

Mandatory Green Building Requirements in the City of Oakland

February 19, 2009

<p>Project Name: Citywide</p> <p>Proposal: Discussion of the proposed green building requirements for private development projects including but not limited to new construction; additions, alterations, and remodeling; historic buildings; and neighborhoods</p> <p>Applicant: City Planning Commission</p> <p>Owner: City Planning Commission`</p> <p>Staff recommendation: Review the proposal and give staff direction.</p> <p>For further information: Contact case planner Heather Klein at (510) 238-3659 or hklein@oaklandnet.com.</p>
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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 discuss the proposed mandatory green building threshold requirements for private development projects in the City of Oakland. Staff requests that the Special Projects Committee review the recommendations and provide staff clear direction, with emphasis on the issues discussed in the report, as well as any other issues the Committee or the community may have.

BACKGROUND

Green Building Rating Programs

Since it would be time consuming and difficult to develop our own program when there exist recognized programs with credibility and market value, staff recommended and the that the City of Oakland use the Leadership in Energy and Environmental Design (LEED) and/or Build It Green's GreenPoint Rated programs as the basis for the Ordinance. Staff presented recommendations to the Planning Commission on October 1, 2008 and the Community and Economic Development Committee of City Council on October 18, 2008 and both of these bodies agreed with staff's recommendation. Below is a brief summary of these programs.

Leadership in Energy and Environmental Design (LEED)

In 2000, the US Green Building Council (USGBC) developed the LEED green building rating system for the design, construction, and operation of high performance buildings. This system is the internationally accepted benchmark for green buildings and is typically applied to commercial, civic, and high-rise residential buildings. The USGBC has developed specific rating programs for the following building types:

- New Commercial Construction and Major Renovation Projects
- Commercial Interiors
- Existing Buildings Operations and Maintenance
- Core and Shell Development
- Schools
- Retail
- Single-family homes and mid-rise residential buildings*

* Currently LEED for Homes and Neighborhood Development are in the pilot phase.

The LEED system is a point based program with third party verification. Projects must pre-qualify for LEED by meeting several pre-requisites. The project team then designs features into the project to qualify for points, which are tallied to achieve a rating. In the LEED for New Construction Version 2.2 rating system, the LEED Certified rating is achieved with 26-32 points, LEED Silver is 33-38 points, LEED Gold is 39-51 points, and LEED Platinum is 52-69 points. At each rating level, a certain amount of points must be achieved in each environmental category (e.g., energy and atmosphere, water efficiency, materials and resources). At the end of the project, the applicant team must submit documents to verify compliance with the points to the USGBC. The USGBC reviews the documentation and certifies the project as a LEED project at the earned level of performance.

GreenPoint Rated

In 2005, Build it Green was created as a result of the merger of the Green Resource Center and Bay Area Build it Green. Build it Green has developed the GreenPoint Rated rating system which has become the standard for evaluating the green performance of new single-family and multi-family projects, although it can also apply to neighborhood and high-rise residential development. This system is solely based in California and includes practices that exceed California codes. GreenPoint Rated is also a point based program with third party certification. There are fewer pre-requisites and no certification tiers in GreenPoint Rated. The minimum point level is currently 50 and the possible number of points goes up from there. It is difficult to calculate the maximum number of achievable points since points that are awarded for one feature might disqualify the project from achieving points for another feature. A minimum amount of points must be achieved in each category such as Community, Energy, Indoor Air Quality, Resources, and Water. The project team must retain a GreenPoint Rater to verify compliance with the GreenPoint Rated program. Without documentation, a certified rater and submittal of the documentation, a project is not considered to be a GreenPoint Rated project.

SUMMARY OF THE PROPOSAL

The proposed thresholds are split into 7 main parts:

1. Residential
2. Non-Residential
3. Historic
4. Neighborhoods
5. Projects with Notice of Funding Availability (NOFA)
6. Mixed Use
7. Additional Mandatory Points

The Residential, Non-Residential and Historic sections contain recommendations for new construction, as well as additions, alterations, and remodeling. Each section contains mandatory requirements per year of implementation. In developing certain thresholds, staff looked at existing permit thresholds for consistency in reviewing the project and determining the process in order to ease staff implementation.

Residential			
New Construction Single Family- Build it Green: New Home Green Point Rated (GPR) Checklist			
<i>Note: secondary units are not considered an extra unit even if detached unless over 1,000 sq. ft.</i>			
<i>Year</i>	Year 1	Year 2	Ongoing
Mandatory Requirements	Voluntary requirements; Mandatory submittal of New Home GPR checklist	25 point minimum; No certification; Mandatory submittal of New Home GPR checklist	Certification required (currently 50 points minimum)
New Construction 2+ units: under CUP threshold for 120'- Build it Green: Multi-Family Green Point Rated (GPR) Checklist			
<i>Year</i>	Year 1	Year 2	Ongoing
Mandatory Requirements	Voluntary requirements; Mandatory submittal of Multi-Family GPR checklist	25 point minimum; No certification; Mandatory submittal of Multi-Family GPR checklist	Certification required (currently 50 points minimum)
New Construction projects that require a CUP for 120'- LEED: New Construction (NC) or other appropriate LEED rating system.			
<i>Year</i>	Year 1	Year 2	Ongoing
Mandatory Requirements	Voluntary requirements; Mandatory submittal of LEED checklist	20 points minimum; No certification; Mandatory submittal of LEED checklist	LEED Silver; Certification required
Additions/Alterations/Remodels that exceed 1000 sq. ft. of total floor area- Build it Green Existing Home Green Points Checklist			
<i>Year</i>	Year 1	Year 2	Ongoing
Mandatory Requirements	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)

In the first section, any new single-family construction project would follow the Build it Green: New Home Green Point Rated (GPR) checklist. Secondary units would not be required to follow these requirements even if detached unless they are over 1,000 sq. ft. In the first year the requirements are voluntary but the applicant must submit the checklist. In the second year 25 points but no certification would be required. In the third year and ongoing, the applicant would need to meet the minimum requirements (currently 50 points) to be considered a Green Point Rated (GPR) project. Certification by Build It Green would also be required.

The next section is similar to the single-family construction threshold. New construction of 2 + units that fall below the requirement for a Conditional Use Permit (CUP) for a Large-Scale Developments would use the Build it Green Multi-Family GPR Checklist. Pursuant to the Planning Code, Large-Scale Developments are those that involve development of more than one hundred thousand (100,000) square feet of new floor area, or a new building or portion thereof of more than 120' feet in height and require approval of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

For projects that require a CUP for a Large-Scale Developments, the rating program would change to LEED. The applicant and staff would choose which specific rating system would be most appropriate for the project. Examples of specific rating programs include new construction, core and shell, schools, or retail. In the first year the requirements are voluntary but the applicant must submit the LEED appropriate checklist. In the second year 20 points but no certification would be required. In the third year and

ongoing, the applicant would need to meet the minimum amount of points to achieve LEED Silver and certification by the USGBC would be required. The purpose of an additional requirement is that these types of high-rise construction projects typically have similar building systems to those found in high-rise commercial projects. In addition these projects require a higher level of design, quality, and type of construction than smaller multi-family projects.

Additions, alterations, and remodel projects that exceed 1000 sq. ft. of total floor area would need to comply with Build It Green Existing Home Green Points Checklist. Staff chose this threshold as these projects currently need to go through the more stringent Tract III Design Review process. Under the Existing Home Green Points Checklist, Build it Green offers two certifications: Elements and Whole House. The Elements certification is for smaller remodels such as a kitchen or bathroom remodel or addition. The Whole House certification is for larger remodels that effect the building’s mechanical, plumbing, and electrical system. Staff chose the Elements certification as the basis for this threshold as it is less onerous and yet would still apply to the majority of these projects. StopWaste.Org is currently working to establish a CityFIRST program that would cover all jurisdictions in Alameda County and identify the thresholds of improvements that will satisfy financing requirements.

Non-Residential			
New Construction Non-Residential projects 5,000 to 10,000 sq. ft.- Stopwaste.Org Checklist			
<i>Year</i>	Year 1	Year 2	Ongoing
<i>Mandatory Requirements</i>	Voluntary requirements; Mandatory submittal of Stopwaste.Org checklist	Voluntary requirements; Mandatory submittal of Stopwaste.Org checklist	Voluntary requirements; Mandatory submittal of Stopwaste.Org checklist
New Construction Non-Residential projects 10,000 to 25,000 sq. ft.- LEED: New Construction (NC) or other appropriate LEED rating system AND Stopwaste.Org Checklist			
<i>Year</i>	Year 1	Year 2	Ongoing
<i>Mandatory Requirements</i>	Voluntary requirements; Mandatory submittal of LEED and Stopwaste.Org checklist	Voluntary requirements; Mandatory submittal of LEED NC and Stopwaste.Org checklist	Mandatory submittal of LEED NC and Stopwaste.Org checklist; Minimum points on the Stopwaste.Org checklist*; Certification required
New Construction Commercial projects over 25,000 sq. ft.+ LEED: New Construction (NC) or other appropriate LEED rating system			
<i>Year</i>	Year 1	Year 2	Ongoing
<i>Mandatory Requirements</i>	Voluntary requirements; Mandatory submittal of LEED checklist	20 points minimum; No certification; Mandatory submittal of LEED checklist	LEED Silver; Certification required
Additions/Alterations/Remodeling: over 25,000 sq. ft.+ LEED Commercial Interiors (CI) Checklist or other appropriate LEED rating system			
<i>Year</i>	Year 1	Year 2	Ongoing
<i>Mandatory Requirements</i>	Voluntary requirements; Mandatory submittal of LEED checklist	20 points minimum; No certification; Mandatory submittal of LEED checklist	LEED Silver; Certification required

*Yet to be determined

Stopwaste.Org is in the process of developing a Small Commercial Project Checklist for those projects where LEED is infeasible or inappropriate. In the first section, any new non-residential construction project between 5,000 and 10,000 sq. ft. would need to submit the Stopwaste.Org checklist. The requirements are completely voluntary but it is hoped that in completing the checklist, contractors and applicants would be encouraged to add green features to their projects.

In the second section, any new non-residential construction project between 10,000 and 25,000 sq. ft. would submit a LEED checklist. The applicant and staff would choose which specific rating system would be most appropriate for the project. In addition, the applicant would need to submit the Stopwaste.Org checklist. In requiring two checklists, staff is hoping to encourage applicants to go beyond the Stopwaste checklist and submit for LEED certification. In the first two years the requirements are voluntary but the applicant must submit both checklists. In the third year the applicant must attain a certain amount of points in the Stopwaste.Org checklist only. This number is still to be determined. City staff would verify that the project has attained the minimum points. The third section is the same as the residential threshold for projects requiring a CUP for a Large-Scale Development.

In the fourth section additions, alterations, or remodeling projects that are over 25,000 sq. ft. would need to comply with the Commercial Interiors or other appropriate LEED program. The first year is voluntary with submittal of the checklist. The second year requires the applicant meet a minimum level of points with no certification, and in the third year the requirement is LEED Silver and certification.

Historic Buildings			
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			
<i>Year</i>	2009	2010	Ongoing
Mandatory Requirements	Mandatory submittal of LEED NC checklist	LEED Silver and the required points shall be increased by 50 % of the total required	LEED Silver AND the required points shall be increased by 50% of the total required AND deconstruction of the historic structure; Certification required
Commercial Additions/Alterations/Remodeling of a Potentially Designated Historic Structure rated C or higher on the Local Register, over 25,000 sf + - LEED: Core and Shell (CI) or Commercial Interior (CI) Checklist			
<i>Year</i>	2009	2010	Ongoing
Mandatory Requirements	Voluntary requirements; Mandatory submittal of LEED CS or CI checklist	13 point minimum; No certification; Mandatory submittal of LEED checklist	LEED Certified; Certification required

Currently, projects that demolish a Potentially Designated Historic Property (PDHP) rated C or higher on the Local Register must meet more stringent entitlement requirements than a proposal on vacant land. This proposal for additional green building requirements for similar projects than involve demolition of a PDHP parallels this policy direction. The first year there are no penalties for demolition but the applicant must submit the appropriate LEED checklist. In the second year, projects automatically start out with a 50% negative point value and must achieve LEED Silver (without the negative start it would be a LEED Gold project). This requirement would ensure that the City of Oakland is getting a new building that is comparable in terms of design quality and construction to that which was demolished by essentially requiring a LEED Gold building. In the third year the same requirements as year 2 still apply. However, the applicant must also utilize deconstruction techniques. Deconstruction is the systematic dismantling of a building to preserve the useful value of its component materials. Unlike demolition, which landfills potential reusable building materials, deconstruction disassembles buildings in a manner that conserves and sorts materials that can be used again or remanufactured into higher-value goods.

THRESHOLDS			
Neighborhoods			
New Construction Mini Lot Development- Build it Green: Multi-Family Green Point Rated (GPR) Checklist			
<i>Year</i>	2009	2010	Ongoing
<i>Mandatory Requirements</i>	Voluntary requirements; Mandatory submittal of Multi-Family GPR checklist	25 point minimum; No certification; Mandatory submittal of Multi-Family GPR checklist; GPR sampling is an option	Certification required (currently 50 points minimum)
New Construction of a Planned Unit Development (PUD) OR projects with phased entitlements OR multi-family projects on lots with over 60,000 sq. ft. lot area- LEED for Neighborhood Development			
<i>Year</i>	2009	2010	Ongoing
<i>Mandatory Requirements</i>	Voluntary requirements; Mandatory submittal of LEED for Neighborhoods checklist	20 point minimum LEED for Neighborhoods; No certification; Mandatory submittal of LEED checklist	LEED Certified; Certification required

The Oakland Planning Commission and City Council have approved several new neighborhoods in recent years including The Uptown, Monte Vista Villas, Lion’s Creek Crossing, the Jack London Square Redevelopment Project, Tassafaronga Village and the Oak to Ninth project. In addition, several others including Mandela Gateway and Oak Knoll are currently in the entitlement process. Based on the Housing Element, dated 2004, there are several opportunities for larger new communities in Oakland. New neighborhood developments impact city services and the surrounding communities, increase stormwater runoff through new impervious surfaces, and remove possible habitat. The goal of requiring a threshold for new neighborhoods is to create vibrant, dense, transit friendly communities based on smart growth principals. This threshold also addresses smaller more parcel specific multi-family developments.

The first section refers to Mini-Lot Developments. A Mini Lot Development is “a comprehensively designed development containing lots which do not meet the minimum size or other requirements applying to individual lots in the zone where it is located.” Certain requirements could be waived or modified upon the granting of a CUP including the maximum height and minimum yard, lot area, width, and frontage requirements. Floor area, parking, and other facilities may be located within said development without reference to lot lines. These developments typically occupy parcels less than 60,000 sq. ft. Since these developments are small, staff recommends using the Build it Green Multi-Family Guidelines. The timing and requirements would be similar to the multi-family new construction thresholds. Sampling is a term used by Build it Green to describe an alternative rating process. During Sampling Verification the Green Point Rater selects a batch of homes with the same green building features and at about the same phase of construction. The Rater will randomly select 15% of the home for verification. It is then assumed that each house in the batch is built using the same construction methods and therefore if those homes pass, all the homes will pass. This is the same sampling method used by EPA’s Energy Star Homes program.

The second section refers to Planned Unit Development (PUD) projects. The purpose of a PUD permit is “to encourage the appropriate development of tracts of land sufficiently large to allow comprehensive planning, and to provide flexibility in the application of certain regulations in a manner consistent with the general purposes of the zoning regulations, thereby promoting a harmonious variety of uses, the economy of shared services and facilities, compatibility with surrounding areas, and the creation of attractive, healthful, efficient, and stable environments for living, shopping, or working.” These permits

occur on land that is over 60,000 sq. ft. and often require phased entitlements. The neighborhood must be professionally designed and often bonus or waivers from the Planning Code are used to create a more comprehensive plan.

The first year is voluntary but the applicant must submit the checklist. In the second year the applicant must meet a minimum of 20 points in the LEED for Neighborhood Development program. The next year the neighborhood must meet the LEED certified level. This threshold only refers to the design of the subdivision. All buildings must either meet Build it Green or LEED requirements for the individual buildings.

THRESHOLDS			
Projects with NOFA Funding			
<i>Year</i>	2009	2010	Ongoing
<i>Mandatory Points</i>	50 points minimum required for eligibility. *	50 points minimum required for eligibility. *	50 points minimum required for eligibility. *

*Additional points required to achieve NOFA points

This threshold addresses projects that receive Notice of Funding Application (NOFA) funds from the City for affordable housing projects. The requirement timeframes for this type of project are different than the other project types because these requirements are currently already a part of the NOFA process. To qualify the applicant must complete the checklist and achieve at least 50 points. Projects are then evaluated for funding based on their total score. Completed projects must achieve the same score range as indicated on their NOFA proposal. If the project cannot meet the same score range, the developer may be assessed negative points on future applications. Staff is recommending continuing and codifying this proposal.

THRESHOLDS			
Mixed Use			
Portion of project exceeding thresholds as defined above will determine the compliance path (Green Point Rated or LEED) for whole project			
<i>Year</i>	2009	2010	Ongoing
<i>Mandatory Points</i>	Voluntary requirements; Mandatory submittal of Multi-Family GPR or appropriate LEED checklist	Mandatory submittal of Multi-Family GPR checklist and 25 point minimum with no certification OR Mandatory submittal of appropriate LEED checklist and 20 LEED points with no certification	Certification required; Currently 50 points minimum for GPR or LEED Silver

This section addresses mixed-use projects that contain both residential and commercial uses. The rating program for mixed use projects will be evaluated by the Planning Director or their designee and based on which use exceeds the above thresholds. As a general rule, the use with the most square footage would determine the rating program. However, staff would generally choose a stricter threshold if applicable.

For example, in a commercial project with 7,000 square feet of commercial and 2 units staff would choose the Build it Green Multi-Family thresholds for compliance. Here the square footage of the units would likely be less than the commercial square footage, but the commercial space would only require submittal of the Stopwaste.Org checklist while the units would require certification.

THRESHOLDS			
Possible Mandatory Points			
<i>Year</i>	City Policy	LEED	GreenPoint Rated
<i>Recycling and Composting Waste</i>	<ol style="list-style-type: none"> 1. Urban Accords: Action 6 2. Sustainability Initiative 3. Recycling Ordinance in Planning Code; Recycling only, not composting 	<p>LEED- NC 2.2 MR Pre-requisite</p>	<p>GreenPoint Rated Single Family Points: M4</p> <p>GreenPoint Rated Multi-Family Points: E3</p>
<i>Water Reduction in Landscaping</i>	<ol style="list-style-type: none"> 1. Urban Accords: Action 21 2. Sustainability Initiative 3. Bay Friendly Landscape Guidelines Ordinance 79871 C.M.S. 4. Standard COA #12 requiring drought tolerant landscaping 	<p>LEED NC 2.2 WE 1.1</p>	<p>GreenPoint Rated Single Family Points: C1, C3, C5-8</p> <p>GreenPoint Rated Multi-Family Points: A7C, A7E, D14A-B</p>
<i>Water Use Reduction</i>	<ol style="list-style-type: none"> 1. Urban Accords: Action 20-21 2. Sustainability Initiative 3. EMBUD Water Rationing and Water Demand; State requirement 	<p>LEED NC 2.2 WE 3.1 WE 3.2</p>	<p>GreenPoint Rated Single Family Points:G2,M1-2, Innovation points</p> <p>GreenPoint Rated Multi-Family Points:D13-14</p>
<i>Construction Debris</i>	<ol style="list-style-type: none"> 1. Urban Accords: Action 4 2. Sustainability Initiative 3. Construction and Demolition Recycling Ordinance in Muni Code-Divert 50% 4. Waste Reduction Resolution 	<p>LEED NC 2.2 MR 2.1 MR 2.2</p>	<p>GreenPoint Rated Single Family Points: A2-3</p> <p>GreenPoint Rated Multi-Family Points:B1-2</p>
<i>Safety and Natural Surveillance</i>	<p>None; However Planning staff uses the Community Policing Through Environmental Design Program to evaluate projects.</p>	<p>LEED None</p>	<p>GreenPoint Rated Single Family Points: O5</p> <p>GreenPoint Rated Multi-Family Points: A 6</p>

In staff reports to the Planning Commission on October 1, 2008 and the Community and Economic Development Committee on October 18, 2008, staff recommended further consideration of additional mandatory point requirements within the proposed rating systems. The objective was to further existing ordinances, address the City’s microclimate as well as other areas of general concern to residents that can

be achieved through green building techniques. San Francisco requires several additional points other than the pre-requisites as part of their mandatory Green Building Ordinance. Staff reviewed existing policies and two topic areas emerged as areas that could be expanded on: Recycling and Composting Waste and Construction Debris. In addition, staff determined that water resources in the City were becoming an issue due to EBMUD water rationing, possible water rationing implemented at a State level, and the recent Department of Water Resources requirement for cities to implement a water efficient landscaping ordinance. Therefore, the topic areas of Water Reduction in Landscaping and Water Use Reduction were also identified. Staff has also identified Safety and Natural Surveillance as a topic area. Staff analyzed then LEED and Green Point Rated programs to determine whether possible points existed in these topic areas that could be deemed mandatory.

KEY ISSUES

This report is an introduction to the proposal and an opportunity for the Special Projects Committee and the public to comment on the proposal. However, staff has identified a few key issues for further discussion and consideration.

Residential

The proposal for single family and new construction for multi-family projects under the CUP requirement is straightforward and several cities have adopted similar regulations. The Planning Code thresholds for projects that require a Large-Scale Development is either 120' in height or 100,000 sq. ft. in floor area. Staff chose to limit the green building requirement to those projects over 120' in height, as high-rise residential construction is similar to commercial construction in terms of building systems and needed infrastructure. Also, projects that are 100,000 sq. ft. might be located on large enough parcels of land to be less than 120' in height, therefore requiring different building systems. San Francisco's Green Building Ordinance goes one step further and requires LEED for projects that are 75'+; in other words, over the Building Code's life safety limit for type of construction.

Staff also attempted to address additions and alterations in these thresholds. Staff chose to limit the requirement to only 1000 sq. ft. of floor area. However, the process for Track III Design Review is either 100% of new floor area or 1000 sq. ft. of new floor area. Since these projects are more likely to be carried out by an owner hiring a small contractor, staff believed that a square footage threshold would be less onerous to the owner. Remodeling projects that are over 1,000 sq. ft. are also included in the threshold.

Staff did not attempt to capture additions or remodels less than 1000 sq. ft. as well as any existing residential building that was not applying for a Planning and Zoning or Building permit. These existing buildings are still considered a major issue. In fact, the California Public Utility Commission's 2008 Strategic Plan calls for new net zero energy homes and a 40% improvement in energy efficiency of the existing home stock by 2020. The City of Berkeley has adopted a Residential Energy Conservation Ordinance (RECO) which requires all homes and apartment buildings that are to be sold or transferred to demonstrate compliance with RECO. The City of Oakland's Environmental Services Division is considering a similar ordinance as one of the possible action recommendations to the City Council in its ongoing Energy and Climate Action Plan process. StopWaste.Org is currently working to establish a CityFIRST program that would cover all jurisdictions in Alameda County and identify the thresholds of improvements that will satisfy financing requirements.

Non Residential

Staff has not attempted in this proposal to address new construction of commercial buildings under 5,000 sq. ft. Based on permit history data, the Planning and Zoning and Building services Division received

very few of these permit types. Staff also did not attempt to address additions or remodels under 25,000 sq. ft. The full Commission could consider applying the StopWaste.Org Checklist and a minimum point level or the adoption of RECO program could attempt to capture these projects.

The commercial sector has been the first to realize the benefits of green building. All of the City's recently approved commercial office buildings are anticipated to be LEED projects. The reasoning for requiring LEED for projects adding or remodeling over 25,000 sq. ft. is an economic one. These older buildings will always be seen as less attractive to lease by potential business tenants than new certified green buildings. In the future this trend is likely to continue and these spaces will not be leased without a mandate to add features and be certified by the USGBC. It is possible to obtain these ratings and the City's first several green buildings were this type including the UC Office of the President, the Earthjustice National Headquarters, the RPR Architecture office, and the StopWaste.Org office.

Historic

Staff had many discussions on how to address historic buildings within mandatory green building requirements. Other jurisdictions have not applied a threshold noting that the retention of existing and especially historic buildings are essentially green. However, San Francisco's Ordinance does have additional requirements for demolition not only of a historic building but any existing building.¹ Staff developed a threshold for historic buildings two reasons. One, staff wanted to impress on developers that keeping an existing building is the best possible green feature in a project. By accommodating an existing building, construction waste is diverted, green house gas emissions are lessened, and material resources are saved. Secondly, staff dropped the threshold from LEED Silver to LEED Certified, thereby giving the applicant a small reduction in the point requirements by acknowledging the possible difficulties in retaining the building. In this approach, the carrot for retaining an existing building is a reduction in the required green building points, and the stick is starting out the project in the negative, still having to meet the requirement, and having to deconstruct the existing building. Although deconstruction seems to be an onerous requirement, it is generally more cost effective than demolition because of the tax benefits in donating the materials.

Neighborhoods

Staff's objective for the neighborhood threshold was to acknowledge the additional impacts that the creation of new lots or new neighborhoods have on the City and our environment. Staff chose the Mini-Lot and PUD permits as the trigger for the thresholds because these projects necessitate a permit. However, an applicant could choose not to apply for the Mini-Lot or PUD permits and request waivers. Instead, the applicant would meet the zoning requirements. To address this, staff has included a size threshold (60,000 sq. ft.) and phasing to capture those projects that do not apply for the PUD permit.

Mandatory Points

Staff reviewed the possibility of requiring additional mandatory points that would be considered possible flexible points within the proposed rating systems to address specific issues in Oakland. Staff concluded that the identified green building measures do not translate exactly between LEED and GreenPoint Rated. In addition, both LEED and GreenPoint Rated are constantly evolving. The included green building

¹ San Francisco's Green Building Ordinance requires an increase in LEED or Green Point rated points, with an escalating number of points required, based on the proposed density compared to the existing density for demolition of any existing building. Less additional points are required for an increase in density. Demolition of a historic resource requires the highest increase in additional points regardless of density. San Francisco's Ordinance, which does not require certification building, also reduces the LEED or GreenPoint Rated points for retention of Significant Architectural Features. For example, retention of windows would permit a reduction in LEED points.

measures or conversely the requirements to achieve the certification could become stricter over time. Also, depending on the project, a specific measure may not be cost effective.

In our discussions with Stopwaste.Org they recommended removing these mandatory measures because of the complexity in maintaining these requirements over time while ensuring cost-effectiveness and flexibility for builders. If the City still wanted to address these topic areas, they also recommended either updating existing Ordinances to reflect these requirements or adopting new Ordinances. While staff still considers this approach worth exploring, we would appreciate further direction.

Additional Key Issues

Staff and Stopwaste.Org also recommend maintain the same percentage of points across the category (Community, Energy, Indoor Air Quality, Resources, and Water) be achieved in year two as required by year three. This will prohibit the applicant from choosing the points only in one topic area.

Stopwaste.Org also recommends tightening enforcement of the current codes and requirements such as Title 24 to meet energy efficiency as a part of the implementation process.

California Environmental Quality Act (CEQA)

The Green Building Ordinance will need to go through some type of environmental review per CEQA. Staff is currently reviewing what type of documentation will be required.

Other State Law Requirements

Staff has been advised that adoption of mandatory Green Building requirements could trigger certain State law procedural requirements, as discussed below. Staff is investigating the extent to which these may apply. We have been advised by StopWaste.Org that a wholly voluntary ordinance would not trigger these State requirements.

California Energy Commission (CEC)

According to the State Building Efficiency Standards (2005), Section 10-106 allows local jurisdictions to adopt energy standards more stringent than state standards. Local governments must apply to the CEC for approval of mandatory requirements. The application must include documents supporting the jurisdiction’s analysis for how the proposed standards will save more energy than the current statewide standards. The CEC then verifies that local standards will require buildings to use less energy than the current standards. Staff will need to coordinate with the CEC early in this process in order to submit the correct documentation.

State of California Building Standards Commission

Currently, the state allows local jurisdictions to modify the adopted building codes on the basis of local, climatic, and topological conditions. If the City’s Green Building program involves amendments to the Oakland Building Code, staff will need to make these findings and submit them to the State for their review.

CONCLUSION

Staff asks that the Special Projects Committee review the staff report; receive public comments; and provide direction to staff on the thresholds and recommendations. These recommendations and comments will be further developed for consideration before the item is referred to the Planning Commission for action later in the year.

Respectfully submitted:

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Attachments:

A: Public Comments

B: Examples of building projects and square footages