



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Planning Commission Meeting
June 11, 2008
Agenda Item: 1

STAFF REPORT

To: Members of the Planning Commission
From: Community Development Department
Subject: Review and Comment on Draft Bicycle Pedestrian Master Plan Update

BACKGROUND

The Town adopted its first Bicycle-Pedestrian Master Plan (BPMP) in 2001. This document is now undergoing a comprehensive update, as are all BPMP's across Marin County, being sponsored by the Transportation Agency of Marin (TAM) and performed under contract by a private consulting firm, Alta Planning + Design.

Tiburon's is the last of the BPMP's in Marin County to be updated; those of the County of Marin and other cities were completed either last year or earlier this year, although some have yet to be adopted. As all of the BPMP updates were prepared by Alta Planning + Design, there is a high degree of consistency in the content and format of the documents, including general policies and programs that are not unique to each jurisdiction.

ANALYSIS

The recently-dissolved Bicycle-Pedestrian Advisory Committee (BPAC) worked closely with the consultant during the update process for Tiburon's plan, as did Associate Planner Laurie Tyler and Assistant Planner Scott Phillips. Eric Anderson of Alta Planning & Design is the primary author of the document, and he will be making a brief Power Point presentation to the Commission describing the major elements of the plan.

One major benefit of the BPMP is that it enables the Town to qualify for certain grants and monies that would otherwise not be available. Scarcity of public funds is the primary limiting factor in making significant improvements to bicycle and pedestrian transportation improvements.

Planning Division staff finds the document to be somewhat lengthy, reducing its ease of general use. Staff suggests that some sort of synopsis or distillation of the BPMP may be warranted for ease of use by staff, Town officials, and the public.

FUTURE ACTION

The Town Council is scheduled to receive a similar presentation on the draft BPMP from Alta Planning + Design on July 16, 2008, and consider formal adoption of the Plan.

RECOMMENDATION

Staff recommends that the Planning Commission:

1. Hear and the presentation by Eric Anderson of Alta Planning + Design.
2. Make any desired comments on the draft BPMP and direct Staff to forward the comments to the Town Council

EXHIBITS

1. Draft BPMP

Prepared by: Scott Anderson, Director of Community Development

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TOWN OF TIBURON
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Planning Commission Meeting
June 11, 2008
Agenda Item: 2

STAFF REPORT

To: **Members of the Planning Commission**

From: **Community Development Department**

Subject: **Review of Draft Capital Improvement Program for Fiscal Year 2008-2009 Budget**

BACKGROUND

This item is the Planning Commission's annual review of the proposed Capital Improvement Program (CIP), which is a component of the Town's annual budget. The CIP is not part of the Town's "operating budget", which focuses on provision of day-to-day services. The draft CIP is prepared by the Director of Public Works in consultation with the Town Manager and other Department Heads. The Town Council Finance Sub-Committee also reviews the draft CIP prior to its being sent to the full Town Council as part of the larger budget adoption process.

Pursuant to California Government Code Section 65301, the Planning Agency of the Town shall annually review the capital improvement program of the city for its consistency with the general plan.

ANALYSIS

The draft CIP (**Exhibit 1**) is organized into three separate categories: 1) Street Improvements; 2) Drainage Improvements; and 3) Community Development Improvements. The Director of Public Works/Town Engineer is most familiar with the CIP and will be present at the meeting to elaborate upon projects and answer questions from the Commission.

Staff has reviewed the draft CIP and finds that its components are consistent with the goals and policies of the Tiburon General Plan.

RECOMMENDATION

Staff recommends that the Planning Commission review the draft CIP budget for consistency with the General Plan and forward its findings on that issue to the Town Council along with any other comments.

EXHIBITS

1. CIP section from draft FY 2008-2009 budget

Prepared by: Scott Anderson, Director of Community Development



TOWN OF TIBURON
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Planning Commission Meeting
June 11, 2008
Agenda Item: 3

STAFF REPORT

To: Members of the Planning Commission

From: Community Development Department

Subject: Green Building Program---Consider Recommendation to the Town Council for Approval of a Green Building Program, including Amendments to the Municipal Code Chapter 16 (Zoning) and Adoption of Green Building Compliance Standards, Rating Systems and Incentives

BACKGROUND

Green building regulations are a fast-spreading trend worldwide as concerns over global climate change grow ever more serious. Several Marin cities and the County of Marin have adopted green building regulations. Regionally, the East Bay (primarily the Alameda County Waste Management Authority) has been the leader in formulating green building measures. The construction industry is rapidly embracing the concept and is developing new building techniques and using more renewable materials, and this knowledge is quickly spreading among contractors and architects. The Marin Builders Association recently endorsed green construction programs.

The Planning Commission reviewed a draft green building program for the Town of Tiburon on January 9, 2008. The Commission expressed several concerns about the program and continued the item for further review and refinement. A joint Town Council/Planning Commission subcommittee met over the next several months. Based on direction from the subcommittee, staff has prepared a revised green program for consideration by the Commission.

ANALYSIS

Key recommendations from the subcommittee include the following:

- The green building program's objective should be as follows:
 - To implement a program that will promote healthy, energy and resource-efficient residential and non-residential buildings in Tiburon. The program will encompass new construction, additions, and remodel projects.
- The green building program should use recognized and regionally-accepted Build-It-Green checklists for residential projects, and the nationally-accepted LEED[®] (Leadership in Energy and Environmental Design) rating system for non-residential projects. The green building program should increase the threshold number of points from the easy targets used by most other local communities for residential construction.

- The green building program should recognize that this is a very rapidly-changing field and balance the program's consistency and stability with the rapid change and innovation occurring in the marketplace.
- The green building program should build and maintain community awareness and support through accessible communication vehicles, such as the Town web site, Town newsletter and the ARK.
- The Build-It-Green home remodel checklist should be adopted once it has been completed and released.
- The green building program should measure success where easily feasible (track % compliance and mean rating scores, gauge community awareness, track number and trends in green and/or efficient permit types, etc.).

Build-it-Green Checklists

The Alameda County Waste Management Authority first developed the New Home Construction Green Building Guidelines in 2000 through a collaborative process and public-private partnership among builders and green building experts. The Guidelines were updated in 2005 and published by Build It Green, a non-profit organization largely funded by the California Public Utilities Commission, and a task force of state agencies and industry representatives to expand its applicability throughout California, address changes in Title 24, and incorporate measures from other residential green building initiatives. Green Building Guidelines for Remodeling and Green Building Guidelines for Multifamily Construction were subsequently developed.

Complementing the Green Building Guidelines is Green Points, a rating system for assessing how environmentally friendly or "green" a home is. The Green Points system assigns point values to recommended practices in the Guidelines based on their benefits to the homeowner and the environment (see **Exhibits 1 and 2** for copies of the rating checklists for single-family and multi-family construction). The Build-It-Green home remodel checklist is under comprehensive revision and is expected to be re-released shortly.

The nationally recognized rating system for non-residential construction is LEED[®] (Leadership in Energy and Environmental Design) which is administered by the U.S. Green Building Council.

Green Building Regulations

Residential

Under the proposed program, green building regulations would initially apply to both single-family and multi-family construction of new units, as well as to additions to existing units that exceed 50% of the existing conditioned space of the dwelling. The home remodel checklist would be adopted once it is completed and released by Build-It-Green.

The green building program would require that new residential construction and additions achieve a minimum of 100 points in the Green Points rating system. Projects that achieve at least 140 points would qualify for incentives, including Town payment of green building consulting assistance, expedited building permit processing, and various forms of Town recognition.

Under the proposed program, an applicant proposing a project covered by the green building regulations would be required to submit a Green Points Checklist with the design review

application in order to demonstrate the feasibility of meeting the required number of points. The Checklist would need to be completed or validated by a certified Green Points Rater. Design review approvals would be conditioned upon the project actually meeting the green requirements as part of the detailed building permit application and permit-issuance process. Prior to final inspection, the Green Points Rater would have to submit verification that the proposed green building components were actually incorporated into the project construction.

The 100 point total is substantially higher than the 60 points set forth in the draft green program reviewed by the Planning Commission earlier this year. The subcommittee recommended a much higher total based on several factors, including the following:

- The 60 point range is more appropriate for typical production homes, not custom homes such as are built in Tiburon, where greater flexibility exists in earning green points
- Recent applications for new residential construction in the City of Larkspur have been filed at approximately 96-102 points
- The current Build-It-Green checklist contains many points that are either already required by building codes or are routine practice on the Tiburon Peninsula, making it too easy to reach the point threshold without any “benefit added” to the environment
- The County of Marin is currently updating its green building program and is considering point totals in the 100-point range.

Non-Residential (including Civic Buildings)

The Town experiences little new non-residential construction, although the possibility for new construction in the Downtown area is always present. While most of the Town’s civic buildings are relatively new, the Council has emphasized the Town taking a leadership role in the “greening” of civic projects, and a new Corporation Yard building is on the Town’s Capital Improvement Program list. A public library expansion is also on the horizon. The proposed green regulations for non-residential and civic buildings are as follows:

For new construction of 3,000 to 19,999 square feet, staff recommends that projects achieve the LEED® “Silver” point level (33-38 points), but that full certification by the U.S. Green Building Council not be required. Instead, applicants would use LEED Accredited Professionals, much like the Green Points Raters, to work with applicants, verify completion of the LEED checklist and field verify compliance. This process would significantly reduce the cost and timeframe for compliance with Town regulations.

For new construction of 20,000 square feet or more, staff recommends that project achieve the LEED® “Gold” point level (39-51 points), and obtain certification by the U.S. Green Building Council. This process can cost between \$10,000 and \$30,000 in consultant costs, but this would typically affect a multi-million dollar construction budget associated with such buildings.

An applicant achieving the LEED® “Platinum” point level (above 51 points) would qualify for Town incentives such as expedited building permit processing and project recognition. However, the costs for LEED® consultant assistance would not be reimbursed due to the higher potential costs involved.

Energy Efficiency for Large Single-Family Dwellings

The Town has already adopted enhanced energy efficiency standards for new or expanded homes that exceed 3,500 square feet. The regulations require that homes larger than 3,500 square feet meet the same energy budget as a home of 3,500 square feet using computations from State Title 24 and the California Energy Code.

Tiburon 2020 General Plan Consistency

Several policies and programs in Tiburon 2020 encourage green building, energy efficiency and resource conservation, including Policies OSC-61, OSC-62, OSC-63 and Program OSC-p.

Environmental Determination

Staff has preliminarily determined that the proposed regulations and amendments are exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15308 of the CEQA Guidelines, which exempts changes in land use regulations intended for the protection of the environment, and/or have no potential to result in adverse impacts on the environment, and are therefore exempt from the requirements of CEQA pursuant to Section 15061 [b(3)] of the CEQA Guidelines.

Next Steps in Green Building Program

The proposed regulations are considered the next phase of a multi-faceted approach to green building. The Town already has in place a fee reduction program for roof-mounted solar panels provided that certain design guidelines are met. The Town was also the first jurisdiction in the county to establish a construction and demolition materials recycling program. That program continues.

Other initiatives that the staff intends to study and possibly implement in the near future include:

1. Extension of the green building requirements to residential remodeling projects once Build It Green has completed its revisions to the Green Remodeling Guidelines and associated Green Points Rating system.
2. Revisions and updates to the Town's Construction and Demolition Materials Recycling regulations, once the County of Marin has completed an updated model ordinance (currently underway).
3. Possible training of in-house Staff to become certified green-rated plan-checkers and/or green-rated building inspectors.
4. Possible consideration of a wood-burning appliance ordinance. The Bay Area Air Quality Management District has advocated the adoption of "wood-smoke" ordinances by local jurisdictions for several years due to the air quality and health impacts of inefficient burning of wood in home fireplaces and older wood stoves. Several Bay Area cities have adopted such regulations, including a few jurisdictions in Marin County.
5. Through the Marin Climate Energy Partnership (MCEP) effort, self-evaluation is already underway on a community-wide level and at the municipal level to determine the values of current greenhouse gas emissions. Once these values are determined, a Climate Action Plan will be developed for the Town to target greenhouse gas reductions. MCEP is in the process of hiring a Climate Action Director with grant funding from the Bay Area Air Quality Management District. Once hired, this person would provide the tools and knowledge to

help each jurisdiction reduce their greenhouse gas emissions by performing tasks such as establishing a green purchasing collaborative, development of green building ordinances that include climate action components, cleaner municipal vehicle fleets, and integrating greenhouse gas reductions into local general plans, to name a few.

FISCAL IMPACT

Costs to the Town to implement the proposed Green Building regulations would include minor initial staff training costs and possible reimbursement of Green Point Rater costs and the cost of bronze identification plaques (if desired by the project sponsor) for residential projects that exceed the 100-point threshold, which will be few. Other minor costs could include collection of resource materials and formulation of community outreach and informational programs.

RECOMENDATION

Staff recommends that the Planning Commission:

Adopt the Resolution (**Exhibit 3**) recommending to the Town Council approval of the Green Building Program, including the ordinance and resolution attached thereto.

EXHIBITS

1. Build It Green “Green Point Checklists” for Single Family and Multifamily Construction.
2. Draft Resolution recommending Town Council approval of the Green Building Program and related actions, including the following attachments:
 - A. Draft Town Council ordinance amending Title IV, Chapter 16 (Zoning).
 - B. Draft Town Council Resolution adopting green building standards, rating checklists and systems, and incentives.

Prepared by: Scott Anderson, Director of Community Development

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RESOLUTION NO. 2008-DRAFT

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF TIBURON RECOMMENDING TO THE TOWN COUNCIL ADOPTION OF GREEN BUILDING-RELATED AMENDMENTS TO THE TIBURON MUNICIPAL CODE (ARTICLE IV, CHAPTER 16, ZONING), AND THE ADOPTION OF GREEN BUILDING STANDARDS FOR COMPLIANCE, GREEN BUILDING RATING CHECKLISTS OR SYSTEMS, AND INCENTIVES FOR HIGHER GREEN RATINGS

WHEREAS, the Town of Tiburon has initiated the adoption of a Green Building Program, comprised of several elements including text amendments to the Town's Zoning Ordinance and the adoption of standards for compliance and rating systems; and

WHEREAS, the Planning Commission has determined that the project is categorically exempt from the requirements of CEQA pursuant to Section 15308 of the CEQA Guidelines, and/or has no potential to result in adverse impacts on the environment, and is exempt from the requirements of CEQA pursuant to Section 15061 (b) (3) of the CEQA Guidelines, and recommends that the Town Council find the project exempt on such basis; and

WHEREAS, a display ad notice of the public hearing on the amendments was published in the Ark newspaper on May 21, 2008 and other noticing was provided as required by law; and

WHEREAS, the Planning Commission did hold a duly noticed and advertised public hearing on June 11, 2008, at considered any and all testimony received; and

WHEREAS, the Planning Commission finds that the proposed Municipal Code amendments and related green building program recommendations are consistent with the goals, policies, and programs of the Tiburon General Plan, specifically Policies OSC-61 through OSC-63 and Program OSC-p.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission hereby recommends that the Town Council adopt:

- 1) Municipal Code text amendments to Chapter 16, Zoning, as set forth in the attached **Exhibit A**.
- 2) A resolution setting forth green building standards for compliance, rating systems, and incentives, as set forth in the attached **Exhibit B**.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the Town of Tiburon held on _____, 2008, by the following vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

EMMETT O'DONNELL, CHAIRMAN
Tiburon Planning Commission

ATTEST:

SCOTT ANDERSON, SECRETARY (ACTING)

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ORDINANCE NO. _____

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF TIBURON
AMENDING TITLE IV, CHAPTER 16 (ZONING) OF THE MUNICIPAL CODE TO
ESTABLISH GREEN BUILDING REQUIREMENTS
FOR CERTAIN CONSTRUCTION PROJECTS**

SECTION 1. FINDINGS.

WHEREAS, the design, construction and operation of buildings and structures within the town can have a significant impact on the town's environmental sustainability, resource usage, energy efficiency, waste management and the health and productivity of residents, workers and visitors; and

WHEREAS, the design, construction and operation of buildings and structures also has far-reaching effects on the region and globally through production of greenhouse gases resulting in global climate change and the consumption of resources that impact wildlife habitat; and

WHEREAS, green building benefits are spread throughout the systems and features of the building. Green buildings can include, among other things, the use of certified sustainable wood products, extensive use of high-recycled-content products; recycling of waste that occurs during deconstruction, demolition and construction; orientation and design of a building to reduce the demand on the heating, ventilating, and air conditioning systems; the use of heating, ventilating, and air conditioning systems that provide energy efficiency and improved air quality; enhancement of indoor air quality by selection and use of construction materials that do not emit chemicals that are toxic or irritating to building occupants; the use of water conserving methods and equipment; and installation of alternative energy methods for supplemental energy production; and

WHEREAS, in recent years, green building design, construction and operational techniques have become increasingly widespread. Many homeowners, businesses, and building professionals have voluntarily sought to incorporate green building techniques into their projects. A number of local and national systems have been developed to serve as guides and rating systems for green building practices. The U.S. Green Building Council, developer of the Leadership in Energy and Environmental Design (LEED[®]) Green Building Rating Systems, has become a leader in promoting and guiding green building, particularly for non-residential structures. The Alameda County Waste Management Authority has developed the New Home, Remodeling and Multi-Family Green Building Guidelines and associated GreenPoints Checklists, which have been adopted for use in several Bay Area jurisdictions; and

WHEREAS, according to recent studies published by the United States Green Building Council and the U.S. Environmental Protection Agency, the construction, demolition and operation of buildings in the United States collectively consume up to 37% of the total energy used, 12% of all fresh water supplies, 40% of all raw materials used, and generate 36% of total emissions of anthropogenic carbon dioxide, the primary greenhouse gas associated with global climatic change, and 46% of all sulfur dioxide emissions, 19% of nitrogen oxide emissions and 10% of fire particulate emissions; and

WHEREAS, by requiring buildings within the Town of Tiburon to be constructed in an environmentally responsible manner, the Town of Tiburon is participating in global endeavors to reduce carbon dioxide, sulfur dioxide, nitrogen dioxide, waste generation and habitat change; and

WHEREAS, on July 19, 2007, the Town Council held its annual Council-Staff Retreat and provided specific direction to Staff to review successfully working programs from other Marin County jurisdictions and adapt them to the Town's processes. Staff was directed to bring forth modifications to the Municipal Code to promote green building and energy efficiency; and

WHEREAS, on June 11, 2008, the Town of Tiburon Planning Commission conducted a public hearing and recommended adoption of the Zoning Ordinance amendments, green building rating system, compliance standards, and incentives to the Town Council; and

WHEREAS, the Town Council held duly-noticed public hearings on _____, 2008 and _____, 2008 at which it considered all correspondence and testimony; and

WHEREAS, the amendments to Title IV, Chapter 16 (Zoning) of the Town of Tiburon Municipal Code are based on the following additional findings:

1. The proposed amendments would be consistent with the policies and programs of the General Plan, *Tiburon 2020*, which are pertinent to the Town's zoning regulations, specifically Policies OSC-61, OSC-62, OSC-63 and Program OSC-p.
2. The public health, safety and general welfare would not be adversely impacted by the proposed amendments which reduce impacts on respiratory health and chemical sensitivity of residents and visitors, reduce production of greenhouse gases, reduce impacts on wildlife and vegetative habitats and reduce generation and land filling of waste products; and

WHEREAS, the Town Council finds that these amendments are exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15308 of the CEQA Guidelines, which exempt changes in land use regulations intended for the protection of the environment, and/or have no potential to result in adverse impacts on the environment, and are exempt from the requirements of CEQA pursuant to Section 15061 (b)(3) of the CEQA Guidelines. The proposed regulations would reduce local, regional and global impacts on air and water quality, resource consumption, waste generation and habitat change.

SECTION 2. ADOPTION OF AMENDMENTS TO MUNICIPAL CODE, TITLE IV, CHAPTER 16 (ZONING).

NOW, THEREFORE IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF TIBURON THAT TITLE IV, CHAPTER 16 (ZONING) OF THE MUNICIPAL CODE IS AMENDED AS FOLLOWS:

A. Section 16-1.5 (Definitions) is hereby amended to add the following definitions:

“Certified green building rater” means a person or organization certified or designated by a green building rating organization associated with a specific green building rating system adopted by Town Council resolution for performing inspections and providing documentation to assure compliance with green building requirements.

“Conditioned space” means an enclosed space in a non-residential building that is provided with a mechanical heating system that has a capacity exceeding ten (10) Btu/(hr. x ft.²), or is provided with a mechanical cooling system that has a capacity exceeding five (5) Btu/(hr. x ft.²).

“Green building rating checklist” means a rating system adopted by Town Council resolution and used for determining compliance of new construction and substantial additions with green building requirements.

“Historic building” means any building listed on a national, state, or local register or listing of historic resources.

“LEED[®]” means any one of the U.S. Green Building Council’s Leadership in Energy and Environmental Design green building rating systems or programs.

“LEED[®] accredited professional” means a person who is accredited by the U.S. Green Building Council as having a thorough understanding of green building practices and principles and familiarity with LEED[®] requirements, resources and processes.

“Town-sponsored project” means a building exceeding three thousand (3,000) square feet in floor area primarily funded and sponsored by the Town and located on Town-owned land.

B. Section 16-4.2.3 is hereby amended to read as follows:

16-4.2.3 Application and information required.

(a) Application for approval shall be made pursuant to the provisions of Section 16-3.1. Information and materials necessary to adequately describe the proposed project, as appropriate to the proposed size, scale, and nature of the project, and as deemed necessary by the Director or his designee, shall accompany each application. Lists of information and materials which are typically required for a complete application are available in the Planning Division.

(b) For any residential covered project, as set forth in section 16-8.2, two sets of a completed applicable green building rating checklist and supporting documentation indicating the measures to be used to achieve the required number of green points. The submitted green building rating checklist shall be prepared or certified as accurate by a certified green building rater.

C. Section 16-4.2.5 is amended to add the following paragraph:

Each approval for a covered project, as set forth in section 16-8.2, shall include a condition of approval that the project shall comply with the applicable green building standard for compliance as set forth by resolution of the Town Council. Failure to explicitly impose the condition on an approval shall not release a project from otherwise meeting applicable requirements of section 16-8 et seq. of this article.

D. Section 16-4.2.7 (k) is added to read as follows:

(k) Green building. For residential covered projects, as set forth in section 16-8.2, the project design includes features that foster renewable energy and/or resource conservation, and the overall project appears to meet or exceed the applicable green building standard for compliance as set forth by resolution of the Town Council.

E. Article VIII (Green Building) is hereby added to read as follows:

Article VIII. Green Building

16-8.1 Purpose.

The purpose of this section is to enhance the public health and welfare and assure that residential development is consistent with the Town's desire to create a more sustainable community by incorporating green building measures into the design, construction and maintenance of buildings and appurtenant development. The green building practices referenced in this section are designed to achieve the following objectives:

- (a) Encourage resource conservation;
- (b) Reduce waste generated by construction projects;
- (c) Increase energy and water efficiency; and
- (d) Promote the health of residents.

16-8.2 Covered Projects.

Provisions of this article shall apply to:

- (a) The construction of new dwelling units, including dwelling units deemed “new construction” pursuant to section 16-4.2.10 of this chapter.
- (b) Additions to existing dwelling units that constitute at least five hundred (500) square feet of conditioned space.
- (b) The construction of new non-residential buildings or additions to existing buildings that equal or exceed three thousand (3,000) square feet of conditioned space.
- (c) Town-sponsored projects.

16-8.3 Standards for Compliance.

All covered projects shall demonstrate compliance with the applicable green building rating checklist or system and minimum point requirements set forth in the green building Standards for Compliance, as established by separate resolution of the Town Council, and amended from time to time.

16-8.4 Documentation.

(a) Residential Projects. Applications for site plan and architectural review and applications for building permit for residential covered projects shall submit two (2) completed sets of the applicable green building rating checklist and supporting documentation indicating the measures to be used to achieve the required number of points to achieve conformance with the Town’s Standard for Compliance. The submitted green building rating checklist shall be prepared or certified as accurate by a certified green building rater. Building permit drawings shall indicate in the general notes or individual detail drawings, where appropriate, the green building measures to be used to attain the required number of points.

(b) Non-residential Projects.

(1) Projects from 3,000 to 19,999 square feet of conditioned space: All applicants are required to retain the services of a LEED® Accredited Professional and submit a copy of the LEED® checklist and supporting documentation indicating compliance with the Town’s standards for compliance, signed by the project LEED® Accredited Professional prior to issuance of a building permit. All building documents shall indicate in the general notes and/or individual detail drawings, where feasible, the green building measures employed to attain the applicable LEED® rating.

(2) Projects exceeding 19,999 square feet of conditioned space: Non-residential covered projects shall follow the certifying and procedural requirements of the U.S. Green Building Council for the LEED® rating system. All applicants are required to retain the services of a LEED® Accredited Professional and complete LEED® project registration prior to issuance of a building permit. Applicants shall submit proof of registration of the project with the U.S. Green Building Council and submit a copy of the LEED® checklist and supporting documentation indicating compliance with the Town’s standards for compliance, signed by the project LEED® Accredited Professional, prior to issuance of a building permit. All building documents shall indicate in the general notes and/or individual detail drawings, where feasible, the green building measures employed

to attain the applicable LEED® rating. The applicant shall also provide to the Building Official with online access to the U.S. Green Building Council website in order for the Building Official to monitor the submission of documents by the applicant to the U.S. Green Building Council. If the Building Official determines the project is no longer in compliance with the approved plans or that the applicant is not diligently pursuing LEED® certification by the U.S. Green Building Council, the Building Official may issue a stop work order.

(3) The Town Council may, by resolution, adopt an alternative green building rating system other than LEED®.

16-8.5 Review of Documentation.

If the Building Official determines that the Green Building documentation fails to indicate that the project will conform to the Standards for Compliance, the documentation shall be returned to the applicant as incomplete, with an indication of additional information or project modifications that may be required for approval. A building permit, including a grading permit, shall not be issued until the submittal documentation has been approved.

16-8.6 Verification.

(a) Residential projects. A Certified Green Building Rater or Town building inspector shall verify that the green building measures indicated in the approved green building documentation have been implemented through inspections during the construction of the project or through review of purchase receipts or photographic documentation. At the completion of project construction, the Certified Green Building Rater or Town building inspector shall verify compliance with the approved green building documentation and the Standards for Compliance. During the verification process for the project, flexibility may be exercised by substituting other allowable compliance measures. Substitution of measures must be approved by the Building Official by submittal and approval of a revised Green Building Rating Checklist by the Certified Green Building Rater. An occupancy permit or final inspection approval for the construction project shall not be granted until the Building Official has determined that all required green building measures have been implemented.

(b) Non-residential projects.

(1) Projects from 3,000 to 19,999 square feet of conditioned space: A LEED® Accredited Professional shall verify that the green building measures indicated in the approved green building documentation have been implemented through inspections during the construction of the project or through review of purchase receipts or photographic documentation. At the completion of project construction, the LEED® Accredited Professional shall verify compliance with the approved green building documentation and the Standards for Compliance. During the verification process for the project, flexibility may be exercised by substituting other allowable compliance measures. Substitution of measures must be approved by the Building Official by submittal and approval of a revised LEED® checklist by the LEED® Accredited Professional. An occupancy permit or final inspection approval for the construction

project shall not be granted until the Building Official has determined that all required green building measures have been implemented. Certification through the U.S. Green Building Council is not required.

(2) Projects exceeding 19,999 square feet of conditioned space: Prior to approval of a final inspection for any covered non-residential project, the applicant shall demonstrate substantial completion of the LEED® documentation for the project as evidenced by accessing the online information of the project on the U.S. Green Building Council's website, following which the Building Official shall grant a conditional occupancy permit if all other requirements have been satisfied. Within one year of granting such conditional occupancy permit, the applicant (or current owner) shall submit satisfactory evidence of LEED® certification to the Building Official. Failure of the applicant to submit such evidence shall be a violation of this Code, entitling the Building Official to revoke the conditional occupancy permit, require the vacancy of the building, and/or impose a civil penalty of \$250 per day against the applicant (or current owner) until such evidence of certification has been submitted.

16-8.7 Costs of Verification.

The costs for verification of compliance with green building requirements, including the hiring of a Certified Green Building Rater or a LEED® Accredited Professional, shall be borne by the applicant.

16-8.8 Exemptions.

(a) This section shall not apply to:

- (1) Secondary dwelling units,
- (2) Civic facilities that are located within leased buildings,
- (3) Historic buildings, or

(4) Any project that received and maintains a valid site plan and architectural review approval or a building permit, or which has submitted a complete site plan and architectural review application or a completed building permit application prior to **[insert effective date of this Ordinance]**.

(5) Hardship or Infeasibility Exemption. An exemption from the Standards for Compliance based on hardship or infeasibility may be granted by the Building Official under special circumstances. Such circumstances may include, but are not limited to: availability of green building materials and technology, conflict between green building requirements with other building or zoning standards, or provision of alternate methods that provide greater resource conservation, energy conservation or resident health than adopted green building measures. The determination by the Building Official shall be provided in writing to the applicant. The decision of the Building Official may be appealed to the Town Council pursuant to Section 16-3.8.

SECTION 3. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this chapter. The Town Council declares that it would have passed this chapter and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, sentences, clauses or phrases be declared invalid.

SECTION 4. EFFECTIVE DATE.

This Ordinance shall take effect and be in force thirty (30) days after the date of passage, and before the expiration of fifteen (15) days after passage by the Town Council, a copy of the ordinance shall be published with the names of the members voting for and against it at least once in a newspaper of general circulation in the Town of Tiburon.

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Tiburon on _____, 2008, and was adopted at a regular meeting of the Town Council of the Town of Tiburon on _____, 2008, by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

JEFF SLAVITZ, MAYOR
TOWN OF TIBURON

ATTEST:

DIANE CRANE IACOPI, TOWN CLERK

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RESOLUTION NO. _____

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF TIBURON
ESTABLISHING GREEN BUILDING STANDARDS FOR COMPLIANCE, GREEN
RATING SYSTEMS, AND INCENTIVES FOR HIGHER GREEN RATINGS**

WHEREAS, the design, construction and operation of buildings and structures within the Town can have a significant impact on the Town's environmental sustainability, resource usage, energy efficiency, waste management and the health and productivity of residents, workers and visitors; and

WHEREAS, the design, construction and operation of buildings and structures also has far-reaching effects on the region and globally through production of green house gases resulting in global climate change and the consumption of resources that impact wildlife habitat; and

WHEREAS, green building benefits are spread throughout the systems and features of the extensive use of high-recycled content products; recycling of waste that occurs during deconstruction, demolition and construction; orientation and design of a building to reduce the demand on the heating, ventilating, and air conditioning systems; the use of heating, ventilating, and air conditioning systems that provide energy efficiency and improved air quality; enhancement of indoor air quality by selection and use of construction materials that do not emit chemicals that are toxic or irritating to building occupants; the use of water conserving methods and equipment; and installation of alternative energy methods for supplemental energy production; and

WHEREAS, in recent years, green building design, construction and operational techniques have become increasingly widespread. Many homeowners, businesses and building professionals have voluntarily sought to incorporate green building techniques into their projects. A number of local and national systems have been developed to serve as guides and rating systems for green building practices. The U.S. Green Building Council, developer of the Leadership in Energy and Environmental Design (LEED®) Green Building Rating Systems, has become a leader in promoting and guiding green building, particularly for non-residential structures. The Alameda County Waste Management Authority has developed the New Home, Remodeling and Multi-Family Green Building Guidelines and associated Green Points Checklists, published by Build It Green, which have been adopted for use in several Bay Area jurisdictions including the County of Marin, City of San Rafael, and City of Larkspur; and

WHEREAS, according to recent studies published by the United States Green Building Council and the U.S. Environmental Protection Agency, the construction, demolition and operation of building in the United States collectively consume up to 37% of the total energy used, 12% of all fresh water supplies, 40% of all raw materials used, and generate 36% of total emissions of anthropogenic carbon dioxide, the primary greenhouse gas associated with global climatic change, and 46% of all sulfur dioxide emissions, 19% of nitrogen oxide emissions and 10% of fire particulate emissions; and

WHEREAS, by requiring buildings within the Town of Tiburon to be constructed in an environmentally responsible manner, the Town of Tiburon is participating in global endeavors to reduce carbon dioxide, sulfur dioxide, nitrogen dioxide, waste generation and habitat change; and

WHEREAS, on June 11, 2008, the Tiburon Planning Commission conducted a public hearing and recommended adoption of the Zoning Ordinance amendments, green building rating system, compliance standards, and incentives to the Town Council; and

WHEREAS, the Town Council has held public hearings on _____, 2008 and _____, 2008 and has adopted a series of green building regulations through amendments to the Tiburon Municipal Code, which regulations reference and rely upon the standards of compliance set forth herein; and

WHEREAS, the Town Council finds that adoption of this Resolution is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15308 of the CEQA Guidelines, which exempt changes in land use regulations intended for the protection of the environment, and/or have no potential to result in adverse impacts on the environment, and are exempt from the requirements of CEQA pursuant to Section 15061 [b(3)] of the CEQA Guidelines. The proposed regulations would reduce local, regional and global impacts on air and water quality, resource consumption, waste generation and habitat change.

NOW THEREFORE, BE IT RESOLVED that the Town Council of the Town of Tiburon adopts the following Standards for Compliance for administration of Green Building regulations contained in Title IV, Chapter 16 (Zoning), Article VIII, of the Tiburon Municipal Code.

Standards for Compliance and Rating Checklists or Systems

All “covered projects”, as set forth in Title IV, Chapter 16, Article VIII, Section 16-8.2 of the Tiburon Municipal Code, shall be constructed using the following green building Standards for Compliance and green building rating checklists or systems:

- a) New single-family dwellings, and additions to existing single-family dwellings that constitute at least a fifty percent (50%) increase in conditioned space, shall achieve at least one hundred (100) green points using the most recently published edition of the *New Home Construction Green Building Guidelines* and the associated Single Family GreenPoint Checklist published by Build It Green. Secondary dwelling unit additions are exempt.
- b) New two-family dwellings, and additions to existing two-family dwellings that constitute at least a fifty percent (50%) increase in conditioned space, shall achieve at least one hundred (100) green points using the most recently published edition of the *New Home Construction Green Building Guidelines* and the associated Single Family GreenPoint Checklist published by Build It Green.

- c) Single family dwelling additions that are greater than five hundred (500) square feet, but that constitute less than a fifty percent (50%) increase in conditioned space of an existing dwelling, shall achieve at least twelve (12) green points using the most recently published edition of the *New Home Construction Green Building Guidelines* and the associated Single Family GreenPoint Checklist published by Build It Green, with a minimum of three (3) points from at least four (4) categories.
- d) Two-family dwelling additions that are greater than five hundred (500) square feet, but that constitute less than a fifty percent (50%) increase in conditioned space of an existing two-family dwelling, shall achieve at least twelve (12) green points using the most recently published edition of the *New Home Construction Green Building Guidelines* and the associated Single Family GreenPoint Checklist published by Build It Green, with a minimum of three (3) points from at least four (4) categories.
- e) New multiple dwellings (3 or more units), and additions to existing multiple dwellings that constitute at least a fifty percent (50%) increase in conditioned space, shall achieve at least one hundred (100) points using the most recently published edition of the *Multifamily Green Building Guidelines* and the associated Multifamily GreenPoint Checklist published by Build It Green.
- f) Multiple family dwelling additions that are greater than five hundred (500) square feet, but that constitute less than a fifty percent (50%) increase in conditioned space of an existing two-family dwelling, shall achieve at least twelve (12) green points using the most recently published edition of the *New Home Construction Green Building Guidelines* and the associated Single Family GreenPoint Checklist published by Build It Green, with a minimum of three (3) points from at least four (4) categories.
- g) New non-residential construction of 3,000 to 19,999 square feet of conditioned space shall achieve at least a LEED® “Silver” rating (33-38 points) using the most recently published version of the *LEED® for New Construction* or other more appropriate LEED® rating system as determined by the Building Official based on the proposed construction type, and
- h) New non-residential construction exceeding 19,999 square feet of conditioned space shall achieve at least a LEED® “Gold” rating (39-51 points) using the most recently published version of the *LEED® for New Construction* or other more appropriate LEED® rating system as determined by the Building Official based on the proposed construction type.
- i) Town-sponsored projects shall achieve at least a LEED® “Gold” rating (39-51 points), using the most recently published version of the *LEED® for New Construction* or other more appropriate LEED® rating system as determined by the Building Official based on the proposed construction type, unless specifically exempted by resolution of the Town Council.

Incentives

Projects that meet the following enhanced green building standards are entitled to administrative and financial incentives:

- a) New single-family dwellings and major additions thereto, and new two-family dwellings and major additions thereto, which achieve at least one hundred forty (140) points using the most recently published edition of the New Home Construction Green Building Guidelines and the associated Single Family GreenPoint Checklist published by Build It Green.
- b) New multi-family dwelling units or major additions thereto, which achieve at least one hundred forty (140) points using the most recently published edition of the Multifamily Green Building Guidelines and the associated Multifamily GreenPoint Checklist published by Build It Green.
- c) New non-residential construction that achieves at least a LEED® “Platinum” rating using the most recently published version of the *LEED® for New Construction* or other more appropriate LEED® rating system as determined by the Building Official based on the proposed construction type.

Administrative and financial incentives shall include all of the following:

- a) Expedited processing of building permit plan checks.
- b) Reimbursement for costs of a Certified Green Building Rater associated with verification of compliance with green building regulations for residential projects up to a maximum of \$1,000 per project.
- c) Provision of a plaque certifying the building as meeting the Town’s “Emerald” Green Building Standards.
- d) Provision of a Town Green Building logo for placement on construction and sales signage.
- e) Listing on the Town’s website for a period of time, as determined by the Director of Community Development.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Tiburon held on _____, 2008, by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

JEFF SLAVITZ, MAYOR
TOWN OF TIBURON

ATTEST:

DIANE CRANE IACOPI, TOWN CLERK

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TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Planning Commission Meeting
June 11, 2008
Agenda Item: **5**

STAFF REPORT

To: Members of the Planning Commission
From: Community Development Department
Subject: Study Session on Variances and Findings

BACKGROUND

At the Town Council/Planning Commission/Design Review Board workshop held on April 29, 2008, it was suggested that a variance and findings study session be held by each of the three groups at future meetings, based on an internal training session held by staff earlier in the year. The Planning Commission is the Town's first review authority to hold this particular study session.

ANALYSIS

Overall, the Planning Commission considers very few applications for variance, largely because of the manner in which review authority is apportioned in the Tiburon Zoning Ordinance. The Design Review Board hears nearly all variance applications filed with the Town, and the Town Council must occasionally review those applications on appeal. Nevertheless, the study session is intended to provide useful information to the Commission and provide insights into the thought processes used to evaluate variances and formulate findings for them.

The study session will also touch upon the basics of "findings" associated with development applications in general. The Planning Commission is routinely required to make findings in taking actions on conditional use permits and certain other development applications. These findings tend to be of a more general nature (usually focusing on compatibility of use and consistency with plans and policies) than those findings associated with variance applications, which are typically driven by site-specific characteristics. However, Staff believes that many of the basic rules of preparing adequate findings can be equally applied to applications acted upon by the Planning Commission, and that the study session will be of benefit for that reason alone.

EXHIBITS

1. Outline and Study Session Materials

Prepared by: Scott Anderson, Director of Community Development

OUTLINE

- I. Basics of Findings for Land Development Applications
 - A. Circumstances Requiring Findings
 - B. Form & Adequacy of Findings
 - C. Timing & Preparation of Findings
 - D. Some Caveats
 - 1. Scarcity of time and resources
 - 2. Level of Controversy/Likelihood of Challenge

- II. Variance Findings
 - A. Basis in California Government Code Section 65906 & 65906.5
 - B. Findings Required by Tiburon Zoning Ordinance Sections 16-4.3.5 and 16-4.3.6
 - C. Discussion of locally-required findings
 - D. Examples
 - 1. Good example
 - 2. Not to repeat example

- III. Discussion and Questions