



Planning Commission Report

Meeting Date: November 23, 2010

Subject: Resolution of the City of Beverly Hills Planning Commission recommending that the City Council remove the Green Building Standards from the Beverly Hills Municipal Code (BHMC 10-3-46), remove the City's Green Building Rating System and Checklist, and the City's voluntary single-family residential program.

Recommendation: Adopt a resolution recommending to the City Council to remove the Green Building Standards from the Municipal Code, and remove the Green Building Rating System and Checklist, and voluntary single-family residential program.

REPORT SUMMARY

In 2010 the State of California has required that all jurisdictions, as part of the regular update of the State Building Codes, adopt a unified green building code. The State's green building code pre-empts the City's green building standards (BHMC 10-3-46), and maintenance of the City's green building standards would be inconsistent with the State's green building codes. Therefore, the City's green building standards should be removed from the Beverly Hills Municipal Code, and the City's "Green Building Standards Rating System" and "The Green Building/Sustainability Checklist" should be deleted.

BACKGROUND

- Green Building Program Adopted – 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 Adopted – 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 Adopted – Further in 2008, the City Council adopted a resolution (08-R-12632) adopting a "Voluntary Green Building Program for Single-Family Residences".
- The City is currently in the process of adopting the 2010 State Unified Building Code, which contains green building codes, referred to as "CalGreen". The CalGreen code preempts the City's existing green building programs, and maintaining the program would be inconsistent with State regulations.

Attachment(s):

1. Resolution Recommending Removal to City Council
Draft City Council Ordinance
Draft City Council Resolution

Report Author and Contact Information:

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DISCUSSION

The attached resolution recommends that the City's existing Green Building Standards, Rating System, and Checklist, and Voluntary Single-Family Green Building Program be removed. As a separate item, the City Council is considering the adoption of the 2010 update to the California State Unified Building Codes (2010 UBC). Included in the building code update is the State's required green building code, also referred to as "CalGreen". The City is required to adopt the CalGreen building codes as part of the 2010 UBC update. CalGreen includes both a commercial/multi-family, and single-family residential green building codes.

GENERAL PLAN CONFORMANCE

The resolution and draft ordinance are in conformity with the General Plan by maintaining consistency between State law and the City's Zoning Code. The General Plan requires the establishment and maintenance of a Green Building Program; however the General Plan does not define the form that the program is to have. The State Green Building Code provides that definition. Therefore, removal of the City's existing Green Building Standards, Rating System, and Checklist is consistent with State Law and in conformity with the City's General Plan.

ENVIRONMENTAL ASSESSMENT

With adoption of the CalGreen standards, the City's main green building requirements will be retained or enhanced. As such, it can be seen with certainty that revocation of the existing standards will not result in any significant impacts on the environment. Therefore, this section is exempt from the California Environmental Quality Act pursuant to 14 Cal. Code Regs. Section 15061(b)(3)

PUBLIC OUTREACH AND NOTIFICATION

Action	Type of Notice	Required Notice Period	Required Notice Date	Actual Notice Date	Actual Notice Period
PC Public Hearing 11/23/2010	Newspaper Notice	10 days	11/13/2010	11/10/2010 11/12/2010	10 days
Report on Website	Min. 4 days prior to meeting	N/A	N/A	N/A	N/A

Public Comment

As of the time of this report, no letters or emails have been received.

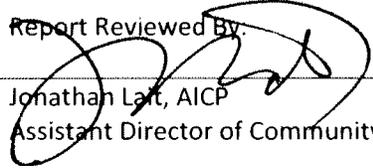
ANALYSIS

As part of the 2010 update of the State Unified Building Code, the State of California requires all jurisdictions to adopt the California Green Building Codes, also referred to as "CalGreen". Maintaining the City's Green Building Codes and Programs would not be consistent with the State building codes. Therefore, it is recommended that the Planning Commission adopt the attached resolution forwarding a recommendation to the City Council to remove the City's Green Building Standards from the Beverly Hills Municipal Code, and removing "the Green Building Standards Rating System", "The Green Building/Sustainability Checklist", and the "Voluntary Green Building Program for Single-Family Residences".

NEXT STEPS

There are no additional steps at this time. Adoption of updates to the California Unified Building Code is considered directly by the City Council.

Report Reviewed By:


Jonathan Lait, AICP

Assistant Director of Community Development / City Planner

RESOLUTION NO. _____

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: _____, 2010

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

ATTEST

Secretary

APPROVED AS TO FORM:

APPROVED AS TO CONTENT

David M. Snow
Assistant City Attorney

Jonathan Lait
City Planner

EXHIBIT A

Draft Ordinance Revoking Article 46 of Chapter 3 of Title 10 of the City's Municipal Code,
regarding Green Buildings Standards

[DRAFT] ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF BEVERLY HILLS REVOKING ARTICLE 46 OF CHAPTER 3 OF TITLE 10 OF THE BEVERLY HILLS MUNICIPAL CODE REGARDING GREEN BUILDING STANDARDS AS TO PROJECTS SUBJECT TO NEW CALGREEN 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, including heightened requirements for certain types of projects, all construction in the City will be required to comply with green building 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 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 City Council of the City of Beverly Hills hereby revokes and rescinds 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 the standards shall continue to apply to any project that triggered the green building requirements and that is not subject to the new CalGreen standards.

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:

_____ (SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

LAURENCE S. WIENER
City Attorney

JEFFREY KOLIN
City Manager

SUSAN HEALY KEENE AICP
Director of Community Development

EXHIBIT B

Draft Resolution Revoking the City's Green Building Standards Rating System and Green Buildings/Sustainability Checklist and Voluntary Single Family Residential Standards

[DRAFT] RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS REVOKING THE GREEN BUILDING STANDARDS RATING SYSTEM AND THE GREEN BUILDING/SUSTAINABILITY CHECKLIST WITH EXCEPTION AS TO CERTAIN PROJECTS, 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 Standards 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 revocation of the City’s Green Building Standards, including the 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 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 green building 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, 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 Cal. Code Regs. §15061(b)(3).

Section 5. 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 6. The City Council hereby revokes and rescinds 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 project that triggered the green building standards, and that is not subject to the new CalGreen standards.

Section 7. The City Council hereby revokes and rescinds 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:

APPROVED AS TO CONTENT:

LAURENCE S. WIENER
City Attorney

JEFFREY KOLIN
City Manager

SUSAN HEALY KEENE AICP
Director of Community Development