CITY OF OAKLAND

AGENDA REPORT

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OFFICE OF THE CITY CLERK
OAKLAND
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TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Community & Economic Development Agency
DATE: October 14, 2008

RE: **A Report and Recommendations On A Work Plan To Develop a Green Building Ordinance And Other Requirements For Private Development Projects.**

SUMMARY

The purpose of this report is to discuss issues related to a future Green Building Ordinance or other green building requirements for private development projects in the City of Oakland.

The City of Oakland has already provided leadership in the area of green building by passing Ordinance No.12658 C.M.S. This legislation requires that all City Building Projects covered under the Ordinance meet a minimum of Leadership in Energy and Environmental Design (LEED) Silver under the U.S. Green Building Council's (USGBC) rating system and be certified by the USGBC. Mandatory green building requirements for private development will support one of the City Council's adopted goals to "Develop a Sustainable City", by "maximizing socially and environmentally sustainable growth, including conserving natural resources."

The most significant issues in drafting a Green Building Ordinance for private development include incentives, applicable project thresholds, timeframes for implementation, and compliance with the requirements. Staff has included recommendations for consideration in this report. Staff has not fully vetted the cost of implementing the recommendations. However, staff believes that most of the recommendations can be implemented by current staff within their existing positions in a similar way that the California Environmental Quality Act and other project permitting conflicts are addressed if the Committee concurs with staff's recommendations.

FISCAL IMPACT

There is no immediate fiscal impact from the CED Committee providing direction on the key policy issues and recommendations outlined in this report.

An informational report to the CED Committee on September 23, 2008 detailed the use of funds from the Williams and Reliant settlements for energy efficiency and green building activities for fiscal years 2007-2009. The monies from this settlement are one time only funds. The City Council has already authorized CEDA to use $375,000 to pay for 0.8 FTE Planner III.

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ATTACHMENT A

For the fiscal year 2007-2008, CEDA staff used the funds to begin extensive work on green building consideration. According to the September 23, 2008 report, this work totaled $143,270 for the past fiscal year. Approximately $161,729 will be used for staff to complete work on a mandatory Green Building Ordinance, with $70,000 uncommitted funds still available. Staff will need to further review the possible uses of the $70,000 in uncommitted funds. Final decisions on the use of the funds have yet to be determined. However, staff has already identified two areas where a portion of the funds could be allocated.

The City currently provides green building assistance in the Green Building Resource Center located at the Planning and Building Permit Center. The GBRC contains a green materials library and samples, green building guidelines, resources on recycling for builders, and project case studies. The GBRC is staffed four hours per week by the Environmental Services Division to aid permit applicants with compliance with the Construction and Demolition Recycling Ordinance. A portion of the uncommitted funds, noted above, could be used to expand staffing of the GBRC.

In order to adopt more stringent energy and building standards staff, will need to make findings to the California Energy Commission and the California Building Commission before implementing the Green Building Ordinance for private development. Staff is unsure whether this can be performed in-house. However, several jurisdictions have hired an outside consultant to complete and submit this documentation. The uncommitted funds could also be used to make the findings.

Staff anticipates that education, of both staff and the development community, will be needed to implement the Green Building Ordinance. Currently, the Alameda County Waste Management Authority (StopWaste.Org) has provided full scholarships to the City of Oakland for LEED test preparation classes and materials, and the Build it Green Certified Green Building Professional and GreenPoint Rater training. StopWaste.Org requests funding for this program from its Board of Directors. The Board could reject the funding at any time. However, it is anticipated that StopWaste.Org will continue to offer City staff these scholarships. These classes are often held locally so little to no travel or lodging expenses would occur. However, staff would need time away from their workloads to attend these classes.

The incentives in the Recommendations section include mainly the compilation and distribution of information such as rebates, tax incentives, guidelines, and checklists as well as launching a green building website on the Oakland homepage. The guidelines and checklists were adopted as Official City Green Building Reference Documents (Resolution No. 79871 C.M.S.) and are readily available. The Environmental Services Division has already approved language to update the Green Building Resource Center's webpage. This text could provide an appropriate starting point for the Green Building website. Staff believes that the necessary forms and content of the webpage could be completed in house with little fiscal impact.

Staff will need to analyze the ongoing costs of implementing and maintaining the Ordinance.

BACKGROUND

The State and Federal government, as well as the City of Oakland have policies related to green building. These are detailed in Attachment A.

Possible Green Building Rating Programs

The green building rating programs that are referenced in the Key Issues and Impacts and Recommendations sections are described below.

LEED
In 2000, the 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 and civic projects, but it is also appropriate for high-rise residential buildings. The LEED system is a point based program with third party verification. Projects must prequalify for LEED by meeting several pre-requisites. The project team then designs features into the project to qualify for the points. The points are tallied to achieve a rating. In the LEED for New Construction rating system, LEED certified is 26-32 points, LEED Silver is 33-38 points, LEED Gold is 39-51 points, and LEED platinum is 52-69 points. A certain amount of points must be achieved in each environmental category. 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.

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 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. 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 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 environmental category. The project team must retain a GreenPoint Rater to verify compliance with the GreenPoint Rated program and submits documentation to Build it Green for review and approval. Build it Green has also developed a GreenPoint Rated checklist for existing buildings.

California Green Builder
The Building Industry Institute (BII) is the research branch of the California Building Industry Association (CBIA). The BII developed the California Green Builder program. The program is not point based with different points in specific topic areas. There are no levels or minimum points. The project is either certified or it is not. Projects applying for the Green Builder program must meet certain requirements including energy efficiency, indoor air quality, waste reduction, and water and wood conservation. The program requires verification (though not necessarily third-party) and is appropriate for single-family homes and multi-family subdivisions. The project team must retain a California Green Builder certified inspector. This person is a Home Energy Rating System (HERS) rater with additional California Green Builder training. Without documentation submitted and verified by the Building Industry Institute (BII), the project cannot be considered a California Green Builder project.

Public Process and Participation

On September 19, 2007 staff presented an informational Director's Report on sustainable and green building practices in Oakland to the Planning Commission. The report contained possible recommendations regarding staff training, the Green Building Resource Center, voluntary and mandatory requirements, possible consulting opportunities for pre-design savings, and a change in building inspection practices, to name a few. The direction from the Planning Commission was to explore the possibilities with the help of a group of stakeholders.

In March 2008 staff held four stakeholders meetings, on an invitation only basis, separately with architects; commercial developers, bankers, and real estate agents; multi-family developers and smaller contractors who work on single-family homes, additions, and renovations. These meetings were well attended and staff received valuable input on a wide range of topic questions. The minutes from these meetings are included as Attachment B.

Staff presented the minutes and findings to the Special Projects Committee on March 20, 2008. The Committee reviewed the report, the meeting minutes, and took public testimony. They requested that staff hold another stakeholder meeting that was open to all members of the public. This meeting occurred on August 12, 2008. Approximately 45 people attended. Staff held small group discussions and the minutes from those groups are included as Attachment C. Additional public comments are included as Attachment D.

Staff will present the recommendations in this report to the Planning Commission on October 1, 2008. Staff will prepare a supplemental report with the Planning Commission's recommendations.

KEY ISSUES AND IMPACTS

Incentives

Incentives were an important topic of discussion at the stakeholder meetings and can be grouped into the following areas.

- Provide expedited project review during the planning and building permit phases.
- Provide monetary incentives. These could take the form of:
  - Rebate on fees
  - Establishment of minimal green building requirements with the City offering a monetary reward if a higher level of green building is achieved.
  - Deferral of fees
  - A fee offset, where if a green feature reduces or eliminates an impact, no fee is collected.
  - Increase in fees except on projects where green features are included.
  - Streetscape improvements to add to the curb appeal of the project
  - Business Tax reduction
  - Reimbursement for third party certification
- Resolution of Building Codes, Planning Codes, and Design Guidelines that conflict with established green building products or systems. In other words "Green the Code".
  - Reduce parking requirements
  - Density bonuses
- Extension of project entitlements
- Distribution of information
  - Website for approved features/systems
  - List of products, consultants used on certified projects
  - Knowledgeable staff or a person dedicated to ease implementation
- City Marketing

*See Attachment B and C for a complete list.

Staff reviewed but ultimately rejected incentives for expedited project review during the planning and building phases and any monetary incentives. Expedited review is only a viable option if the City makes the Ordinance voluntary and staff is available for the review. At this time the City does not have the funds to hire additional staff. Although incentives like streetscape improvements or Business Tax reductions seem like possibilities, the City is in a budget deficit and cannot provide monetary incentives of any kind. These are also up front incentives with no guarantee that the City would have a constructed green building at the end of the process. Within the Planning Code there is a process that allows developers to apply for a Conditional Use Permit for increased density and Floor Area Ratio due to the inconsistency between the General Plan and zoning designation. These inconsistencies are being addressed as part of the Zoning Update process. The new regulations might keep the same process or limit the height and

density of a project and provide bonuses for projects in order to reach the maximum General Plan intensity of development. A third option would be to limit the height and not allow bonuses to achieve the General Plan intensity. This incentive is only meaningful if the requirements are voluntary and the Planning Commission and City Council cap the permitted height and density and allow bonuses, such as green building.

Thresholds

Existing Program versus New Program
The first issue to consider is whether to use an existing program or develop a City of Oakland program. As noted above there are three different rating systems that are typically used in California. However, the stakeholders did not mention the CBIA's program during the stakeholder meetings. This is largely due to the predominance of LEED for commercial projects and Build it Green for residential projects within California. These programs are recognized as the standard for certifying green buildings and it is unlikely that either rating system will be superseded by another program. The stakeholders agreed that uniformity among jurisdictions was an important consideration and that an existing program should be the basis for an Ordinance.

Project Applicability
The second issue, as outlined in the stakeholder meetings, is that there are various ways to determine the applicability of projects under the Green Building Ordinance. The thresholds can be based on project type, size, location, or dollar amount. Project types can take the general form of commercial, residential, or industrial but can also be broken down into new construction, major renovations, additions, tenant improvements, and remodeling. Several project types such as historic structures, live/work and work/live units, and planned unit developments and mini-lots will require additional consideration. Thresholds based on the size of a project include the categories listed above but could also be further defined based on square footage. Several permits in the Planning Code use square footage as the threshold. The other threshold would be a certain dollar amount per improvement.

Another issue is whether the City should phase the adoption of legislation (such as just starting with residential: new construction) or address each potential project within one ordinance.

Mandatory Point Requirements
The City could also consider requiring certain points within the existing checklists to be mandatory. Within these checklists, how the required points are achieved is up to the project team and based on project type, cost, availability of materials, or other factors. The checklists are heavily weighted to energy resources while there are fewer points available in the water resources section.

Internal Ratcheting of the Requirements

Both the LEED and GreenPoint Rated programs are reviewed frequently by their respective Boards of Directors to determine the feasibility of the requirements. Build it Green's program will always be based on code in California, and thus will be updated as the codes change. LEED, being a national standard, is not based on California code today, but future revisions may allow for regional updates to local codes. In either case, points available now might be removed from the checklists and replaced with more difficult requirements or based on new information. This constant review maintains the programs' credibility and value in the marketplace. It also means that a building built under future requirements will be considered "greener" than a building built today. This internal ratcheting of the requirements ensures that buildings use the latest technologies and will become even more efficient. Requiring that a building meet a higher level or more points will be more difficult for the development community in future years under these programs.

Compliance

A key issue will be compliance with the mandatory green building requirements. Both the LEED and the GreenPoint Rated programs are third party verification systems. This is an important part of both rating systems and helps the program maintain its integrity, market value, and uniformity. Neither system will permit a developer to market their product as a LEED building or GreenPoint Rated building without the submission of documentation for review and approval. However, there is a substantial cost associated with LEED certification of the project and many stakeholders raised this as an important issue. With the LEED and GreenPoint Rated systems, the building will already be built before the documentation is submitted for certification. This poses a problem for the City to ensure compliance.

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. StopWaste.Org has advised 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.

POLICY DESCRIPTION

The City and the State have set targets to reduce California's energy and water consumption, as well as the amount of waste generation. The California Air Resources Board (CARB) is currently reviewing thresholds for Green House Gas (GHG) emissions. These thresholds will likely become mandatory in the future. The implementation of green building requirements citywide will reduce energy and water consumption and GHG emissions. The Ordinance will also help the City implement its sustainable policies. In one GreenPoint Rated multi-family project with a rating of 107, the project:[1]

- Avoided 306 tons/yr of CO2e which amounts to 3,672 tons by the year 2020
- Saved 192,734 kWh/yr of energy
- Diverted 971 tons of waste from a landfill
- Conserved 1,287,946 gal/yr of water

Staff anticipates an aggressive schedule in order to implement a Green Building Ordinance. Below are the proposed steps and timeframes that staff believes would be necessary to complete the Ordinance.

- In early December 2008, staff will return to the Zoning Update Committee (ZUC) with specific thresholds, possible mandatory point requirements, and ratcheting timeframes for discussion.
- If necessary, staff will hold smaller stakeholder meetings to discuss certain areas of controversy.
- In late January 2009, staff will return to the ZUC with outcomes of stakeholder meetings and present recommendations.
- Staff will hold additional meetings with the stakeholders if necessary.

[1] GreenPoint Rated Climate Calculator: June 2008. Based on the limited number of projects that have been analyzed and the type of points achieved it is difficult to fully determine a total savings if a Green Building Ordinance were implemented.

- In late February, staff will return to the ZUC to finalize thresholds and mandatory point requirements.
- In late March, staff will present recommendations for implementation and compliance requirements to the ZUC.
- In April, staff will proceed to full Planning Commission with final recommendations and for approval of the environmental review.
- In May, staff will present the Ordinance to the CED Committee, a subcommittee of the City Council.
- July 2009, City Council will hear the Green Building Ordinance.

This schedule reflects the necessary public process and input from the development community on the Ordinance. Without this process and active participation from the stakeholders, the Ordinance will not receive building industry support. San Francisco's Green Building Ordinance was developed over a year and half with input from their taskforce members and stakeholders.

SUSTAINABLE OPPORTUNITIES

The demolition and construction of buildings has an impact on the economy, the environment, and public health.

Economic: Compelling research now demonstrates that the integration of green building features into development projects can generate substantial energy, water and materials efficiencies, resulting in reduced operating costs of 20-80% over the life of the building. Reduced operating costs generate increased cash flow, which helps free capital for other investments. More recently, research is showing that with proper planning even the first costs of building green can be the same as or less than conventional building techniques.

Green building is a relatively new phenomenon. A Green Building Ordinance would encourage the growth of additional new businesses and jobs in order to support the needs of the green building industry within the City of Oakland. They are constructed using local materials as much as possible. They also minimize the strain on local governments by reducing waste to landfills and capacities within the existing storm drain and sewer systems.

Environmental: According to the EPA and surveys conducted in 2002, 107.3 million acres of the 1.983 billion acres of total land area in the US is developed. This represents an increase of 24% in developed land over the past ten years. Also, the generation and use of energy from fossil fuels is the major contributor air pollution and global climate change. In the United States, buildings account for[2]:

[2] US Green Building Council website, http://www.usgbc.org/DisplayPage.aspx?CMSPageID=291&

- 36% of total energy use
- 65% of electricity consumption
- 38% of carbon dioxide emissions
- 30% of GHG

Based on these statistics, improving energy efficiency and using renewable energy sources in buildings using green building techniques are effective ways to improve air quality and reduce the impacts from global climate disruption.

Expansion of recycled content in building materials saves energy, water, and materials, and decreases pollution. Typical building construction accounts for:
- 30% of raw materials use
- 30% of waste output/136 million tons annually
- 12% of potable water consumption

Social Equity: The U.S. Environmental Protection Agency reports that indoor air can be ten times more polluted than outdoor air. Formaldehyde, commonly used in shelving and insulation, is one of the most common indoor pollutants. Many paints, finishes, and adhesives, contain unhealthy volatile organic compounds (VOCs). The use of green building practices promotes the use of alternatives to these unhealthy materials and thereby promotes resident and worker health.

DISABILITY AND SENIOR CITIZEN ACCESS

Adoption of a Green Building Ordinance for private development will have no direct effect on accessibility for senior citizens or disabled persons. Any new development subject to the potential Ordinance would be required to comply with the Americans with Disabilities Act (ADA), as provided for in the Uniform Building Code (UBC), and in Title 24 of the California State Code.

RECOMMENDATIONS

Incentives

Increased Fees for Non Green Building Development Projects
One incentive to start encouraging green building is to increase the application fees for projects that use typical construction methods. The extra revenues from these projects could be used to educate staff and the development community in green building. This incentive is only viable if the Green Building Ordinance is voluntary. However, this incentive could also be used as the requirements are phased in. See the Phased Implementation section for further information.

Resolution of Building Codes, Planning Codes, and Design Guidelines Conflicts
This incentive would mean reviewing the current regulations with the LEED and GreenPoint Rated checklists and resolving any inherent conflicts between the two. This incentive would require staff to review, make recommendations, and possibly write ordinances to change both the Planning Code and the Municipal Code for approval by the Planning Commission and City Council. This incentive provides a benefit for both the City in terms of clarifying which division has jurisdiction and a responsibility to implement the requirement and the development community in faster permit processing. This is an important incentive to consider. One green building feature that has generated a lot of discussion is grey water systems.

Extension of Project Entitlements
Currently the Planning and Zoning Division's Standard Condition of Approval permits a two year approval timeframe, with one extension granted administratively and additional extensions offered by the approving body. The purpose of limiting the approval timeframe is to 1) strongly encourage the applicant to construct the project and 2) to allow the approving body the discretion to apply requirements that were not in place at the time of project approval by requiring re-approval. While permitting an extension of the entitlements for green buildings would not cost the City additional funds, it would allow these projects to be out of conformance with new regulations if the incentive were allowed and not the green building requirements. This is also an up front incentive with no guarantee that the project would actually be constructed as a green building. For these reasons, staff believes that this incentive should be considered only with a mandatory ordinance.

Distribution of Information
Rather than an incentive, staff considers this to be a mandatory step in implementing a Green Building Ordinance. Staff will need to create or update a website, guidelines, checklists, process, forms, etc. Staffing the Green Building Resource Center would help in the distribution of the information while keeping Planning and Building personnel current and up to date on new products, technologies, and conflicts. The stakeholders have mentioned maintaining a website with approved methods of construction, product listings, contractors, and consultants. The website could also include information on State and Federal and agency rebates/grants for green building features.

Staff Training
Staff would also need to be trained to answer green building questions. Currently, there are four staff members in the Planning and Zoning Division and the Building Services Division trained in GreenPoint Rated. Three more are scheduled to complete the training by November 2008. Two staff members are LEED Accredited Professionals, with one more scheduled to take the exam in November 2008. Additional staff should be required to complete the LEED and/or GreenPoint Rated training.

Staff would also recommend that the City of Oakland take an active role in the updates and development of the Build it Green and LEED programs. This involvement could include serving on the boards, hosting conferences, etc. and would ensure that the programs evolve with Oakland input and in a way consistent with the City's policies. One example of active involvement would be attending the Build it Green Public Agencies Council (PAC) which has 100 participating public agencies. The role of the PAC is to share information, create consistent green building standards in their regions, and support each others programs and initiatives. These meetings are held quarterly and staff has sporadically attended since 2005.

City Marketing
The former Sustainability Manager and the Planning and Zoning Division created a "Going Green" flyer. One green building incentive states that projects attaining a LEED Silver rating or GreenPoint Rated score of at least 75 will receive a framed certificate and publicly released Proclamation of Commendation from the City of Oakland as well as a publicized case study on the City of Oakland's sustainability website page (www.sustainableoakland.com). As of this date, the developers of green building projects have not actively requested this incentive. However, several Oakland case study posters being completed for the Green Building Resource Center. Stakeholders have stated that this would be a meaningful incentive. The added publicity from the City would increase the marketability of both commercial and residential projects. Several stakeholders mentioned the idea of a Green Project of the Year Award. This type of green building incentive would require nominal City resources and funding, but it would also show the City's commitment to green buildings.

Thresholds

Existing Program versus New Program
It would be time consuming and difficult to develop a local program when there exist recognized programs with credibility and market value. Therefore, staff recommends that the City of Oakland use either LEED and/or GreenPoint Rated as the basis for the Ordinance. If project types do not fall under either category or for some reason the existing programs are not appropriate, only then should the City develop its own checklists. A 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, as evidenced by the Home Building Association of Northern California and ABAG endorsing the GreenPoint Rated program for mandatory ordinances for residential development.

Project Applicability
Staff recommends that the City address each project type (residential, commercial, industrial, new construction, renovations, remodeling, historic buildings, etc) in one ordinance. One reason for this recommendation is that staff will further vet the thresholds when they return to the

Zoning Update Committee. Additional stakeholder meetings will likely be necessary to achieve consensus. This process will take longer if only one project type is reviewed. Staff believes that these stakeholder meetings and recommendations could be accomplished concurrently for each project type.

Alternative: The CED Committee could recommend only focusing on one project type and phase in the other project types at a later date.

Mandatory Point Requirements
Staff recommends further consideration of possible mandatory point requirements within the existing checklists. Mandatory points could be related to water conservation, recycling, or safety and natural surveillance. Staff will review existing Ordinances and policies to determine these points. In addition, staff will look at other areas of general concern to residents that green building techniques could address and possibly alleviate.

Alternative: The CED Committee could recommend that all points be voluntary and only a certain level is achieved.

Phased Implementation

Staff recommends that the requirements be voluntary for a period of one year as staff is trained and the necessary information is finalized. However, staff would recommend that all projects be required to complete the green building checklists and include them with the permit application submittals. Staff would not require verification, either by the City or by a third party. This would allow the development community to become familiar with the green building requirements and try out certain construction methods and products. Staff will have time to work out any conflicts and to provide information to the public.

Alternative: Another option would be to require a less than minimum amount of points and not require certification. With this option, staff would need to consider what minimal number of points would encourage green building but not be cumbersome to development in this initial phase.

After the initial education period, staff would recommend the minimum number of points to achieve a green building certification through either LEED and/or GreenPoint Rated for a period of one year. At this point the development community would be familiar with the checklists and the requirements. They will have knowledge of green building techniques and products. Staff will be ready to supply the necessary information and assistance to meet the requirements. This is similar to the newly adopted green building standards for Notice of Funding Applications (NOFA) for affordable housing projects. The 2008 applicants are now required to fill out the GreenPoint Rated scorecard but verification is not required. Applicants can get bonus points for

official certification. It is anticipated that GreenPoint Rated will be a requirement for NOFA funding for projects starting in 2009.

Alternative: Another option would be require less than the minimum number of points and no certification of the project. With this option, the development community would have one more year to become knowledgeable with green building.

Internal Ratcheting of the Requirements

After the voluntary and minimal requirement periods (approximately 2 years), the Ordinance would be considered fully in effect. Staff recommends maintaining the same minimum level of points in order to achieve certification. Staff believes that the construction market will dictate a higher level of green without additional City requirements.

Alternative: The City could require that projects meet a higher level over time.

Compliance

Staff recommends that City personnel track the project from planning through plancheck and construction to ensure that the project will meet any green building requirements. The project would not be approved, a building permit issued or inspections granted if the initial City review shows that the project would not meet the requirements. Staff does not recommend withholding a certificate of occupancy if the project appeared to be in conformance during the planning and plancheck phase but did not meet the final requirements.

Alternative: Payment of an upfront performance bond which is returned if the developer completes a green building.

Alternative: An in lieu fee for noncompliance.

Staff does not recommend that the City undertake full responsibility for the LEED or GreenPoint Rated certification. There are professionals that should handle this solely for the developer.

ACTION REQUESTED OF THE CITY COUNCIL

Staff requests that the CED Committee review the key issues and recommendations and provide policy direction on the work plan that will help staff in drafting a Green Building Ordinance for private development.

These recommendations include providing direction for:

1. Staff to review the full cost of review of current codes against the green building checklists as a possible incentive.
2. Staff to implement an extension of project entitlements for green building as an incentive only with mandatory requirements.
3. Staff to review the full cost of providing information to the development community including a green building website, forms, checklists, materials and exhibits in the Green Building Resource Center, and counter hours at the Green Building Resource Center as an incentive.
4. Encouraging additional staff to apply for the StopWaste.Org's scholarships and become knowledgeable in green building.
5. Staff to review the full cost of City marketing for green buildings in City literature an incentive.
6. Staff to develop the Ordinance using the existing LEED and GreenPoint Rated systems without modification or alteration.
7. Staff to develop one Ordinance that addresses all project types and sizes.
8. Staff to pursue further consideration of a limited number of mandatory points within the LEED and GreenPoint Rated programs to address specific issues or strengthen current adopted City policies.
9. Staff to develop the Ordinance with a one (1) year voluntary program, a one (1) year with the minimum number of points, and maintenance of the minimum number of points.
10. Staff to return to the Zoning Update Committee with further details on these recommendations and that the final recommendations are submitted to the Planning Commission by April 2009 based on the timeframes presented.
11. Staff to include the third party certification in the Ordinance as a requirement.
12. Staff to require that the project team retain an appropriate independent green building professional to oversee the green building requirements in the Ordinance.

13. Staff to require that the project is in compliance with the Ordinance at all stages of the permitting process.
14. Complying with CEQA and the findings required by State law.

Respectfully submitted,

Dan Lindheim, Director,
Community and Economic Development Agency

Reviewed by:
Gary Patton, Deputy Director of Planning and Zoning
Planning & Zoning Division

Prepared by:
Heather Klein, Planner III
Planning & Zoning Division

APPROVED AND FORWARDED TO THE
COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE:

Office of the City Administrator

Attachments: A. Description of Federal and State Green Building Related Policies
B. Meeting minutes from March 2008 Stakeholder Groups
C. Meeting minutes from August 12, 2008 Stakeholder Group
D. Public Comments

Item: _____
Community and Economic Development Committee
October 14, 2008