of single-family historic resources. This is the same proposed threshold as existing homes that are not historic and are undergoing an addition, alteration or remodel that exceed 1,000 sq. ft.

<b>Multi-Family Residential Additions/Alterations/Remodels of a Potentially Designated Historic Structure rated C or higher: Build it Green Existing Multi-Family Green Points Checklist</b>			
<i>Year</i>	<b>Year 1</b>	<b>Year 2</b>	<b>Ongoing</b>
<b>Mandatory Requirements</b>	Not Available	Participation in the Existing Multi-Family Green Point pilot program	Existing Multi-Family Green Point Checklist Threshold to be determined and equivalent to other thresholds in the Ordinance

There have been no changes to the proposed thresholds for additions, alterations, or remodels of multi-family historic resources. This is the same proposed threshold for residential additions, alterations, and remodels of existing non-historic buildings with multi-family units. Staff will develop a size threshold after the program has been finalized. The thresholds will be equivalent to other thresholds in the proposed Ordinance.

<b>Commercial Additions/Alterations/Remodeling of a Potentially Designated Historic Structure rated C or higher AND between 5,000 - 25,000 sq. ft.: LEED appropriate checklist AND Stopwaste.Org Checklist</b>			
<i>Year</i>	<b>Year 1</b>	<b>Year 2</b>	<b>Ongoing</b>

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<b>Mandatory Requirements</b>	<u>Voluntary requirements; Mandatory submittal of Stopwaste.Org checklist and sit down meeting with Historic Preservation Planner</u>	<u>Mandatory submittal of appropriate LEED checklist and Stopwaste.Org checklist; Minimum number of measures on the Stopwaste.Org checklist; Sit down meeting with Historic Preservation Planner; City Certification required</u>	<u>Mandatory submittal of appropriate LEED checklist and Stopwaste.Org checklist; Minimum number of measures on the Stopwaste.Org checklist; Sit down meeting with Historic Preservation Planner; City Certification required</u>
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- *Note: One measure from each category in the Stopwaste.Org checklist must be attained.*

Staff added this threshold for Potentially Designated Commercial Historic Structure rated C or higher and between 5,000 and 25,000 sq. ft. Staff analyzed the number and square footages of historic properties in Downtown Oakland. It was evident that a large portion of properties fell in this square footage range and therefore in order to have a comprehensive proposal that staff needed to add a threshold. The proposed threshold is similar to that proposed for non-residential new construction except that staff is also proposing a sit down meeting with a historic preservation planner.

<b>Commercial Additions/Alterations/Remodeling (see alteration and remodel criteria) of a Potentially Designated Historic Structure rated C or higher on the Local Register AND over 25,000 sf + - LEED: New Construction (NC), Core and Shell (CS), Commercial Interior (CI) Checklist or other appropriate LEED rating system.</b>			
<b>Year</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Ongoing</b>
<b>Mandatory Requirements</b>	Voluntary requirements; Mandatory submittal of LEED NC or CI checklist	13 point minimum; No certification; Mandatory submittal of LEED checklist	LEED Certified; Certification required
<b><u>Alternate compliance: Commercial Additions/Alterations/Remodeling that do not meet the alteration and remodeling criteria of a Potentially Designated Historic Structure rated C or higher AND over 25,000 sf + LEED appropriate checklist AND Stopwaste.Org Checklist</u></b>			
<b>Year</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Ongoing</b>
<b>Mandatory Requirements</b>	<u>Voluntary requirements; Mandatory submittal of Stopwaste.Org checklist and sit down meeting with Historic Preservation Planner</u>	<u>Mandatory submittal of appropriate LEED checklist and Stopwaste.Org checklist; Minimum number of measures on the Stopwaste.Org checklist; Sit down meeting with Historic Preservation Planner; City Certification required</u>	<u>Mandatory submittal of appropriate LEED checklist and Stopwaste.Org checklist; Minimum number of measures on the Stopwaste.Org checklist; Sit down meeting with Historic Preservation Planner; City Certification required</u>

- *Note: Alteration and Remodel Projects per the Non-Residential and Historic Green Building Thresholds are those projects where significant upgrades to mechanical, electrical and/or plumbing systems are proposed. Alterations or Remodels includes all work completed over the last two years since the Ordinance was adopted plus the proposed project.*
- *Note: One measure from each category in the Stopwaste.Org checklist must be attained.*

Staff removed “on the Local Register” from the threshold language per Betty Marvin of the Oakland Cultural Heritage Survey’s request. Staff also added clarifying language criteria to address the scope of an alteration or remodel. This was because without significant or substantial changes of this type, a project would have difficulty in reaching the proposed thresholds. Staff also added LEED New Construction as a possible rating system. Alteration or remodeling work on projects greater than 25,000 sf and not meeting the alteration or remodeling criteria are provided an alternative compliance option. The applicant would need to meet the less stringent thresholds requiring submittal of both the LEED and Stopwaste.Org checklist and minimum number of measures on the Stopwaste.Org checklist. A sit down meeting with the Historic Preservation Planner is required. The City will certify compliance with these measures.

## KEY ISSUES

### Options Considered but Rejected

Staff considered other potential options based on comments from the previous LPAB hearing. Ultimately, staff rejected these as incompatible with Oakland's sustainable goals and policies and the other proposed thresholds for non-historic structures. Below is a list of the options considered at the LPAB hearing and a brief explanation of their rejection.

#### **1. No Green Building requirement for any historic resource.**

Some jurisdictions have not addressed historic buildings, relying on the assumption that retention of a historic building is in itself "green" based on savings in material consumption and the embodied energy in these buildings. Also, as pointed out in the last LPAB staff report, these buildings were often designed with the local climate in mind and these architectural features mirror the point requirements in the both the GreenPoint Rated and LEED rating systems.

However, in California, buildings are the second largest contributor to California's greenhouse gas emissions. The California Air Resources Board, in their AB32 Draft Scoping Plan, estimates that one-quarter of the greenhouse gases emitted in California can be attributed to buildings. Given these statistics improving energy efficiency in buildings is fundamental to reducing the impacts of global climate change. Historic buildings were built prior to Title 24 and other energy efficiency requirements. In addition to improved energy efficiency and water consumption, alterations or remodeling of these buildings should also address indoor air quality and material resources. So while historic buildings are intrinsically "green", there is an opportunity for the development community to improve upon the sustainable features in these buildings without compromising the historic components. It is for these reasons that staff would not recommend exempting historic buildings from the Ordinance.

#### **2. Submittal of the appropriate Green Building checklist but no minimum requirement or third party certification.**

#### **3. Submittal of the appropriate Green Building checklist with a minimum requirement but no third party certification.**

Submittal of the appropriate Green Building checklist is an important step in the implementation of a mandatory Ordinance since it encourages an applicant to start learning about sustainability and incorporating green features into a building. However, without a minimum requirement there is no guarantee that the applicant will actually improve the performance of a building which is necessary in order to attain Oakland and the state's sustainable goals.

The proposed rating systems require third party verification where an outside party conducts the project review and certification. This is an important part of both rating systems and helps the programs maintain their integrity, market value, and uniformity. There are many instances of products and buildings that say there are green and sustainable but are actually the opposite. The industry term for this is "green washing". Without verification of features using set standards it would be difficult, if not impossible, to prove that the building actually is built or incorporates sustainable measures. It is for these reasons that staff is not recommending either of these two options.

#### **4. Increase threshold for square footages for green building requirements**

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Staff is proposing a comprehensive green building program that addresses most types and sizes of building in Oakland. Staff researched the square footage of historic structures in the Downtown. There was a large percentage of buildings in the categories we are proposing, 5,000-25,000 sf and 25,000 sf plus. Staff is proposing to tie the thresholds to building square footages that are the basis for permits in the Planning Code. The purpose of using these square footages is to ease implementation for staff as well as the building community. Staff believes that increasing the threshold for green building requirements would be a mistake. It would exempt a majority of the historic building stock from the Ordinance and would dilute the thoroughness of the proposed Ordinance. Increasing the thresholds also will make the Ordinance more difficult to implement from a City staff perspective. It is for these reasons that staff is not recommending this option.

5. **City to develop its own historic resource based thresholds and checklist.**
6. **City to wait until the existing rating programs (LEED or GreenPoint Rated) develop thresholds to address historic buildings.**

Several speakers were concerned that the existing rating systems do not specifically address historic structures and that requiring a rating system not specifically designed for a historic structure would compromise the building's integrity. While it is true that the rating systems are not designed specifically for historic structures they can and are being applied to great success, with LEED mainly for commercial structures and GreenPoint Rated for residential structures. Examples include the Wakefield Building, the Uptown Arts Building, and the Boathouse in Oakland. In addition, the architects for the 1100 Broadway Project are anticipating a LEED Silver rating which includes rehabilitation and green features in the Key System Building. This project was reviewed by the LPAB and found to meet the Secretary of the Interior's Standards.

Staff believes that it would be time consuming and difficult to develop our own program for historic structures when there exist recognized programs with credibility and market value. Another strong argument for not developing an Oakland-specific green building rating system, or substantially modifying existing rating systems, is to maintain regional consistency. Builders and the building community are in favor of consistent standards for green building. Staff believes that it would be a mistake for historic buildings to be exempt from the green building requirements in order to complete a "perfect" or historically specific checklist or furthermore, to wait for a third-party program to address historic buildings specifically when the programs are already being applied successfully. It is for these reasons that staff is not recommending this option.

All of the Ordinances currently implemented around the state include appeal language and the ability for an applicant to provide reasons for an exemption from the Ordinance. It is also for this reason that staff is not recommending this option.

7. **Requirements for additions, alterations, or remodels of historic structures but no additional requirement or disincentive for the demolition of a historic resource.**

Several Board Members and public speakers thought that there should be no additional green building requirements if demolition of a historic resource was proposed. Some speakers believed that adding a disincentive to demolish a historic structure in a green building ordinance was not the appropriate mechanism for preservation and that other polices should be strengthened instead. Some speakers believed that the threshold would actually promote demolition in order to build a newer building which would be seen as more sustainable.

Staff believes that these two concerns are related. The first concern addresses existing and proposed policies. The second concern anticipates a response to the proposed policy. Staff believes that existing

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policies related to demolition of historic structures should be strengthened. The work being considered as part of the Central Business District rezoning is a current example of this. The proposed green building policy complements that rezoning work as well as other existing policies. The threshold for demolition of a historic structure is not intended to circumvent or eliminate existing policies encouraging preservation. In fact, staff's proposal is largely based on San Francisco's green building policy which was seen to contain a loophole encouraging demolition. The thought was that an applicant would claim that they needed to demolish a historic structure in order to meet the thresholds. San Francisco's green building policy for projects with demolition counters that by requiring an applicant go even further than the base green buildings thresholds. This policy closed the loophole by providing a major disincentive to demolish. An applicant could however still apply for demolition and they would be subject to the City's existing demolition policies including CEQA review. Staff has recently reviewed several projects with smaller historic buildings on larger parcels including the 1100 Broadway, Courthouse Condominiums, 39<sup>th</sup> and Adeline Project, and the St Francis Rectory site. Staff believes that this type of disincentive for demolition will preserve more of these types of projects where there is already a disincentive to demolition. Therefore, staff is not recommending this option.

**CONCLUSION AND RECOMMENDATION**

As shown in the discussion above, the thresholds related to historic buildings take into account the specific development conditions in Oakland. The thresholds address Oakland's goals and policies, the existing historic building stock, waste generated from the demolition of these buildings, our regional position related to office space, and the potential for job and business growth. While other jurisdictions might not have many historic buildings, not addressed historic structures or exempted them, staff has concluded that to not address these buildings if any way would be to ignore a large portion of Oakland's building stock. New construction requirements alone cannot achieve Oakland and the state's sustainable goals.

Staff asks that the Board:

- 1) Receive public comment on the proposed project;
- 2) Review and discuss the project;
- 3) Accept the proposal on the historic thresholds outlined in the *Summary of Proposal* section of this report; and
- 4) Forward that recommendation to the full Planning Commission.

Respectfully submitted:

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ERIC ANGSTADT  
Deputy Director  
Community and Economic Development Agency

Prepared by:

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Heather Klein  
Planner III, Major Development Projects

Joann Pavlinec  
Historic Preservation

Attachments:

A: Landmarks Board Staff Report, March 9, 2009

B: Special Projects Staff Report, February 19, 2009

C: San Francisco's Green Building Ordinance related to historic structures