



CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

To: Honorable Mayor and Members of the City Council

From: John Kuehl, Building Official
Lynn Burgess, AICP, Chief Planner

Meeting Date: July 21, 2010

Subject: **Receive a Report on the Process to Develop a Green Building Ordinance and Provide Direction to Staff on Goals, Priorities, and Timing**

CEQA: The action does not constitute a "Project" as defined by CEQA

RECOMMENDATION

1. Receive a report on the process for developing a Green Building Ordinance, and
2. Provide direction to staff on goals, priorities, and timing.

DISCUSSION

The City Council signed the U.N. Mayors Climate Protection Agreement. The Agreement commits the City to meet the greenhouse gas emissions requirement of the Kyoto Protocol, which requires a 7% reduction from 1990 levels by 2012. A green building program is an accepted and effective policy solution for emissions mitigation. In addition, the Council signed the Urban Environmental Accords, which promote an environmentally-sound, healthy, and safe urban environment.

After extensive research, and to stay consistent with a region-wide program, staff recommends the use of the U.S. Green Building Council's (USGBC) Leadership in Energy and Environmental Design (LEED) standard for non-residential projects and Build It Green's Green Building Guidelines for residential projects. LEED and Build It Green are industry-accepted green building guidelines that have been utilized as a basis for green building programs state-wide. These guidelines are supported by non-profit organizations with a full-time staff that regularly revise and update the standards to incorporate new methods in the evolving green building field. If adopted, the goal would be to have the program implemented by January 1, 2011.

The Green Building Program includes a range of threshold requirements depending on project scope and size. These thresholds specify the number of GreenPoints required in order for a project to receive a Building Permit (see Attachment A).

Staff has identified a recommended list of exemptions that could be included in the Municipal Code to avoid undue burdens on the development community (see Attachment B). In addition, the Municipal Code could also specify an exemption clause if a project were to show that the guidelines impose undue hardship from the Program (see Attachment C).

City/Publicly Funded Projects

After adoption of the program, all new City building projects greater than 1,000 square feet would be designed, built, and commissioned to the LEED Silver rating of the USGBC green building rating system. Staff recommends that the City must lead by example to demonstrate its commitment to the practice of a green building. A LEED Silver policy is increasingly common across local, state, and federal jurisdictions. Research has indicated that projects that incorporate the goal of obtaining LEED Silver up-front can minimize additional costs to projects. These costs often provide a beneficial return over the course of building operation, such as lower operation expenses due to energy efficiency gains.

Privately Funded Residential and Non-Residential Projects

1. Construction and Demolition (C&D) Guidelines. The Green Building Ordinance could include a resolution that contains updated Construction and Demolition (C&D) guidelines. These guidelines are in accordance with state-mandated commitments under the California Waste Management Act that require local jurisdictions to sustain at least a 50% landfill diversion rate.
2. Incentives. Staff is considering a number of incentives for the development community in order to encourage exceptional and innovative designs. Community feedback is an important aspect and we will be holding at least one public workshop to obtain comments for incentives to be incorporated into the Green Building Program. The Ordinance could include a public recognition and awards program for projects that exceed minimum requirements. The list in Attachment D includes some additional realistic incentives that can be considered for this program. Staff is open to additional incentive possibilities that arise from the upcoming public meeting process.

Timing

The goal is to have a Pacific Grove Green Building Ordinance adopted prior to the end of 2010. This date is important because of an upcoming State-required Green Building Code, which becomes effective on January 1, 2011 unless a city has already adopted its own Green Building program. The timeline included in Attachment E will provide no less than six public meetings to obtain community input while still moving the process forward to achieve one of the City Council's strategic plan projects for 2010.

The action now being requested of Council does not constitute a project as defined by CEQA, and therefore there are no CEQA requirements. However, adoption of the Green Building Ordinance is a project, as defined by CEQA, which will impact both the timing and the costs necessary to adopt such an ordinance.

FISCAL IMPACT

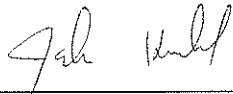
None at this time. An environmental review will be necessary before the Council can consider adopting an ordinance. In addition, the costs of constructing and operating any City building that adheres to the green building standards may be impacted. Such cost impacts would depend on the actual standards adopted, the type of building

constructed, and the technologies then available. There are no currently accepted standards for projecting what those cost impacts might be.

ATTACHMENTS

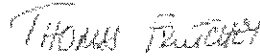
- A. Residential Green & Non-Residential Building Point System
- B. Proposed Exemptions
- C. Ordinance Language Example with “Unreasonable Hardship Exemption”
- D. Potential Incentives
- E. Timeline

RESPECTFULLY SUBMITTED:



John Kuehl
Chief Building Official

REVIEWED BY:



Thomas Frutchey
City Manager

Lynn Burgess, AICP
Chief Planner

Green Building Program Proposed Point Guidelines

RESIDENTIAL NEW SFD and MULTI-FAMILY TOTAL POINT REQUIREMENTS

Total Points Possible	382
<i>Action</i>	<i>Points required to receive action</i>
Receipt of Building Permit – New construction less than <1500 sq. ft.	50
Receipt of Building Permit – New construction more than >1500 sq. ft.	70
Green Building Award and Incentive Level	150

RESIDENTIAL AND MULTI-FAMILY ADDITION/REMODEL TOTAL POINT REQUIREMENTS

Total Points Possible	382
<i>Action</i>	<i>Points required to receive action</i>
Receipt of Building Permit - Kitchen or Bath remodel only projects	6
Receipt of Building Permit - Remodel projects 350-750 sq.ft.	20
Receipt of Building Permit - Remodel projects over 750 sq.ft.	30
Green Building Award and Incentive Level	150

***Residential projects include single family dwellings and two-unit duplexes.

***Multi-Family projects include any building of three or more dwellings units.

NON-RESIDENTIAL NEW CONSTRUCTION and MAJOR RENOVATION ACTIONS TOTAL POINT REQUIREMENTS

Total Points Possible	100
<i>Action</i>	<i>Points required to receive action</i>
Receipt of Building Permit - Remodel projects 500-1000 sq.ft.	6
Receipt of Building Permit - Remodel projects over 1000 sq.ft.	10
Receipt of Building Permit - New construction project over 500 sq.ft.	20
Green Building Award (Equal to LEED Silver)	50

Green Building Program Proposed Exemptions

The following project types are *exempt* from the Green Building Program:

- Residential remodels less than three hundred fifty (350) square feet that **do not** involve kitchen or bathroom work
- Non-residential remodels of less than five hundred (500) square feet
- Re-roof projects
- Building and foundation repairs and maintenance
- Over-the-counter plumbing, electrical, and mechanical repairs
- Seismic retrofits
- Voluntary handicap accessibility upgrades
- Window replacement projects
- Retaining wall projects
- Non-habitable residential structures of less than three hundred fifty (350) square feet
- General maintenance of any structure

Green Building Code

Example Ordinance Language

38-112.3 Green Building Regulations (Ord. 3413; 07/2008)

A. Purpose and Findings

The City finds that green building design, construction and operation can have a

significant positive effect on energy and resource efficiency, waste and pollution generation, and the health and productivity of a building's occupants over the life of the building. The second purpose is to create healthy work and living environments increasing the productivity of workers and residents and visitors to the city by improving indoor air quality and lighting.

The intent of this section is to conserve natural resources, increase energy efficiency, and improve indoor air quality.

B. Standards for Compliance

All new City building projects greater than 1,000 square feet shall be designed, built, and commissioned to the Leadership in Energy and Environmental Design (LEED) Silver rating of the United States Green Building Council (USGBC) green building rating system.

Persons constructing a new building, adding to or remodeling a building in the City of Monterey shall participate in the Monterey Green Building Program. In order to obtain a building permit for any new building, addition or remodel in excess of those exempted in Section C, each project must include elements from the program checklist equal to or exceeding the points requirement of the Green Building Program. The required number of points shall be adopted by City Council resolution.

The Green Building Ordinance will be implemented in two phases:

1. Phase 1, lasting one year following ordinance adoption, will be a voluntary phase-in period where all projects applying for a building permit within this period are required to complete the GreenPoints checklist for their category (residential or non-residential) indicating which measures are being implemented. There is no mandatory green building requirement to obtain a building permit during this voluntary period, although incentives are available to participants. City projects will forgo the voluntary phase-in period and begin full implementation of the program following ordinance adoption.

2. Phase 2, mandatory point requirements will begin one year from ordinance adoption. The ordinance will not pertain to projects deemed "complete" by the City Planning Division as of the effective date of Phase 2. The ordinance does not apply to projects that do not require approval from the City Planning Division as long as the applicant has submitted for and paid for plancheck as of the effective date of Phase 2.

The Chief of Inspection Services/Building Official shall maintain the following documents for the public:

1. GreenPoints Requirements for Residential and Non-Residential Buildings as approved and adopted by City Council Resolution.

C. Exemptions

The following are exempt from the provisions of this Article:

1. Residential remodels less than three hundred fifty (350) square feet that do not involve kitchen or bathroom work.
2. Non-residential remodels of less than five hundred (500) square feet.
3. Re-roof projects.
4. Building and foundation repairs and maintenance.
5. Over-the-counter plumbing, electrical, and mechanical repairs.
6. Seismic retrofits.
7. Voluntary handicap accessibility upgrades.
8. Window replacement projects.
9. Retaining wall projects.
10. Non-habitable residential structures of less than three hundred fifty (350) square feet.
11. General maintenance of any structure.

D. Method of Compliance

The Chief of Inspection Services/Building Official shall maintain the following documents for the public:

Regular Agenda Item No. 10.F
Attachment C

1. GreenPoints Checklist for Residential and Non-Residential Buildings as approved and adopted by City Council Resolution.

These documents shall be to aid in the design and certification of new residential and non-residential buildings, remodels, and additions. Every applicant for a building permit not exempted by Section C, above, shall complete and submit the appropriate checklist for the project along with the standard Planning and Building Department application documents. All compliance measures shall be clearly delineated on plan sets.

E. Exceptional Design

Designers and builders employing exceptional design, construction practices and/or maintenance features that meet the requirements for a Green Building Award as specified in the City's GreenPoints Requirements for Residential and Non-Residential Buildings, shall be recognized by the City and eligible to receive a plaque that may be displayed on the structure.

F. Incentives

Green Building Program Incentives shall be approved and adopted by City Council resolution.

G. Unreasonable Hardship Exemption

If a project applicant believes that circumstances exist presenting an unreasonable hardship to meet the requirements of this chapter, the applicant may apply for an exemption as set forth in this section. In applying for an exemption, the burden is on the applicant to show unreasonable hardship. Acceptance or denial of an exemption is at the discretion of the Chief of Inspection Services/Building Official or his or her designee. Unreasonable hardship exemptions will only be granted in unusual circumstances based upon a showing of good cause and a determination that the public interest is not served by compliance or other compelling circumstances. This decision may be appealed to the Planning Commission pursuant to Monterey City Code §38-205 et seq. Notice of the Chief of Inspection Services/Building Official's determination on an application for a hardship exemption shall be posted at the Office of the City Clerk, Council Chambers, and on the project site.

An unreasonable hardship shall be defined as practical infeasibility, difficulties, or results inconsistent with the general purposes of this Ordinance or harms designated historic resources.

The Chief of Inspection Services/Building Official shall maintain the Unreasonable Hardship Exemption Application. (Ord. 3424 § 1, 2009)

Green Building Program

Potential Incentives

Incentives: The proposed program includes the following incentives: green building award, expedited permitting, priority inspections, floor area exemptions for certain green building methods, setback flexibility for certain green building practices, and height exemptions for certain green building elements.

1. Green Building Award - The Green Building Program will offer a plaque that can be affixed to green building projects, public recognition by the City Council at a semi-annual ceremony and additional marketing and press releases.
2. Expedited Permitting-Projects that meet this incentive will be fast-tracked through the building permit process. Projects will move to the "front of the line" and will see a reduction in the processing time by approximately increasing turn around times by 25%.
3. Priority Inspections-Projects that meet the green building requirements will be given priority for inspections with a next-day inspection.
4. Floor Area Ratio-The Green Building Program eases limits on floor area ratio where an increase in FAR is directly related to certain green building methods. An example is straw bale construction where "thicker walls" reduce the amount of usable floor area.
5. Setback Flexibility-The Green Building Program will allow the Architectural Review Committee to modify setbacks for residential projects that use certain green building practices. Some commercial districts already have a zero setback so no increased flexibility is needed.

Green Building Program Proposed Timeline

- 1. July 21, 2010 - City Council Initial Presentation**
- 2. August 17, 2010 - Town Hall Meeting**
- 3. August 24, 2010 - Special ARB/HRC Meeting**
- 4. September 2, 2010 -Planning Commission**
- 5. September 10, 2010 – CEQA Negative Declaration (ND)
Public Review Period Begins**
- 6. October 11, 2010 – ND Public Review Period Ends**
- 7. October 20, 2010 - City Council First Reading**
- 8. November 3, 2010 - City Council Second Reading**
- 9. January 1, 2011 – Ordinance Effective Date**