

White Paper: Green Development and Infill Incentives

Policy Direction

On March 3, 2009 the City Council adopted the 2030 General Plan (General Plan). One of the General Plan's overarching themes is "Developing a sustainable future," and infill development was identified as an important component to achieving sustainability. Infill development better supports public transit use, provides more efficient land use, and ideally results in a mix of uses supportive of complete neighborhoods.

The General Plan identifies priority implementation measures, including adoption of a climate action plan to reduce greenhouse gasses and adapt to a changing climate, adoption of a green building ordinance and a comprehensive update to the zoning code (Green Development Code). The General Plan also includes several measures to establish incentives to encourage green development.

Purpose

The purpose of incentives for green development is to:

- Promote infill development consistent with the goals of the General Plan; and
- Encourage a higher standard of green building, such as Cal Green Tier I/II, or 3rd party green building rating systems such as Build it Green's GreenPoint Rated system (GPR) or the US Green Building Council's Leadership in Energy and Environmental Design (LEED) rating system.

Background

The Green Development Code will include "fixes" that will encourage infill development, through a number of improvements including:

- improving the review process;
- restructuring the code for clarity and ease of use; and
- revising parking standards; and providing flexibility in development standards.

These changes alone would make green development easier and less costly to achieve. However, additional measures – both mandatory and voluntary – are being considered to further promote green development.

Phase I of the Green Development Code includes establishing incentives for green development by improving the site plan and design review process and development incentives for qualifying green projects.

Phase II of the Green Development Code will implement the Climate Action Plan and Green Building Program, which address site development, air quality, energy efficiency, and water conservation. It is not yet defined to what degree these green measures will be mandatory and which will be voluntary and supported by incentives.

Phase III will provide a wider focus by addressing sustainable land use and mobility through neighborhood design criteria, adaptive reuse of existing infrastructure, and connectivity standards. Additional measures to improve water quality and update landscape requirements to reduce water use will also be included in Phase III.

The Problem

Infill development can be more expensive than comparable greenfield development due to higher land costs, higher construction costs, perceived lack of market acceptance for urban mixed use development, and higher costs of complying with development regulations that restrict infill development. Green development is perceived to have higher upfront costs than conventional development. New mandatory requirements for green construction are unpopular due to concerns

about adding to development costs during the current downturn in the economy. Developers, already feeling burdened by recent state requirements for greener construction, do not often opt for green development for various reasons, as is discussed below.

Because green development is a fairly new product type, it can be difficult to secure funding and technical expertise in green design and construction. Furthermore, although the operating cost of green buildings is much less expensive than traditional buildings, the savings incurred may not provide builders incentive to voluntarily invest in the added costs for a product they will sell upon completion.

The City's primary barrier to providing financial incentives for green development is lack of funding to provide subsidies to offset construction and infrastructure costs.

Recommended Solution

Staff proposes that Phase I of the Green Development Code offer regulatory incentives for green development both at a citywide level as well as for specific infill areas.

Citywide:

All development will benefit from improvements to the code discussed in other white papers, especially those associated with the project review process and parking standards. As a result, fewer discretionary entitlements will be mandated and those that are mandatory will more often be decided at staff or ZA level. Also, many projects consistent with the General Plan receive CEQA benefits under the Master EIR, and projects may not need to be rezoned due to City-initiated rezoning.

For green building projects, the proposed citywide incentive would apply to new development built at the LEED Gold standard or higher. LEED is an existing standard with proven success. The LEED certification of a project is obtained by the developer, so staff is not involved in the enforcement of the standard.

- *Standard:* LEED Gold or higher
- *Incentive:* Staff level review for projects over 40,000 square feet or four stories in height that would otherwise require commission-level site plan and design review.
- *Process:* Developer provides initial documentation demonstrating intent to qualify for the LEED Gold or higher or at least 75 GPR points and submits an affidavit of intention that the standard will be met.

Within Tier I Infill Areas:

New development in Tier I infill areas would be subject to LEED Gold or higher or at least 75 points on the GPR scale, to receive process incentives. Tier I Infill areas are near transit lines, urban centers, or have potential for mixed use development. Tier I Infill areas are generally in mixed-use, higher density neighborhoods, so there is less potential for neighborhood conflict.

- *Standard:* LEED Gold or higher, or at least 75 GPR points
- *Incentives:* Staff level review for site plan and design review (same as Citywide incentive) and flexibility in development intensity (i.e. higher FAR, higher density, increased building height, development on undersized lots)
- *Process:* Staff works with developer to identify equally beneficial ratio of development intensity for green development. This process includes the developer demonstrating that the project qualifies for LEED Gold standard or higher or GPR standards, and submits an affidavit of intention that the standard will be met.

Challenges to Achieving the Solution

- The proposed incentives may not be enough to attract development, particularly in infill areas where infrastructure costs are high.
- The amount of incentive that would encourage green development is unknown, and may have to be determined on a case-by-case basis.
- The city assumes the risk of providing incentives for projects that may, upon completion, not follow through on their stated intent for LEED or GPR certification, or projects which cannot get LEED or GPR certification at the minimum level required for the incentives (e.g. the project, as designed, is rated at Silver rather than Gold by GBCI after the Certificate of Occupancy is issued). At this point, the project would become a code violation, and the city would have to determine the best approach to rectify the situation.
- There are aspects of the city code and processes that may conflict with some of the LEED criteria. Additional work to identify these conflicts and opportunities for harmonization will be undertaken in Phase II of the Green Development Code process.
- The appropriate level of review for green building incentives and general process improvements proposed in the Green Development Code will have to be defined; this entails finding a balance between encouraging desirable development in general, and incentivizing green development that meets much higher performance standards.

Discussion Questions

Further discussions regarding additional incentives – such as reducing or deferring impact fees, reducing street standards, and assigning technical staff as a process point of contact – will take place during the development of Phase II and III of the Green Development Code. The analysis of proposed incentives will include identifying the appropriate mechanism to apply the incentive and the types and number of green measures to be provided for that incentive.

The following questions apply to Phase I:

- Are the proposed incentives enough to attract green development?
- How can public input be incorporated into the process while still providing an expedited review process? Or should it?
- How will the review process for green development differ from the overall Green Development Code design and review revisions that apply to all development?
- Is there a way to incentivize green improvements to existing buildings?
- What other “green” benchmarks should be considered?