



AGENDA REPORT

Meeting Date: December 21, 2010
Item Number: D-2
To: Honorable Mayor & City Council
From: Susan Healy Keene, AICP, Director of Community Development
Subject:

- A) AN ORDINANCE OF THE CITY OF BEVERLY HILLS REPEALING ARTICLE 46 OF CHAPTER 3 OF TITLE 10 OF THE BEVERLY HILLS MUNICIPAL CODE REGARDING GREEN BUILDING STANDARDS
- B) A RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS REPEALING THE GREEN BUILDING STANDARDS RATING SYSTEM AND THE GREEN BUILDING/SUSTAINABILITY CHECKLIST AND VOLUNTARY RESIDENTIAL GREEN BUILDING PROGRAM FOR SINGLE-FAMILY RESIDENCES

Attachments:

- 1. Planning Commission Recommendation
- 2. Ordinance
- 3. Resolution

RECOMMENDATION

Revoke the City's Green Building Programs:

- A. Introduce the attached ordinance to repeal the City's Green Building Standards (Attachment 2)
- B. Adopt a resolution to repeal the City's Green Standards Rating System, Green Building/Sustainability Checklist, and voluntary Residential Green Building Program (Attachment 3)

INTRODUCTION

Every three years the California Building Standards Commission ("Commission") publishes the California Building Standards Code or technical codes, which is a compilation of the building standards that apply to all occupancies in California.

For this first time, the State of California has included a unified green building code, commonly known as “CalGreen” as part of the technical codes. On November 30, 2010, the City Council adopted an urgency ordinance to adopt the California Building Standards Code, including CalGreen, with local amendments. That ordinance goes into effect on January 1, 2011. Based on the City’s adoption of the Building Standards Code, including CalGreen, the City’s local green building standards codified in the zoning code are no longer necessary as buildings will be subject to the adopted CalGreen requirements. Therefore, the City’s green building standards should be repealed and use of the City’s “Green Building Standards Rating System”, “The Green Building/Sustainability Checklist” and “Voluntary Green Building Program for Single-Family Residences” should be discontinued.

DISCUSSION

As stated above, the CalGreen requirements adopted by the City would preempt the City’s existing green building programs and maintaining the City’s existing programs would be inconsistent with State regulations. The following existing City programs are inconsistent with the new State building code and it is recommended that these programs be repealed:

- Green Building Program – In 2008, the City Council adopted a “Green Building” ordinance (08-O-2555) that requires certain multi-family residential and commercial projects to comply with additional building efficiency and alternative energy requirements as a means of encouraging reductions in consumption of energy.
- Green Building Rating System and Checklist – Also in 2008, the City Council adopted a resolution (08-R-12609) approving “the Green Building Standards Rating System” and “The Green Building/Sustainability Checklist”.
- Voluntary Single-Family Residential Green Building Program – Further in 2008, the City Council adopted a resolution (08-R-12632) adopting a “Voluntary Green Building Program for Single-Family Residences”.

The CalGreen Building Standards and the existing Beverly Hills Green Building Program evaluate development projects in a similar manner, based on similar criteria. CalGreen and the City’s existing program also use a tiered approach. The CalGreen base tier sets a minimum green building standard which development must meet in all jurisdictions in California. The CalGreen tier one, and tier two have been modified to parallel the City’s existing program (this has been within the constrictions of the required State Building Code findings). Adoption of the CalGreen green building code is consistent with the objectives of the City’s green building program.

PUBLIC NOTICE AND PLANNING COMMISSION RECOMMENDATION

A public notice announcing this meeting was circulated in the Beverly Hills Courier and the Beverly Hills Weekly in accordance with the requirements for a public hearing. In addition, the Planning Commission held a duly noticed public hearing on the matter on November 23, 2010. The recommendation from the Planning Commission to revoke the City’s existing green building programs is included at Attachment 1.

GENERAL PLAN CONFORMANCE

Repealing the City's green building programs would be in conformance with the City's General Plan which calls for consistency between State law and the City's Zoning Code. The General Plan includes establishment and maintenance of a Green Building Program in the City; however the General Plan does not define the form the program is to have. The State Green Building Code would provide that definition. Therefore, removal of the City's existing Green Building Standards, Rating System, Checklist, and Voluntary Residential Programs is consistent with State Law and in conformity with the City's General Plan.

ENVIRONMENTAL ASSESSMENT

Pursuant to the requirements of the California Environmental Quality Act (CEQA), the City evaluated the action of removing the existing article from the City's Municipal Code. Upon the effective date of the new CalGreen requirements, as amended by the City, all construction in the City will be required to comply with those CalGreen requirements. The requirements will apply more broadly than the City's current Green Building Standards, which will no longer be necessary to further the City's green building policy objective as to any project subject to the CalGreen standards. As such, repealing the City's Green Building Standards will not result in any significant adverse impact on the environment. Repealing the City's Green Building Standards is covered by the general rule that the California Environmental Quality Act does not apply where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. For the foregoing reasons, repealing the City's Green Building Standards is not subject to CEQA, pursuant to 14 Cal. Code Regs Section 15061(b)(3).

FISCAL IMPACT

Revoking the City's existing Green Building Programs would not result in a fiscal impact.



Approved By
Susan Healy Keene, AICP
Director of Community Development

ATTACHMENT 1
Planning Commission Recommendation

RESOLUTION NO. 1595

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RECOMMENDING REVOCATION OF TITLE 10, CHAPTER 3, ARTICLE 46 - GREEN BUILDING STANDARDS - FROM THE CITY'S MUNICIPAL CODE AND REVOCATION OF THE CITY'S GREEN BUILDING RATING SYSTEM AND CHECKLIST WITH EXCEPTION AS TO CERTAIN PROJECTS, AND REVOCATION OF THE CITY'S VOLUNTARY RESIDENTIAL GREEN BUILDING PROGRAM FOR SINGLE-FAMILY RESIDENCES

The Planning Commission of the City of Beverly Hills hereby finds, resolves and determines as follows:

Section 1. As part of the adoption of the 2010 California State Building Code update, the City is required to adopt the State's Green Building Codes, referred to herein as "CalGreen". CalGreen and the City's Green Building Standards, including the mandatory requirements set forth in Article 46 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code and the voluntary standards adopted for single family residential project, both generally achieve the City's green building goals, however, the specific methods differ in various ways. Because of the inconsistencies, and the requirement to adopt the State's Building Codes, the City's Green Building Standards are not necessary for any project subject to the new CalGreen requirements and should be removed from the City's Municipal Code.

Section 2. The Planning Commission held a duly noticed public hearing on the matter on November 23, 2010 at which time interested parties were given an opportunity to provide testimony regarding the revocation of the City's Green Building Standards.

Section 3. Pursuant to the requirements of the California Environmental Quality Act (CEQA), the City evaluated the action of removing the existing article from the City's Municipal

Code. Upon the effective date of the new CalGreen requirements, including heightened requirements for certain types of projects, all construction in the City will be required to comply with the CalGreen building standards. The requirements will apply more broadly than the City's current Green Building standards, which will not be necessary to further the City's green building policy objectives as to any project subject to the CalGreen standards. As such, revocation of the City's Green Building Standards will not result in any significant adverse impact on the environment. Revocation of the City's Green Building Standards is covered by the general rule that the California Environmental Quality Act does not apply where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. For the foregoing reasons, revocation of the City's Green Building Standards is not subject to CEQA, pursuant to 14 Cal. Code Regs. §15061(b)(3).

Section 4. The record of proceedings for revocation of the City's Green Building Standards is maintained by the City as part of the official records of the Community Development Department at 455 North Rexford Drive, Beverly Hills, California, 90210.

Section 5. Based on the evidence presented, the Planning Commission hereby recommends that the City Council adopt an ordinance, substantially as set forth in Exhibit A, revoking Article 46 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding the City's Green Building Standards, except that those standards shall continue to apply to any project not subject to the CalGreen standards.

Section 6. The Planning Commission also recommends that the City Council adopt a resolution substantially in the form set forth in Exhibit B revoking Resolution No. 08-R-12609, the "City of Beverly Hills Green Building Standards Rating System" and the "Green

Building/Sustainability Checklist”, and Resolution No. 08-R-12632, the “City of Beverly Hills Voluntary Green Building Program for Single-Family Residences”.

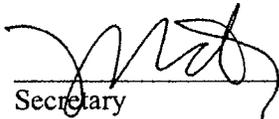
Section 7. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: **Nov 23** , 2010



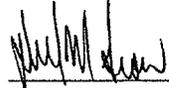
Lili Bosse
Chair of the Planning Commission of the
City of Beverly Hills

ATTEST



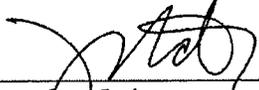
Secretary

APPROVED AS TO FORM:



David M. Snow
Assistant City Attorney

APPROVED AS TO CONTENT



Jonathan Lait
City Planner

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS.
CITY OF BEVERLY HILLS)

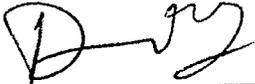
I, JONATHAN LAIT, Secretary of the Planning Commission and City Planner of the City of Beverly Hills, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 1595 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on November 23, 2010, and thereafter duly signed by the Secretary of the Planning Commission, as indicated; and that the Planning Commission of the City consists of five (5) members and said Resolution was passed by the following vote of said Commission, to wit:

AYES: Commissioners Cole, Corman, Furie, Vice Chair Yukelson, and
 Chair Bosse.

NOES: None.

ABSTAIN: None.

ABSENT: None.



(in) JONATHAN LAIT, AICP
Secretary of the Planning Commission/
City Planner
City of Beverly Hills, California

ATTACHMENT 2

Draft Ordinance Repealing Article 46 of Chapter 3 of Title 10 of the City's Municipal Code regarding Green Building Standards

AN ORDINANCE OF THE CITY OF BEVERLY HILLS
REPEALING ARTICLE 46 OF CHAPTER 3 OF TITLE 10 OF
THE BEVERLY HILLS MUNICIPAL CODE REGARDING
GREEN BUILDING STANDARDS

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY ORDAINS AS
FOLLOWS:

Section 1. On June 3, 2008, the City Council of the City of Beverly Hills adopted Ordinance Number 08-O-2555 which amended Title 10 (“Planning and Zoning”), Chapter 3 (“Zoning”) of the Beverly Hills Municipal Code by creating a new article 46 entitled “Green Building Standards.”

Section 2. In 2010, the State of California updated the California State Uniform Building Codes, which includes for the first time green building codes, referred to as “CalGreen.” Based on the City’s adoption of the Building Codes, including CalGreen, the City’s Green Building Standards are no longer necessary for any project subject to the new building standards.

Section 3. Pursuant to the requirements of the California Environmental Quality Act (CEQA), the City evaluated the action of removing the existing article from the City’s Municipal Code. Upon the effective date of the new CalGreen requirements, as amended by the City, all construction in the City will be required to comply with those CalGreen requirements. The requirements will apply more broadly than the City’s current Green Building Standards, which will no longer be necessary to further the City’s green building policy objectives as to any project subject to CalGreen standards. As such, repealing the City’s Green Building Standards will not result in any significant adverse impact on the environment. Repealing the City’s Green Building Standards is covered by the general rule that the California Environmental Quality Act does not apply where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. For the foregoing reasons, repealing the City’s Green Building Standards is not subject to CEQA, pursuant to 14 Cal. Code Regs §15061(b)(3).

Section 4. The City Council of the City of Beverly Hills hereby repeals Article 46 (Green Building Standards) of Chapter 3 (Zoning) of Title 10 (Planning and Zoning) of the Beverly Hills Municipal Code in its entirety, except that Article 46 shall continue to apply to any Covered Project, as that term is defined therein, that has received a building permit prior to January 1, 2011.

Section 5. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage, in accordance with Section 36933 of the Government Code; shall certify to the adoption of this Ordinance and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of the City.

Section 6. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted:
Effective:

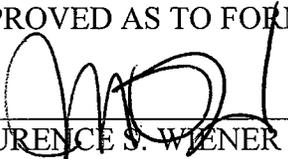
JIMMY DELSHAD
Mayor of the City of Beverly Hills,
California

ATTEST:

BYRON POPE
City Clerk

(SEAL)

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

JEFFREY KOLIN
City Manager



SUSAN HEALY KEENE AICP
Director of Community Development

ATTACHMENT 3

Draft Resolution Repealing the Green Building Standards Rating System and Green Building/Sustainability Checklist and Voluntary Single-Family Residential Standards

A RESOLUTION OF THE COUNCIL OF THE CITY OF
BEVERLY HILLS REPEALING THE GREEN BUILDING
STANDARDS RATING SYSTEM AND THE GREEN
BUILDING/SUSTAINABILITY CHECKLIST AND
VOLUNTARY RESIDENTIAL GREEN BUILDING PROGRAM
FOR SINGLE-FAMILY RESIDENCES

The City Council of the City of Beverly Hills does hereby resolve as follows:

Section 1. In 2008, the City Council of the City of Beverly Hills adopted Resolution No. 08-R-12609, adopting regulations to implement a green building program. Also in 2008, the City Council adopted Resolution No. 08-R-12632, adopting a voluntary green building program for single family residences

Section 2. In 2010, the State of California updated the California State Uniform Building Codes, which includes for the first time green building codes, referred to as “CalGreen”. Based on the City’s adoption of the Building Codes, including CalGreen, the City’s green building regulations set forth in Resolutions 08-R-12609 and 08-R-12632 are no longer necessary.

Section 3. The Planning Commission held a duly noticed public hearing on the matter on November 23, 2010 at which time interested parties were given an opportunity to provide testimony regarding the repeal of the City’s green building standards ordinance, including the following green building regulations: Green Building Standards Rating System, the Green Building/Sustainability Checklist, and Voluntary Residential Green Building Program for Single-Family Residences.

Section 4. Pursuant to the requirements of the California Environmental Quality Act (CEQA), the City evaluated the action of removing Article 46 from the City’s

Municipal Code, which set forth the City's Green Building Standards as well as the implementing regulations adopted by resolution. Upon the effective date of the new CalGreen requirements, as amended by the City, all construction in the City will be required to comply with those CalGreen standards. The requirements will apply more broadly than the City's current Green Building Standards, which will no longer be necessary to further the City's green building policy objectives as to any project subject to the CalGreen standards. As such, repealing the City's Green Building Standards, including the implementing regulations, will not result in any significant adverse impact on the environment. Repealing the implementing regulations is covered by the general rule that the California Environmental Quality Act does not apply where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. For the foregoing reasons, repealing the City's green building regulations is not subject to CEQA, pursuant to Cal. Code Regs. §15061(b)(3).

Section 5. The record of proceedings for repealing the green building regulations set forth in Resolution 08-R-12609 and 08-R-12632 is maintained by the City as part of the official records of the Community Development Department at 455 North Rexford Drive, Beverly Hills, California, 90210.

Section 6. The City Council hereby repeals Resolution No. 08-R-12609, which adopted the Green Building Standards Rating System Green Buildings/ Sustainability Checklist, except that the standards and checklist shall continue to apply to any "Covered Project", as that term is defined in Ordinance 08-O-2555 that has received a building permit prior to January 1, 2011.

Section 7. The City Council hereby repeals Resolution No. 08-R-12632, which adopted the Voluntary Residential Green Building Program for Single-Family Residences.

Section 8. The City Clerk shall certify to the adoption of the Resolution and shall cause the Resolution and his certification to be entered in the Book of Resolutions of the Council of the City.

Section 9. This Resolution shall go into effect at the same time that Ordinance No. _____ becomes effective.

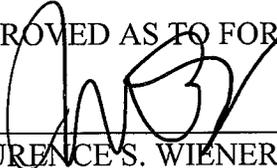
Adopted:
Effective:

JIMMY DELSHAD
Mayor of the City of Beverly Hills,
California

ATTEST:

(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:



SUSAN HEALY KEENE, AICP
Director of Community Development