

**Draft for Planning Commission Review on
March 9, 2009****Council Meeting: March 24, 2009****SUBJECT: 2007-0346 Amendments to Title 19 to Implement the City-wide Green Building Policies and Budget Supplement for FY 2009-2010****REPORT IN BRIEF**

On August 26, 2008, the City Council made a series of policy decisions to encourage and require sustainable building practices within the City (Study Issue, "Extension of Sustainable Building Requirements Beyond Moffett Park", RTC 08-255- See Attachment A for Council minutes). One aspect of this policy is to establish criteria for "green building" standards and requirements. The proposed code changes implement these criteria, and provide all zoning requirements necessary to implement the program (See Attachment B for draft ordinance). It also updates the Moffett Park green building requirements, in order for them to keep pace with the changes proposed for the remainder of the City. Also included is a resolution to adopt, as Council policy, the Green Building Tables, which detail the specific requirements for new building construction, additions and renovations (See Green Building Tables in Attachment C and resolution in Attachment E). These tables are not a part of the ordinance in order for allow for regular review of the standards to allow them to remain current.

Implementing a program such as this requires a great deal of time from all parties involved to meet the high standards proposed by the Council. An important first step is to educate the public and staff prior to new requirements taking effect. To that end, more than 10 outreach meetings have been held with businesses, homeowners, design professionals and business groups. A key recommendation was to allow a substantial lead time for the effective date of the ordinance; therefore, staff is recommending the actual green building ordinance take effect on September 1, 2009. This will allow additional time for outreach and education and for projects that were started prior to the Council changes to finalize their projects under the prior standards, rather than the proposed standards.

Included in Council's policy direction was to return with a budget modification to fund: training programs for staff (in order to better serve the public); review of future projects that have green building elements; and, education for the public of the new requirements. One of the most repeated comments given by community members at outreach meetings was the importance of educating the community on the requirements, the positive benefits of green building elements and raising the sophistication of the public in this issue.

BACKGROUND

The prior study issue focused on opportunities to integrate green building practices in all types of projects in the City, not just those located in Moffett Park. After significant study, the City Council adopted a series of policies that included municipal code changes. The proposed ordinance reflects the approved modifications to the zoning code for all areas outside Moffett Park as well as for properties subject to the Moffett Park Specific Plan.

EXISTING POLICY

Council Policy – 1.1.9 Sustainable Development and Green Buildings

It is the policy of the City to encourage new and remodeled development within the City to incorporate sustainable design principles in the following disciplines:

- *Sustainable Sites*
- *Water Efficiency*
- *Energy and Atmosphere Materials and Resources*
- *Indoor Environmental Quality*

DISCUSSION

The proposed ordinance establishes a new section to the Zoning Code entitled, “Green Building Regulations,” and includes reference to other Code sections to clarify the requirements. These sections contain the purpose, standards and procedures relating to green building requirements. It uses a format and terminology similar to what other cities have used for this subject.

The concept of the proposed changes is to add requirements and incentives for new buildings, additions and major alterations to meet high “green” standards. These standards are constantly evolving, but generally include types of building materials, energy efficiencies, proximity to transit, etc. The proposed ordinance refers to “Green Building Tables” which define each type of improvement, level of green building standard to be met and possible incentives. These tables are purposely not a part of the new ordinance in order to allow changes to the policies to be incorporated as technologies and the economy evolves. These tables would be adopted by Council resolution. The intent is that the tables are reviewed every 18 months to ensure the requirements and incentives are relevant and reflective of the goals of the City; and if so, a resolution would be adopted specifying the next level of requirements and incentives.

SCOPE

There are existing green building requirements for the Moffett Park Specific Plan area, and the proposed ordinance would amend those requirements to be similar to the proposed changes for the rest of the City. The Green Building Tables will include separate standards for the Moffett Park Specific Plan area in

order to allow the transition from the existing standards to the new proposal. It is proposed that the standards for both Moffett Park and the remainder of the City will become consistent when the second phase of the Green Building Tables take effect. Included with this RTC is a draft resolution which would adopt the proposed Moffett Park green building requirements in a different form than shown in the Specific Plan.

New requirements went into effect for the Moffett Park Specific Plan area on January 1 of this year. Those changes are shown in the Green Building Tables, and include requiring new construction over 10,000 square feet to be designed to a LEED Certified level as determined by a LEED professional; plus a 15-20% increase in floor area ratio (FAR) is allowed if the project receives LEED Certified verification from the U.S. Green Building Council (USGBC).

In addition to the Moffett Park requirements, there are other issues that need special attention because of the unique nature of the field. One example is how to define “remodel” in determining whether that work would require the inclusion of green building methods. There are remodels that change aspects for which green building techniques can be used, and many that do not. Other issues include determination of an appeal process for green building scope, listing exempt projects and how to require builders to complete green building aspects of their projects after construction commences.

Listed below is a brief discussion of the proposed ordinance and Green Building Tables:

EFFECTIVE DATE

The new ordinance will apply to all “covered projects”, as defined below. Although the Study Issue staff report described a January 1, 2009 start date, it was not possible for the new ordinance to start on that date due to several factors, including: preparation of the new ordinance, holding several outreach meetings, establishing a process for permitting, training staff and ensuring the City is prepared to review, guide and permit new projects with the green building requirements.

Since adoption of the green building guidelines in August 2008, the local and world economy is in a recession. Although implementation of this program is an important aspect of the City’s desire to promote and institute sustainable and environmentally sensitive practices, there may be reasons that this is not the best time to implement such a program. In particular, because of the economic situation, many businesses are finding themselves in survival mode, and while green remains a priority for many of them, it is far less of a priority than staying in business and preventing lay off of employees. This condition is expected to exist through 2009, and possibly turnaround in early 2010. The potential cost to applicants of imposing these new standards may cause an

increase in their design and construction expenses during a time when construction financing is difficult to obtain. Also, the new requirements, in combination with the economic conditions, could affect the ability to gain tenants to occupy new or existing space in a highly competitive market. The City should weigh the long term goals and benefits of such standards with the initial financial implications that could be imposed on local businesses and developers.

- **Options:**

1. Have an effective date of January 1, 2010, which would give more time for recovery from the recession and allow projects currently in the pipeline to be completed under the rules in existence at the time of project design. Projects for which a building permit has been submitted prior to the effective date of the regulations would be exempt from the ordinance.
2. Have an effective date of July 1, 2010, which would give even more time for recovery from the recession (which may turnaround in early 2010), and due to City budget constraints. This approach would save City money on training the development review teams in the Planning and Building Divisions on green building techniques and new requirements. It would also give applicants the option to complete work under existing codes and requirements, possibly saving them money in design and construction costs.

- **Recommendations for New Buildings and Construction**

Staff recommends Option 1 to make January 1, 2010 date the commencement date of the new green building requirements.

COVERED PROJECTS

This section applies to all projects defined as “covered projects,” which are those that meet specific requirements and criteria. This list is meant to define which projects are affected by the new regulations. Determining which types of projects is to be included is a difficult process, because not all construction or renovation has possible green building elements. Staff is recommending an approach that attempts to affect those projects that have the greatest opportunity to include green building techniques.

During the outreach meetings, many comments were made by architects, developers, residential designs, and contractors who were concerned with maintaining the streamlined permitting process that Sunnyvale is nationally known for. This process is very important to our customers in that it allows 90% of building permits to be issued within one business day. The streamlined process also increases staff efficiency. Changes to the successful permitting process can cause significant delays in issuing permits and construction progress and may also require additional staff time and resources.

One of the greatest difficulties of implementing this ordinance has been defining how the new standards apply to remodels and renovations. Concern was expressed about this aspect by the community at the outreach meetings. In the tables presented to Council in August 2008, remodels were defined by the size of the space affected by the improvement. After reviewing this definition further, and based on feedback from the design community at outreach meetings, it became clear that the size of an improvement does not always provide for green building opportunities. For instance, a tenant improvement remodel may include a large portion of the building, but not have green building options available, such as industrial users installing large tools or machinery.

Based on reviewing other community's guidelines, analyzing the LEED and BIG programs, and feedback received during the outreach meetings, staff believes that the following recommended definition of "covered projects" is practical and a reasonable balance of the varying interests, including the necessary additional resources:

- **Recommendations for New Buildings, Additions and Remodels**

Include in the ordinance the following list of "covered projects" for any project for which a complete building permit has not been submitted prior to the effective date, as determined by the Chief Building Official (the Green Building Tables specify the thresholds and standards for each covered project listed below):

- a) Newly constructed non-residential buildings that are 5,000 gross square feet or more.
- b) New large non-residential interiors that are 5,000 gross square feet or more.
- c) Major alterations of existing non-residential buildings that are 10,000 gross square feet or more.
- d) Newly constructed multi-family residential buildings of three units or more.
- e) Remodels of multi-family residential buildings that exceed \$250,000 valuation.
- f) Newly constructed single-family residential buildings of any size (with varying requirements).
- g) Remodels of single-family residential buildings that exceed \$100,000 valuation.

As a result, one option is to include two different definitions of remodel: one for non-residential and the other for residential structures. Non-residential structures would follow a definition based on the work that is being done, while residential structures would follow a definition based on the value of

the work being completed. Many of the terms described are new to the Zoning Code and provide guidance when those terms are used.

Council directed staff to include residential remodels that affect 50% or more of area, but after significant research and outreach, staff suggests using a valuation threshold. The main reason for using valuation is because adding green building elements to a remodel varies based on the work being done, not necessarily the area affected. An area greater than 50% could be changed, but no green building options exist (such as electrical upgrades throughout the home). A valuation method captures those projects significant enough that green building options are more likely to be available. For example, the \$100,000 valuation threshold proposed for single-family homes could include improvements such as bath or kitchen remodels or small additions, which would represent more opportunities to meet the standards.

• **Recommendations for New Definitions:**

Amend the code to include the definitions shown in the proposed ordinance, including:

“Major alterations” means alterations where interior finishes are removed and significant upgrades to structural and mechanical, electrical and plumbing systems are proposed in existing commercial, office and industrial buildings.

“New large non-residential interiors” means first-time tenant improvements in existing buildings.

“Residential alterations” means any rehabilitation, repair, remodeling, change, or modification to an existing building, where changes to floor area and the footprint of the building exceed:

- \$100,000 for single-family and duplex properties and
- \$250,000 for multi-family properties.
- The valuation of renovation improvements shall be determined by the Building Division (for permit fee calculations), which exclude from such valuation the cost of (a) seismic upgrades, (b) accessibility upgrades, or (c) photovoltaic panels or other solar energy or similar devices exterior to the building.
- Remodel valuation thresholds identified in the Standards for Compliance shall be adjusted annually as adopted in the fee resolution.

These recommended definitions for covered remodel projects would include projects such as:

- The initial tenant improvement in a new non-residential building such as at Moffett Towers, Sunnyvale Town Center, and the Network Appliance campus.
- Tenant improvements in existing non-residential buildings where complete interior is remodeled/upgraded, which may include new office spaces, or a change in use.
- Residential projects in existing buildings where the existing interior space remodeled (kitchens, baths, etc.) in conjunction with a small addition (bedroom, family room extension, etc.).

GREEN BUILDING STANDARDS

The Green Building Tables (Attachment C) provide the specific levels of green building attainment that will be required. The tables are similar to those provided to the Council when action was taken on the Study Issue in August, 2008 (Attachment D), but have been amended in order to address issues that have been identified by the business community as part of the subsequent public outreach process. In order to maintain current, relevant standards, the tables will be reviewed by the Council periodically to ensure the standards continue to meet the community's goals. These changes can include increasing the standards at each Council review, as provided in earlier staff recommendation.

- **Recommendations for Green Building Standards**

Adopt Council Policy for the standards shown in the draft ordinance, including the breakdown of level of improvements with the associated level of green building attainment.

ADMINISTRATIVE PROCEDURES

This section of the draft ordinance details how applications will be reviewed, including the type of checklists required and how compliance will be checked to ensure the green building methods are included in the construction of the project.

One approach would be to have each project certified by the appropriate organization, such as LEED or Build it Green as required by the Green Building Tables; however, this approach causes concern among staff and many participants of the outreach meetings because it could add significant time and cost to a project. A second option would be to require a project to be designed to meet the "design intent" of the LEED or BIG standard, similar to the existing requirements in the Moffett Park Specific Plan area. In those cases, the building plans would include all green building aspects as prepared and certified by a qualified green building professional showing the project is designed to the standards shown in the tables (similar to an architect signing

off on plans). A third approach brought up by the business community is to have the City be the sole reviewer for compliance, rather than require the applicant to obtain a separate certification, in order to speed up the process and avoid the additional cost. This could have a significant fiscal impact and would slow down the processing time of building permit applications.

- **Options**

1. Require formal certification from the applicable organization.
2. Require projects to meet the “design intent” of the standards which include plans prepared and certified by an accredited professional, except those projects which are applying for an incentive, for which full certification would be required.
3. Require the City to review green building plans.

- **Recommendations for Administrative Procedures**

Staff recommends Option 2, which is reflected in the Administrative Procedures section of the draft ordinance. This option allows an accredited green building professional to certify a project, ensuring that green building standards are met without the additional time and expense of formal certification.

NON-COMPLIANCE

This section deals with projects that do not comply with the approved plans or Green Building checklist during construction. It details how, as the result of any inspection, a stop work order could be issued to require the developer to meet the green building check list requirements.

- **Recommendations for Non-compliance**

Adopt the standards as shown in the draft ordinance.

SPECIFICALLY EXEMPT PROJECTS

In addition to case-by-case exempted projects (listed below), there are other types of construction that could be exempted from the green building requirements. These would include projects for which no green building alternatives are available, or are themselves a “green” improvement.

- **Recommendations for Specifically Exempt Projects**

Amend the code to include the following exemptions:

- a) Solar or energy generation/conservation facilities;
- b) Heritage buildings;
- c) Fire, flood, wind, earthquake, or other natural disaster damage repairs;
- d) Disabled access upgrades;
- e) Seismic upgrades;
- f) Exterior modifications;
- g) Swimming pools;
- h) Temporary structures

HARDSHIP OR INFEASIBILITY EXEMPTIONS AND APPEALS

No ordinance can cover all issues or situations, and this section is proposed to cover situations where an applicant believes there are circumstances that exist which present a hardship to meet the ordinance requirement. An option is to allow the Director of Community Development to use discretion in granting exceptions based on a showing of good cause. Appeals of the Director's decisions could be made to the Board of Building Code Appeals.

• Recommendations for Hardship Exemptions and Appeals

Amend the code to include the following exemptions:

- a) If a project applicant believes that circumstances exist presenting an unreasonable hardship to meet the requirements of this chapter, the applicant may apply for an exemption as set forth in this section.
- b) In applying for an exemption, the burden is on the applicant to show unreasonable hardship.
- c) Acceptance or denial of an exemption is at the discretion of the Director of Community Development.
- d) Unreasonable hardship exemptions will only be granted in unusual circumstances based upon a showing of good cause and a determination that the public interest is not served by compliance or other compelling circumstances.
- e) The decision may be appealed to the Board of Building Code Appeals.
- f) An unreasonable hardship shall be defined as practical infeasibility, difficulties, or results inconsistent with the general purposes of this chapter or harms designated historic resources.

FISCAL IMPACT

Implementing the Sustainable Building requirements will create both a short and long-term fiscal impact. The short-term impact will result in order to provide training for staff and the public on the new requirements. Long-term fiscal impacts would result since reviewing green building elements would take additional time for all permits, including building and planning. A Budget Supplement is included as part of this effort in order to cover the costs of the work. This was anticipated when Council adopted the green building framework in August 2008. Staff anticipates a total fiscal impact of approximately \$150,000. The costs would be associated with about 1700 staff hours and with training expenses in Program 242 Land Use Planning and Program 243 Construction Permitting.

The General Plan Long-term Financial Plan is fully balanced to the twentieth year, so any increase in costs will require a corresponding revenue increase or service level decrease in another area. If Council chooses any option that requires additional budgetary resources, Council will need to select one of the following options:

- **Options**

1. Establish a priority ranking for the new service and use the Priority Ranking Tool to select a service to cut to maintain a balanced long-term financial plan. Hold a public hearing on the recommended change once the service level reduction is determined.
2. Establish a priority ranking for the new service and direct staff to establish a fee to recover the cost of the new service as part of the City's Fee Schedule.
3. Establish a priority ranking for the new service. Direct the City Manager to incorporate the new service and a corresponding service level reduction into the FY 2009/2010 Recommended Budget.

- **Recommendations for Fiscal Impacts**

Staff recommends Option 2. Currently, staff is working with a consultant to review all development services fees (land use permitting, building permitting, fire permitting, and Public Works/Engineering permitting) to verify that the fees collected cover the total cost of providing services and adjust fees where necessary. Staff recommends that any additional fees required to cover the cost for the green building program be reviewed and determined through the current fee study.

The projected additional cost for the recommended green building program is about \$150,000 annually. These costs can be recovered by raising the development services fees slightly (possibly 5%). The actual fee increase would be determined by the fee study, at which time the type of project affected by the fee increase would also be determined.

Staff recommends that the increases to the Program 242 and Program 243 budgets be presented as a budget supplement for the FY 2009-2010 budget to be considered by City Council in June 2009. Should the City Council not adopt the budget supplement, staff would then recommend delaying the start date of the ordinance.

PUBLIC CONTACT

There were several outreach meetings held during the past five months, including meetings with homeowners, property owners, businesses, design professionals and business groups. Each group had specific concerns, but there were general comments stated, as follows:

1. How to define remodels so additional improvements beyond the scope of work is not required in order to meet green building standards.
2. Requiring all projects to receive either 3rd party or independent association (LEED, BIG) certification will add significant cost and time to a project. The interest was to either allow the green building professional that worked on the project to sign-off on the green elements, or have the

City act as the 3rd party in reviewing the plans as part of a building permit.

3. It was stated several times, “please don’t lose the Sunnyvale way of reviewing projects” by over-burdening the process or fees collected. It was clear the community wants to be able to include green building aspects to a project without causing a time constraint in the existing streamlined process.
4. Some felt the City should start the green building program by applying only to new builds and not remodels. The reason is to allow the City and development community to become familiar with the green building techniques on those types of projects for which it is easiest to apply the standards (which would be newly designed buildings).
5. Some participants mentioned the importance of encouraging efficiencies in existing homes and buildings. It is said that the greenest building is that which already exists, and making energy and water efficiencies at those buildings would make the greatest differences because the vast majority of structures in the City will not be changed, remodeled or renovated.
6. The most significant comment by all parties is the need to educate the community on the possibilities and efficiencies that green building methods can add to a property.
7. It was stated that educating staff in reviewing and guiding applicants and property owners (especially single-family residential owners) is crucial for the program to be a success and to continue doing things the “Sunnyvale way.”

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, in the Council Chambers lobby, in the Office of the City Clerk, at the Library, Senior Center, Community Center and Department of Public Safety; posting the agenda and report on the City's Web site; and making the report available at the Library and the Office of the City Clerk.

ENVIRONMENTAL REVIEW

A Negative Declaration has been prepared in accordance with California Environmental Quality Act (CEQA) provisions. The Negative Declaration found no significant impacts would result from the green building program. The environmental review prepared by staff examined possible impacts specifically from the incentive options available in the Green Building Tables, but found that the measures required to qualify for additional building size or heights would be mitigated by requirements that would be incorporated as a result of those requirements (such as Transportation Demand Management programs, location of projects near transit, etc.).

ALTERNATIVES

1. Adopt the ordinance language, which includes ordinance revisions (including a new section 19.39 Green Building Regulations - Attachment B), the resolution adopting the Green Building Tables (Attachment C) as policy, and approved Budget Supplement with an effective date of January 1, 2010.
2. Adopt the ordinance language, resolution and budget supplement, which includes ordinance revisions (including a new section 19.39 Green Building Regulations - Attachment B) with a later effective date, such as July 1, 2010, as determined by the Council to respond to the current economic conditions.
3. Adopt with revisions as desired by Council.
4. Do not adopt the ordinance language and direct staff to return with additional information and/or changes.

RECOMMENDATION

Alternative 1. The proposed language is consistent with Council direction and is generally consistent with other nearby community's guidelines. The effective date of September 1, 2009 is an important aspect of the new ordinance because it will allow the community and staff to prepare for new projects.

Prepared by:

Andrew Miner, Principal Planner

Reviewed by:

Trudi Ryan, Planning Officer

Reviewed by:

Hanson Hom
Director, Community Development

Attachments

- A. City Council meeting minutes of August 26, 2008
- B. Draft Code Amendments to Title 19
- C. Draft Green Building Tables
- D. Original Study Issue Green Building Tables
- E. Resolution Adopting the Green Building Tables as Policy
- F. Negative Declaration

2. RTC 08-255 2007-0346 Extension of Sustainable Building Requirements Beyond Moffett Park (Study Issue)

Associate Planner Ryan Kuchenig presented the staff report.

(Video tape briefly stopped recording).

Vice Mayor Hamilton verified with Planning Officer Trudi Ryan that incentives are meant to assist with introducing the new requirements.

Vice Mayor Hamilton stated it seems that there is enough awareness in the community about green building practices and it does not seem that incentives are needed. Planning Officer Ryan stated that many companies are using green practices in their marketing; however, they are not necessarily at the levels that staff is recommending.

Councilmember Swegles explained that standards continually change and spoke about the fine line between encouraging green building and making a project too cost-prohibitive to build. Director Hom responded that it is difficult to recommend a certain standard because everything is evolving; therefore, whatever Council adopts should be revisited on a regular basis in regard to what new technology is available and whether there are any issues with some of the requirements.

Planning Officer Ryan explained that the City participates with the regional efforts in coordination with other municipalities. Collaboratively the standards are reviewed and the group works together to identify when the standards change and to provide uniformity between the communities within the standards that are being used, which is helpful to homeowners and developers.

Councilmember Whittum inquired as to whether the proposed building standards incorporate proximity to transit. Planning Officer Ryan responded that the Leadership in Energy and Environmental Design (LEED) program awards points for proximity to public transit.

Councilmember Whittum verified with Planning Officer Ryan that flexible parking standards could mean fewer parking spaces, a different percentage of compact spaces, the reservation of a number of spaces previously not allowed, or it may reduce the number of parking spaces because they would be timed and managed in a different manner.

Councilmember Whittum verified with Planning Officer Ryan that staff is recommending phasing in the program so that as each year progresses the standard is raised.

Councilmember Whittum and Director Hom discussed the effects of the Global Warming Solutions Act (AB 32). Councilmember Whittum verified with Director Hom that over time the state code will incorporate more AB 32 standards as mandatory requirements.

City Manager Amy Chan explained that this report reflects some leadership issues such as the level to set the LEED requirements. Staff's recommendation took into account that policy direction is needed from Council on this item.

Councilmember Moylan verified with Planning Officer Ryan that staff would look at the levels being recommended Citywide and incorporate those same levels into the Moffett Park framework. Should Council decide not to incorporate the same levels in the Moffett

Park area then the area would have a lower standard than the rest of City, and Council may choose to encourage incentives in the Class A development area. Planning Officer Ryan explained that a general Citywide ordinance would not address Moffett Park and that is why staff is suggesting an amendment to the specific plan for this area.

Councilmember Moylan verified with Planning Officer Ryan that it is conceivable that the result of staff's work could result in the Moffett Park specific plan staying as it is; however, should staff find a disconnect between Moffett Park and the rest of the City, Council may want to address that issue.

Councilmember Moylan stated if Council approves these requirements, in the future staff may return to Council with a recommendation to increase the standards for Moffett Park; however, currently staff is looking into this for consistency. Director Hom clarified that Council may provide direction to implement the building requirements Citywide including Moffett Park or decide not to change the requirements for Moffett Park. Should Council wish to impose that the requirements also include Moffett Park then staff would need to return to Council with a specific plan and ordinance requirements in order to implement that option. Director Hom explained that staff is recommending implementing higher level requirements uniformly for all projects in the City, regardless of whether they are in Moffett Park or not.

Public hearing opened at 7:55 p.m.

Jim Griffith, member of Cool Cities, spoke in favor of sustainable building requirements within the City. Griffith stated he would like Council to consider the long-term effects and benefits of a sustainable building requirement policy. Griffith stated greater consideration should be given to the more difficult requirements, because the benefits will be long term and can offer substantial savings in the future. Griffith stated Council should also consider that these building requirements will be mandatory in the near future; therefore, Council should be cautious in hiring staff for something that within a few years will become normal practice for builders. Griffith stated he opposes modifying zoning standards for setbacks, heights, and signage. Griffith stated he is concerned over adopting educational requirements, because the City would be duplicating educational efforts that are already currently available.

Councilmember Moylan stated the staff report made a good point in identifying that there is a limited amount of incentives that can be provided for residential developments.

Griffith stated he agrees with Vice Mayor Hamilton in questioning the need for incentives as a necessity, because they are likely to create a situation in which a large amount of an existing home was built one way, and a smaller percentage, possibly an addition, was built using green standards.

Barbara Fukumoto spoke about the benefits of green building practices. Fukumoto requested Council consider her suggestions which entail including extensive residential remodels in the policy; deleting residential incentives, and shortening the phase and time tables to 12 months.

Gary Bailey, vice chair of local chapter of the Sierra Club, stated he agreed with the previous speaker, Fukumoto. Bailey encouraged Council to adopt the proposed standards in a timely manner.

Public hearing closed at 8:04 p.m.

MOTION: Councilmember Moylan moved and Councilmember Howe seconded to approve Alternative 1: Council approves developing a framework for sustainability that includes several elements, as amended by staff and the Planning Commission, with all the alternatives as listed on pages 23-25 of the staff report **with** add in the incentive 1.A.-9 from page 22: Require LEED or BIG certification for projects that take advantage of the modified zoning standards.

Vice Mayor Hamilton stated she opposes the motion.

Councilmember Moylan stated five years ago Council took a risk to require that companies in the Moffett Park Specific Plan wanting more floor area ratio (FAR) would need to incorporate green practices. Passage of this requirement was extremely controversial at the time, but it did pay off and it is part of the reason why this study issue was originally proposed. Councilmember Moylan stated the reason an incentive is needed is because it is at least one to two percent more expensive to build a green project and a high level of certification would increase the expense even more. The higher the level of green building, the longer it will take to be financially justified. Most residents are not adopting green practices necessarily to save money rather residents install energy efficient systems for reasons such as becoming immune to rolling blackouts. Councilmember Moylan stated incentives will be needed until such time that it becomes inexpensive to build a green project, and that will not happen anytime soon. Councilmember Moylan stated he agrees with the option of leaving Moffett Park where it is, depending on the work plan. Councilmember Moylan stated he supports including 50 percent residential remodels in the policy and verified with staff that he will need to add that item formally to his motion.

Vice Mayor Hamilton stated the incentives offered at Moffett Park five years ago are no longer needed as they have hit their tipping point, and no incentives are needed on the commercial side. Vice Mayor Hamilton stated for residential, financial tools, such as a low cost loan, are more valuable than incentives. Vice Mayor Hamilton stated her biggest concern under the proposed incentive plan is that residential or commercial properties with proposals for huge floor area ratios (FAR) would be allowed. Vice Mayor Hamilton stated that a problem arises when a larger home is built and then subsequent developers or homeowners request the same FAR allowance. Vice Mayor Hamilton stated that if Council is concerned about paving over all the bare land in the City, then they need to consider smaller lot coverage for projects.

Vice Mayor Hamilton offered a friendly amendment to approve Alternative 1 without items 1.a.,i and 1.a.,ii. Vice Mayor Hamilton stated without that amendment, she cannot support the motion.

Councilmember Howe accepted the friendly amendment.

Councilmember Howe inquired when this report will come back to Council with meaningful data as to whether the incentives are working or not, and Planning Officer Ryan stated within three years some data would be available. Director Hom stated Council's endorsement of higher LEED standards would require a decision soon as the implementation date is January 1, 2009.

Councilmember Howe offered a friendly amendment to have staff return to Council for review within three years from the effective date of the ordinance.

Friendly amendment accepted by Councilmember Moylan and Councilmember Howe.

Councilmember Swegles stated he heard Councilmember Howe, as the second to the motion, accept modifications and he would like to be perfectly clear that the modifications accepted were made by Councilmember Howe and not of the Vice Mayor. Councilmember Swegles stated that he heard Councilmember Howe accept a friendly amendment from the Vice Mayor, as the second. Councilmember Moylan stated that Councilmember Howe approved his own friendly amendment.

Councilmember Swegles stated he will support the motion and asked that staff continue to review any changes in the LEED standards. Councilmember Swegles asked staff to return to Council right away should any issues arise, even if something occurs before the designated three years that staff has been asked to return to Council.

Councilmember Whittum verified with Planning Officer Ryan that LEED standards will be required for new or remodeled properties between 5,000 and 50,000 square feet; however, an incentive will be offered to obtain a higher LEED standard.

Councilmember Whittum stated he does support much of what is included in the framework; however, he opposes the motion because it is not financially sustainable. Councilmember Whittum stated the economic impact is more complex than just an FAR incentive. Councilmember Whittum stated he does not see the direct benefit to the public of imposing requirements, especially if residents cannot afford it, and business owners do not need the City's financial advice.

Mayor Spitaleri inquired whether Councilmember Moylan added in residential housing issues to his motion and Councilmember Moylan verified that he added to his motion that the LEED standards will be required for new residential construction or remodels which are 50 percent or more of the original space. Mayor Spitaleri verified financial assistance will be available to homeowners to assist with financing these items. Councilmember Moylan explained that during a remodel, if the home already had items in the home that would meet the LEED standards, such as double pane windows, then credit would be given for those items toward the finished project.

Mayor Spitaleri verified with Planning Officer Ryan that Council will have an opportunity to review the provisions as they are prepared in an ordinance and will have an opportunity to modify those provisions.

Restated MOTION: Councilmember Moylan moved and Councilmember Howe seconded to approve Alternative 1: Council approves developing a framework for sustainability that includes several elements, as amended by staff and the Planning Commission, with all the alternatives as listed on pages 23-25 of the staff report.

with

- Add in the incentive 1.A.-9 from page 22: Require LEED or BIG certification for projects that take advantage of the modified zoning standards.
- LEED standards will be required for new residential construction or remodels which are 50 percent or more of the original space.
- Council directs staff to return within three years of the effective date of the ordinance for review of the data regarding the effectiveness of the incentives.

VOICE VOTE: 5-2 (Vice Mayor Hamilton and Councilmember Whittum dissented and Councilmember Lee teleconferencing)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE UPDATING CHAPTERS 19.12 (DEFINITIONS), 19.22 (INDUSTRIAL ZONING DISTRICTS), 19.29 (MOFFETT PARK SPECIFIC PLAN DISTRICT), 19.32 (BUILDING HEIGHTS, LOT COVERAGES AND FLOOR AREAS), 19.82 (MISCELLANEOUS PLAN PERMIT) AND ADDING CHAPTER 19.39 (GREEN BUILDING REGULATIONS) TO TITLE 19 (ZONING) OF THE SUNNYVALE MUNICIPAL CODE

WHEREAS, the provisions set forth below implement the goals and objectives of the General Plan through the promotion of green building design, construction and operation which contribute to the environmental and economic health of residents and businesses throughout the City; and

WHEREAS, sustainable design can contribute to the conservation of natural resources, increase of energy efficiency and improve indoor air quality; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 19.12 (Definitions) is amended to Title 19 (Zoning) of the Sunnyvale Municipal Code as follows:

Chapter 19.12 DEFINITIONS

The following terms shall have the ascribed definition for the purposes of applying the criteria of this chapter.

19.12.030 (13) "Build it Green" (BIG) means the Build it Green organization.

19.12.040 (10) "Compliance threshold" means the minimum number of points or rating level of a green building rating system that must be attained for a particular covered project, as outlined in the Green Building Tables.

19.12.080 (6) "Green Building project checklist" means a checklist or scorecard developed for the purpose of calculating a green building rating.

19.12.080 (7) "Green Building rating system" means the rating system associated with specific Green Building criteria and used to determine compliance thresholds, as outlined in the Standards of Compliance section 19.39.040. Examples of rating systems include, but are not limited to, the LEED™, GreenPoint Rated systems, and California Green Building Code.

19.12.080 (8) "GreenPoint Rated" means a residential Green Building rating system developed by the Build It Green organization.

19.12.080 (9) "GreenPoint Rated Verification" means verification of compliance by a certified GreenPoint Rater, resulting in Green Building certification by Build It Green including green point allocation across all of the resource categories.

19.12.140 (1) "Major alterations" means non-residential alterations where interior finishes are removed and significant upgrades to structural and mechanical, electrical and/or plumbing systems are proposed where areas of such construction are 10,000 gross square feet or more in existing commercial, office and industrial buildings.

19.12.150 (1) "New large non-residential interiors" means first-time tenant improvements where areas of such construction are over 5,000 gross square feet or more of existing buildings.

19.12.150 (7) "Non-residential" generally means buildings used for industrial, commercial, office, place of assembly or recreation.

19.12.180 (1) "Qualified Green Building professional" means a person trained through the USGBC as a LEED™ accredited professional or through Build It Green as a certified Green Building professional, or similar qualifications if acceptable to the director of community development. For projects requiring "self-verification," the project architect or designer is considered a qualified Green Building professional.

19.12.190 (11) "Residential alterations" means any addition, rehabilitation, repair, remodeling, change, or modification to an existing building, where changes to floor area and the footprint of the building exceed \$150,000 for single-family and duplex properties and \$250,000 for multi-family properties. The valuation of renovation improvements shall be determined by the director of community development (for permit fee calculations), which may exclude from such valuation the cost of (a) seismic upgrades, (b) accessibility upgrades, or (c) photovoltaic panels or other solar energy or similar devices exterior to the building. Remodel valuation thresholds identified in the Standards for Compliance shall be adjusted annually as adopted in the fee resolution.

19.12.200 (3) "Self verification" means verification by the project architect, designer or a qualified green building professional certifying that the project has met the standards and has attained the compliance threshold as indicated for the covered project type as set forth in the Standards for Compliance outlined in section 19.39.040.

19.12.210 (2) "Temporary structures" means buildings and structures intended for use at one location for not more than one year.

19.12.220 (2) "Upgrades" means improvements where the majority of work requires only electrical, plumbing and/or mechanical permits.

19.12.230 (3) "Verification by LEED™ AP" means verification by a LEED™ accredited professional certifying that each LEED™ checklist point listed was verified to meet the requirements to achieve that point. The LEED™ AP shall provide supporting information from qualified professionals (e.g. civil engineer, electrical engineer, energy consultant, commissioning agent, etc.) to certify compliance with each point on the checklist. Documentation of construction consistent with building plans calculated to achieve energy compliance is sufficient verification in lieu of post-construction commissioning.

SECTION 2. Chapter 19.29 (Moffett Park Specific Plan District) is amended to remove 19.29.020(a)(24) from Title 19 (Zoning) of the Sunnyvale Municipal Code as follows:

Chapter 19.29 MOFFETT PARK SPECIFIC PLAN DISTRICT

19.29.110. Major Moffett Park Design Review Permit.

(a) Purpose. The major MP-DR applies to projects designated "P" in Table 19.29.050. The major MP-DR provides an incentive-based streamlined permit process for development proposals above the standard FAR limitation that commit to utilizing sustainable design and building techniques. Such projects may earn an entitlement to additional square footage, and require only a limited hearing before the planning commission for review of site and architectural design, and any proposed deviations to development standards. The procedures identified in this section shall be used in conjunction with the general requirements and procedures identified in Chapter 19.98 including requirements and procedures for applications, fees, notification, appeals, conditions of approval, modifications, expirations, extensions, revocation and infractions.

(b) An application for a project which seeks additional square footage and includes a commitment by the applicant to utilize sustainable design and construction features shall be reviewed by the director of community development. The director shall determine that the application is complete and meets the requirements to be processed as a major MP-DR when all of the following conditions are met:

- (1) The project complies with all zoning and development standards for the MPSP area, in addition to general procedures and requirements of this code;
- (2) All required CEQA documents have been prepared;
- (3) The project proposal includes a TDM plan that complies with the trip reduction requirements set forth in the MPSP;
- (4) The project design team includes a qualified Green Building Professional; and
- (5) The project meets green building requirements as set forth in the adopted Green Building Tables.

(c) Application and Processing. An application for a major MP-DR shall be submitted in accordance with the procedures set forth in Chapter 19.98 and on forms and with such additional information shown in 19.39.040 as designated by the director of community development. The director of community development, without notice or hearing, may:

(1) Approve the processing of the project as a major MP-DR as requested or as changed, modified or conditioned by the director of community development if the director determines that the project meets the conditions required by subsection (b) of this section.

(2) Deny the processing of the project as a major MP-DR if the director determines that the project does not meet the required conditions. In such a case, the application will be processed as a major MP-SDP.

(d) After the conditions set forth in subsection (b) of this section have been met, the planning commission shall conduct a design review of the project to consider the dimensions, colors, materials, architectural elevations, design and placement of the physical characteristics of a project, as well as compliance with design requirements described in the MPSP, and any

proposed deviations from development standards. Evaluation shall be in accordance with the regulations of this code and the provisions of the MPSP.

(1) The planning commission, after holding at least one public hearing, may:

(A) Approve the major MP-DR as requested or as changed, modified or conditioned by the commission if it finds, as approved, that the project meets the required finding; or

(B) Deny the major MP-DR if the commission finds that the project would not meet the required findings.

(2) After receiving an appeal from the decision of the planning commission on a major MP-DR, and following a public hearing, the city council, by the affirmative vote of a majority of its voting members may:

(A) Approve the major MP-DR as requested or as changed, modified or conditioned by the council, if the

council finds that project as approved meets the required findings; or

(B) Deny the major MP-DR if the council finds that the project would not meet the findings.

(3) Findings. The planning commission may approve any major MP-DR, upon such conditions, in addition to those expressly provided in other applicable provisions of this code, as it finds desirable in the public interest, upon finding that the permit will both:

(A) Attain the objectives and purposes of the MPSP; and

(B) Substantially conform with the Moffett Park Design Guidelines set forth in Chapter Six of the MPSP. (Ord. 2750-04 § 6 (part)).

19.29.120. Major Moffett Park Special Development Permit.

(a) Purpose. The major MP-SDP provides a process for applicants to create higher intensity projects in situations where use of green building techniques may not be available for the use or site, or where there are potentially significant environmental impacts which require the preparation of an environmental impact report. The procedures identified in this section shall be used in conjunction with the general requirements and procedures identified in Chapter 19.98 including requirements and procedures for applications, fees, notification, appeals, conditions of approval, modifications, expirations, extensions, revocation and infractions.

(b) When Required. A major MP-SDP is required for (1) all projects that are designated "SDP" in Table 19.29.050 that propose an FAR level over the standard set forth in Table 19.29.060; (2) projects designated "P" in Table 19.29.050 in the MP-TOD and MP-I subdistricts that propose an FAR level over the standard and up to the maximum FAR limits set forth in Table 19.29.060, but are not utilizing green building techniques to the level required to achieve a "LEEDTM Certified" rating; and (3) projects where there are potentially significant environmental impacts and the preparation of an environmental impact report is required.

(c) Application and Processing. An application for a major MP-SDP shall be submitted in accordance with the procedures set forth in Chapter 19.98 and on forms and with such additional information as designated by the director of community development. In addition to other requirements, the application must include documentation that:

(1) The project complies with all zoning and development standards for the MPSP area, in addition to general procedures and requirements of this code;

(2) All required CEQA documents have been prepared;

(3) The project proposal includes a TDM plan that complies with the trip reduction requirements set forth in the MPSP.

(d) Decisions.

(1) The planning commission, after holding at least one public hearing, by the affirmative vote of a majority of its voting members, may:

(A) Approve the major MP-SDP as requested or as changed, modified or conditioned by the planning commission if it finds that the use or project, as approved, meets the required findings; or

(B) Deny the major MP-SDP if it finds that the use or project would not meet the required findings.

(2) After receiving an appeal from the decision of the planning commission on a major MP-SDP, and following a public hearing, the city council, by the affirmative vote of a majority of its voting members may:

(A) Approve the major MP-SDP as requested or as changed, modified or conditioned by the council, if the council finds that project as approved meets the required findings; or

(B) Deny the Major MP-SDP if the council finds that the project would not meet the findings.

(e) Findings. The planning commission or the city council may approve any major MP-SDP, upon such conditions, in addition to those expressly provided in other applicable provisions of this code, as it finds desirable in the public interest, upon finding that the permit will both:

(1) Attain the objectives and purposes of the MPSP; and

(2) Ensure that the site improvements, general appearance of proposed structures, and the uses to be made of the property to which the application refers, will not impair the orderly development of, or the existing Uses being made of, adjacent properties. (Ord. 2750-04 § 6 (part)).

19.29.130. MPSP green building development requirement.

Effective January 1 , 2009, all new development in the MP district greater than ten thousand square feet, regardless of the underlying zoning or proposed level of FAR, is required to meet the "design intent" of a "LEEDTM Certified" or better level of green building design. Determination of a project square footage for triggering the green building threshold shall be made by the director of community development as described in the MPSP. For purposes of this section, "design intent" means site planning and building design that achieves at least the minimum number of LEEDTM credits for a "Certified" building rating, as determined by the director of community development. The director of community development shall have the authority to determine the level of credit achievement in accordance with the procedures set forth in the MPSP. In the event the director of community development determines that a greater than ten thousand square foot project does not meet the required design intent, the application shall be processed as a major MP-SDP, regardless of its classification in Table 19.29.050. (Ord. 2750-04 § 6 (part)).

19.29.150. Deviations from development standards.

(a) Deviations to the following standards and regulations may be permitted by the approving authority for minor MP-SDP permits and major MP-DR and MP-SDP permits. No deviations may be granted through the minor MP-DR permit. If an applicant for a minor MP-DR seeks deviations from standards, the applicant must apply for a minor MP-SDP:

- (1) Lot area;
- (2) Lot width/frontage;
- (3) Yards;
- (4) Setbacks;
- (5) Height;
- (6) Space (e.g., landscaping or open space);
- (7) Coverage (e.g., lot coverage, not including floor area ratio maximums);
- (8) Parking space requirements (e.g., number of spaces, type or percentage of vehicle spaces, aisle width, bicycle type).

(b) Deviations from the following standards are not permitted:

- (1) Buildings and appurtenances in excess of one hundred twenty-five feet in height;
- (2) Requirement for TDM program;
- (3) Floor Area greater than the maximum FAR permitted in the MP-I, and MP-TOD subdistricts;
- (4) Green building requirement as set forth in Section 19.39 and the Green Building Tables (Ord. 2750-04 § 6 (part)).

SECTION 3. Chapter 19.32 (Building Heights, Lot Coverages and Floor Area Ratios) is amended to remove 19.32.075 from Title 19 (Zoning) of the Sunnyvale Municipal Code as follows:

Chapter 19.32 (Building Heights, Lot Coverages and Floor Area Ratios)

~~19.32.075. Floor area ratio bonus in M-S and M-3 districts to encourage construction of sustainable development.~~

~~— (a) For the purposes of this section, the following words and phrases are defined as follows:~~

~~— “Sustainable development” means development and construction practices designed to use natural resources in a manner that does not eliminate, degrade, or diminish their usefulness for future generations.~~

~~— “USGBC” means United States Green Building Council.~~

~~— “Green building” means a whole systems approach to the design, construction, and operation of buildings that helps mitigate the environmental, economic, and social impacts of~~

~~buildings. Green building practices recognize the relationship between natural and built environments and seek to minimize the use of energy, water, and other natural resources and provide a healthy, productive indoor environment.~~

~~“LEED™ Green Building Rating System” means the most recent version of the Leadership in Energy and Environmental Design (LEED™) Commercial Green Building Rating System, or other related LEED™ Rating System, approved by the USGBC. The Rating System is based on points that are awarded for sustainability techniques.~~

~~“LEED™ Certified” refers to the lowest level of certification available in the current LEED™ Rating System, which may be amended from time to time. There are currently four levels of LEED™ certification available: Certified, Silver, Gold, and Platinum.~~

~~“LEED™ Accredited Professionals” are experienced building industry practitioners who have demonstrated their knowledge of integrated design and their capacity to facilitate the LEED™ certification process by passing the LEED™ Professional Accreditation exam.~~

~~(b) In order to encourage the construction of sustainable development and green buildings, all buildings located in the M-S (industrial and service) and M-3 (general industrial) districts shall be granted an additional five percent floor area ratio (FAR) over that currently permitted by existing zoning regulations without a use permit, when all of the following conditions are met:~~

~~(1) A LEED™ accredited professional is a member of the design team for the building;~~

~~(2) The building is designed to achieve a “LEED™ Certified” rating;~~

~~(3) The building is registered with the USGBC for certification;~~

~~(4) As soon as permissible under the regulations, applicant shall prepare and submit the application for LEED™ certification with the USGBC, and shall provide city with proof that the building has achieved a rating of “LEED™ Certified” or better.~~

~~(c) An application for the five percent FAR bonus allotted by this section (the “Green Building FAR Bonus”) shall be submitted as a miscellaneous plan permit application in accordance with the procedures set forth in Chapters 19.82 (Miscellaneous Plan Permit) and 19.98 (General Procedures). Forms and information relating to this bonus shall be supplied to applicant by the director of community development. In addition to the requirements stated in subsection (b) of this section, in order to qualify for the bonus, applicant will be required to submit a Transportation Demand Management Program and analysis for the entire project site that demonstrates that vehicle-trip rates for the project are not greater than the number that would be generated by development of the site at the permitted FAR.~~

~~(d) It is intended that the Green Building FAR Bonus permitted by this section shall be independent of and in addition to any other FAR allowances provided for in Section 19.32.070 of this code. (Ord. 2744-04 § 1).~~

SECTION 4. Chapter 19.39 ADDED. Chapter 19.39 (Green Building Regulations) is added to Title 19 (Zoning) of the Sunnyvale Municipal Code as follows:

Chapter 19.39 GREEN BUILDING REGULATIONS

- 19.39.010. Purpose.**
- 19.39.020. Application.**
- 19.39.030. Definitions.**
- 19.39.040. Standards for Compliance.**
- 19.39.050. Administrative procedures.**
- 19.39.060. Non-compliance.**
- 19.39.070. Hardship or infeasibility exemption.**
- 19.39.080. Appeal.**

19.39.010. Purpose.

The purpose of this chapter is to enhance the public health and welfare by promoting the environmental and economic health of the city through the design, construction, maintenance, operation and deconstruction of buildings and other site development by incorporating green building practices into all development. The green building provisions referred to in this chapter are designed to achieve the following goals:

- (a) Increase energy efficiency in buildings;
- (b) Encourage water and resource conservation;
- (c) Minimize waste generated by construction projects;
- (d) Provide durable buildings that are efficient and economical to own and operate;
- (e) Promote the health and productivity of residents, workers, and visitors to the city; and
- (f) Recognize and conserve the energy embodied in existing buildings.

19.39.020. Covered Projects.

This chapter applies to covered projects, defined as means any planning permit application(s) or building permit application(s) for new construction, addition, or remodel of an existing public facility or private building, except that it shall not apply to any project for which a complete building permit application has been submitted prior to July 1, 2009 as determined by Chief Building Official.

Projects within the scope of this chapter are:

- (a) Newly constructed residential buildings
- (b) Residential alterations defined as any addition, rehabilitation, repair, remodeling, change, or modification to an existing building, where changes to floor area and the footprint of the building exceed \$150,000 for single-family and duplex properties and \$250,000 for multi-family properties. The valuation of renovation improvements shall be determined by the director of community development (for permit fee calculations), which may exclude from such valuation the cost of (a) seismic upgrades, (b) accessibility upgrades, or (c) photovoltaic panels or other solar energy or similar devices exterior to the building. Remodel valuation thresholds identified in the Standards for

Compliance shall be adjusted annually as adopted in the fee resolution.

(c) Newly constructed non-residential buildings that are 5,000 gross square feet or more.

(d) New large non-residential interiors.

(e) Major alterations of existing non-residential buildings.

19.39.030. Standards for Compliance.

(a) The Standards for Compliance shall be implemented in three phases as shown in the Green Building Tables adopted as policy by City Council.

(b) The following projects, regardless of scope of work, are exempt from this section:

- (1) Solar or energy generation/conservation facilities;
- (2) Heritage buildings;
- (3) Fire, flood, wind, earthquake, or other natural disaster damage repairs;
- (4) Disabled access upgrades;
- (5) Seismic upgrades;
- (6) Exterior modifications;
- (7) Swimming pools;
- (8) Temporary structures
- (9) Anything in the opinion of the director of community development that is a hardship or infeasible per Section 19.39.070.

(c) In order to qualify for the incentives for industrial and office projects, applicant shall submit a Transportation Demand Management Program and analysis for the entire project site that demonstrates that vehicle-trip rates for the project are not greater than the number that would be generated by development of the site at the permitted FAR.

(d) It is intended that the Green Building FAR Bonus permitted by this section shall supersede any other FAR allowances provided for in section 19.32.070 of this code.

(e) Residential projects. To provide incentives for including green building practices, any project that attains the levels specified by the standards for compliance for "Incentives" shall receive the choice of 5 percent additional lot coverage, a five foot height exception (multi-family only), or 5% density bonus unit (multi-family projects only), as the case may be, upon approval of a Miscellaneous Plan Permit granted at the discretion of the director of community development or other necessary permit.

(f) Public recognition for exceptional green building design. Those projects that implement exceptional green building design and construction practices that meet thresholds for incentives as specified in the above standards for compliance section shall be recognized by the city and eligible to receive a plaque that may be displayed on the structure.

(g) Wherever the LEED or GreenPoint Rate systems include a minimum energy or other performance requirement, the applicant may choose to meet the minimum performance requirements with an alternative equivalent method approved by the Director of Community Development.

(h) Maintenance of required features. Any structure subject to this Chapter shall maintain the green building features required herein, regardless of subsequent alterations, additions, or changes of use, unless subject to equal or more stringent requirements.

(i) The city council shall establish by resolution, and shall periodically review and update as necessary, Green Building Standards for Compliance. The Standards for Compliance shall include, but are not limited to, the following:

- (1) The types of projects subject to regulation (covered projects);
- (2) The Green Building rating system to be applied to the various types of projects;
- (3) Minimum thresholds of compliance for various types of projects; and
- (4) Timing and methods of verification of compliance with these regulations.

19.39.040. Administrative Procedures.

(a) The director of community development shall promulgate any rules and guidelines necessary or appropriate to achieve compliance with the requirements of this chapter and as more fully outlined in the administrative procedures promulgated by the director of community development.

(b) The procedures for compliance documentation shall include, but not be limited to, the following:

- (1) Upon submittal of an application for any discretionary planning entitlement (if required) for any covered project, application materials shall include the appropriate completed checklists, as required by the standards for compliance specified in section 19.39.040, accompanied by a text description of the proposed green building program and expected measures and milestones for compliance.
- (2) Upon submittal of an application for a building permit, building plans for any covered project shall include a checklist and green building program description, reflecting any changes proposed since the planning entitlement phase (if a planning entitlement was required). The checklist shall be incorporated onto a separate plan sheet included with the building plans.
- (3) Prior to final building inspection and occupancy for any covered project, a qualified building professional, if required by the standards for compliance, shall provide evidence of adequate green building compliance or documentation to the director of community development to satisfy the requirements of the Standards for Compliance for review and approval. This information shall include, but is not limited to:
 - (A) Documentation that verifies incorporation of the design and construction related credits specified in the project approval for the covered project;

(B) A letter from the qualified green building professional that certifies that the covered project has been constructed in accordance with the approved Green Building project checklist;

(C) Any additional documentation that would be required by the LEED™ reference guide for LEED certification (if required), or by the GreenPoint Rated manuals for GreenPoint Rated certification (if required); and

(D) Any additional information that the applicant believes is relevant to determining that a good faith effort has been made to comply with this chapter.

19.39.050. Non-compliance.

If, as a result of any inspection, the city determines that the covered project does not or is unlikely to comply with the approved plans or Green Building checklist, a stop work order shall be issued if the director of community development determines that continuation of construction activities will jeopardize the project's ability to meet the required compliance threshold. The stop work order shall remain in effect and final certificate of occupancy withheld (moved) until the director of community development determines that the project will be brought into compliance with the approved plans and/or checklist.

19.39.060. Hardship or infeasibility exemption.

If a project applicant believes that circumstances exist presenting an unreasonable hardship to meet the requirements of this chapter, the applicant may apply for an exemption as set forth in this section. In applying for an exemption, the burden is on the applicant to show significant hardship. Acceptance or denial of an exemption is at the discretion of the director of community development. Hardship exemptions will only be granted in unusual circumstances based upon a showing of good cause and a determination that the public interest is not served by compliance or other compelling circumstances. This decision may be appealed to the planning commission.

An unreasonable hardship shall be defined as practical infeasibility, difficulties, or results inconsistent with the general purposes of this chapter or harms designated historic resources.

19.39.070. Appeal.

(a) Any aggrieved applicant or person may appeal the determination of the director regarding: (1) the granting or denial of an exemption pursuant to the Building Code; or (2) compliance with any other provision of this chapter.

(b) Any appeal must be filed in writing with the community development department not later than fifteen (15) days after the date of the determination by the director. The appeal shall state the alleged error or reason for the appeal.

(c) The appeal shall be processed and considered at a Building Code Board of Appeals hearing in accordance with the Building Code.

Chapter 19.82.020. Miscellaneous Plan Permit- When required.

SECTION 5. Chapter 19.82 (Miscellaneous Plan Permit) is amended to remove 19.82.020(a)(24) from Title 19 (Zoning) of the Sunnyvale Municipal Code as follows:

(a) General Reviews:

~~(24) Applications for the Green Building FAR Bonus, as provided for in Section 19.32.075. Forms and requirements will be supplied by the director of community development. The decision on whether the building qualifies for the bonus is made by the director of community development, whose decision shall be final. Applicants are not precluded from resubmitting relevant and revised information to qualify for the bonus;~~

SECTION 6. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 7. EFFECTIVE DATE. This ordinance shall be in full force and effect on January 1, 2010.

SECTION 8. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official newspaper for publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held _____, 2008, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

City Clerk
Date of Attestation: _____

Mayor

SEAL

APPROVED AS TO FORM AND LEGALITY:

David E. Kahn, City Attorney

**Phase 1 – Effective January 1, 2010
 NON-RESIDENTIAL**

PRIVATE NON-RESIDENTIAL			
Type of Project	Minimum Standard	Verification/ Review	Incentive
New Construction or New Large Non-residential Interiors			
500- 5,000 sq. ft.	LEED Checklist	Director of Community Development	None
>5,000 – 50,000 sq. ft.	LEED Certified "design intent"	LEED/USGBC or LEED AP	LEED Silver "design intent" 10% FAR or 10 ft. additional building height. ¹
>50,000 sq. ft.	LEED Silver "design intent"	LEED/USGBC or LEED AP	LEED Gold "design intent" 10% FAR or 10 ft. additional building height. ²
Major Alterations			
10,000-50,000 sq. ft.	LEED Checklist	Director of Community Development	None
>50,000 sq. ft.	LEED Certified "design intent"	LEED/USGBC or LEED AP	None

PUBLIC FACILITY			
Type of Project	Minimum Standard	Verification/ Review	Incentive
New Construction or New Large Non-residential Interiors			
500- 5,000 sq. ft.	LEED Checklist	Director of Community Development	None
>5,000 – 25,000 sq. ft.	LEED Certified "design intent"	LEED/USGBC or LEED AP	None
>25,000 sq. ft.	LEED Silver "design intent"	LEED/USGBC or LEED AP	None
Major Alterations			
5,000-25,000 sq. ft.	LEED Checklist	LEED/USGBC or LEED AP	None
>25,000 sq. ft.	LEED Certified "design intent"	LEED/USGBC or LEED AP	None

1. Incentive is available for projects that register and certify with USGBC at the LEED Certified level
2. Incentive is available for projects that register and certify with USGBC at the LEED Silver level

**Phase 1 – Effective January 1, 2010
 RESIDENTIAL**

MULTI-FAMILY RESIDENTIAL			
Type of Project	Minimum Standard	Verification/ Review	Incentive
New Construction			
3 or more units	GreenPoint Rated 70 points	Director of Community Development	GreenPoint Rated 100 points with GreenPoint Rater Verification: 5 ft. height; or 5% lot coverage, or 5% density bonus.
Residential Alterations to Existing			
Up to \$250,000 valuation ¹	None	N/A	None
> \$250,000 valuation ¹	GreenPoint Rated Checklist	Director of Community Development	None

SINGLE-FAMILY AND DUPLEX RESIDENTIAL			
Type of Project	Minimum Standard	Verification/ Review	Incentive
New Construction			
Up to 1,500 sq. ft.	GreenPoint Rated Checklist	Director of Community Development	None
> 1,500 sq. ft.	GreenPoint Rated 70 points	Director of Community Development	GreenPoint Rated Checklist with 100 points and GreenPoint Rated Verification, receive additional 5% lot coverage.
Residential Alterations to Existing			
Up to \$100,000 valuation ¹	None	N/A	None
> \$100,000 valuation ¹	GreenPoint Rated Checklist	Director of Community Development	None

¹ As determined in the annually adopted fee resolution

**Phase 2 – Estimated Effective Date July 1, 2011
 NON-RESIDENTIAL**

PRIVATE NON-RESIDENTIAL			
Type of Project	Minimum Standard	Verification/ Review	Incentive
New Construction or New Large Non-residential Interiors			
500- 5,000 sq. ft.	LEED Certified "design intent"	Director of Community Development or LEED AP	None
>5,000 – 50,000 sq. ft.	LEED Silver "design intent"	LEED/USGBC or LEED AP	LEED Gold "design intent" 10% FAR or 10 ft. additional building height. ¹
>50,000 sq. ft.	LEED Gold "design intent"	LEED/USGBC or LEED AP	LEED Platinum "design intent" 10% FAR or 10 ft. additional building height. ²
Major Alterations			
10,000-50,000 sq. ft.	LEED Certified "design intent"	Director of Community Development or LEED AP	None
>50,000 sq. ft.	LEED Silver "design intent"	LEED/USGBC or LEED AP	None

PUBLIC FACILITY			
Type of Project	Minimum Standard	Verification/ Review	Incentive
New Construction or New Large Non-residential Interiors			
500- 5,000 sq. ft.	LEED Certified "design intent"	LEED/USGBC or LEED AP	None
>5,000 – 25,000 sq. ft.	LEED Silver "design intent"	LEED/USGBC or LEED AP	None
>25,000 sq. ft.	LEED Gold "design intent"	LEED/USGBC or LEED AP	None
Major Alterations			
5,000-25,000 sq. ft.	LEED Certified "design intent"	LEED/USGBC or LEED AP	None
>25,000 sq. ft.	LEED Silver "design intent"	LEED/USGBC or LEED AP	None

1. Incentive is available for projects that register and certify with USGBC at the LEED Silver level
2. Incentive is available for projects that register and certify with USGBC at the LEED Gold level

**Phase 2 – Estimated Effective Date July 1, 2011
 RESIDENTIAL**

MULTI-FAMILY RESIDENTIAL			
Type of Project	Minimum Standard	Verification/ Review	Incentive
New Construction			
3 or more units	GreenPoint Rated 100 points	GreenPoint Rater	GreenPoint Rated 140 points with GreenPoint Rater Verification: 5 ft. height; 5% lot coverage; or, 5% density bonus.
Residential Alterations to Existing			
Up to \$250,000 valuation ¹	None	N/A	None
> \$250,000 valuation ¹	GreenPoint Rated Checklist	Director of Community Development	None

SINGLE-FAMILY AND DUPLEX RESIDENTIAL			
Type of Project	Minimum Standard	Verification/ Review	Incentive
New Construction			
Up to 1,500 sq. ft.	GreenPoint Rated Checklist	Director of Community Development	None
> 1,500 sq. ft.	GreenPoint Rated 100 points	GreenPoint Rater	GreenPoint Rated 140 points and GreenPoint Rater Verification: Additional 5% lot coverage.
Residential Alterations to Existing			
Up to \$100,000 valuation ¹	None	N/A	None
> \$100,000 valuation ¹	GreenPoint Rated Checklist	Director of Community Development	None

¹ As determined in the annually adopted fee resolution

Phase 3 – Estimated Effective Date January 1, 2013 NON-RESIDENTIAL

PRIVATE NON-RESIDENTIAL			
Type of Project	Minimum Standard	Verification/ Review	Incentive
New Construction or New Large Non-residential Interiors			
500- 5,000 sq. ft.	LEED Silver "design intent"	LEED/USGBC or LEED AP	None
>5,000 – 50,000 sq. ft.	LEED Gold "design intent"	LEED/USGBC or LEED AP	LEED Platinum "design intent" 10% FAR or 10 ft. additional building height. ¹
>50,000 sq. ft.	LEED Platinum "design intent"	LEED/USGBC or LEED AP	LEED Platinum 10% FAR or 10 ft. additional building height.
Major Alterations			
10,000-50,000 sq. ft.	LEED Silver "design intent"	LEED/USGBC or LEED AP	None
>50,000 sq. ft.	LEED Gold "design intent"	LEED/USGBC or LEED AP	None

PUBLIC FACILITY			
Type of Project	Minimum Standard	Verification/ Review	Incentive
New Construction or New Large Non-residential Interiors			
500- 5,000 sq. ft.	LEED Silver "design intent"	LEED/USGBC or LEED AP	None
>5,000 – 25,000 sq. ft.	LEED Gold "design intent"	LEED/USGBC or LEED AP	None
>25,000 sq. ft.	LEED Platinum "design intent"	LEED/USGBC or LEED AP	None
Major Alterations			
5,000-25,000 sq. ft.	LEED Silver "design intent"	LEED/USGBC or LEED AP	None
>25,000 sq. ft.	LEED Gold "design intent"	LEED/USGBC or LEED AP	None

¹ Incentive is available for projects that register and certify with USGBC at the LEED Gold level

**Phase 3 – Estimated Effective Date January 1, 2013
 RESIDENTIAL**

MULTI-FAMILY RESIDENTIAL			
Type of Project	Minimum Standard	Verification/ Review	Incentive
New Construction			
3 or more units	GreenPoint Rated 100 points	GreenPoint Rater	GreenPoint Rated 140 points with GreenPoint Rater Verification: 5 ft. height; 5% lot coverage; or, 5% density bonus.
Alterations to Existing			
Up to \$250,000 valuation ¹	GreenPoint Rated Checklist	Director of Community Development	None
> \$250,000 valuation ¹	GreenPoint Rated Checklist	Director of Community Development	None

SINGLE-FAMILY RESIDENTIAL			
Type of Project	Minimum Standard	Verification/ Review	Incentive
New Construction			
Up to 1,500 sq. ft.	GreenPoint Rated Checklist	Director of Community Development	None
> 1,500 sq. ft.	GreenPoint Rated 100 points	GreenPoint Rater	GreenPoint Rated 140 points and GreenPoint Rater Verification: additional 5% lot coverage.
Residential Alterations to Existing			
Up to \$100,000 valuation ¹	GreenPoint Rated Checklist	Director of Community Development	None
> \$100,000 valuation ¹	GreenPoint Rated Checklist	Director of Community Development	None

¹ As determined in the annually adopted fee resolution

**Phase 1A – Prior (2003-2008)
 MOFFETT PARK SPECIFIC PLAN
 NON-RESIDENTIAL**

PRIVATE NON-RESIDENTIAL			
Type of Project	Minimum Standard	Verification/ Review	Incentive
New Construction			
<10,000 sq. ft.	None	N/A	None
>10,000 sq. ft.	None	N/A	LEED Certified "design intent" 15% FAR (MP-I) or 20% FAR (MP-TOD)
New Large Non-residential Interiors			
500- 5,000 sq. ft.	None	N/A	None
>5,000 – 50,000 sq. ft.	None	N/A	None
>50,000 sq. ft.	None	N/A	None
Major Alterations			
10,000-50,000 sq. ft.	None	N/A	None
>50,000 sq. ft.	None	N/A	None

**Phase 1B – Current (Effective Jan 1, 2009)
 MOFFETT PARK SPECIFIC PLAN
 NON-RESIDENTIAL**

Type of Project	Minimum Standard	Verification/ Review	Incentive
New Construction			
<10,000 sq. ft.	None	N/A	None
>10,000 sq. ft.	LEED Certified "design intent"	LEED/USGBC or LEED AP	LEED Certified: 15% FAR (MP-I) or 20% FAR (MP-TOD)
New Large Non-residential Interiors			
500- 5,000 sq. ft.	None	N/A	None
>5,000 – 50,000 sq. ft.	None	N/A	None
>50,000 sq. ft.	None	N/A	None
Major Alterations			
10,000-50,000 sq. ft.	None	N/A	None
>50,000 sq. ft.	None	N/A	None

**Phase 1C – Effective January 1, 2010
MOFFETT PARK SPECIFIC PLAN
NON-RESIDENTIAL**

Type of Project	Minimum Standard	Verification/ Review	Incentive
New Construction or New Large Non-residential Interiors			
500- 5,000 sq. ft.	LEED Checklist	Director of Community Development	None
>5,000 – 50,000 sq. ft.	LEED Certified “design intent”	LEED/USGBC or LEED AP	LEED Silver “design intent” 15% FAR (MP-I) or 20% FAR (MP-TOD). ¹
>50,000 sq. ft.	LEED Silver “design intent”	LEED/USGBC or LEED AP	LEED Gold: “design intent” 15% FAR (MP-I) or 20% FAR (MP-TOD). ²
Major Alterations			
10,000-50,000 sq. ft.	LEED Checklist	Director of Community Development	None
>50,000 sq. ft.	LEED Certified “design intent”	LEED/USGBC or LEED AP	None

1. Incentive is available for projects that register and certify with USGBC at the LEED Certified level
2. Incentive is available for projects that register and certify with USGBC at the LEED Silver level

**Phase 2 – Estimated Effective Date July 1, 2011
MOFFETT PARK SPECIFIC PLAN
NON-RESIDENTIAL**

PRIVATE NON-RESIDENTIAL			
Type of Project	Minimum Standard	Verification	Incentive
New Construction or New Large Non-residential Interiors			
500- 5,000 sq. ft.	LEED Certified "design intent"	LEED/USGBC or LEED AP	LEED Silver "design intent" 15% FAR (MP-I) or 20% FAR (MP-TOD). ¹
>5,000 – 50,000 sq. ft.	LEED Silver "design intent"	LEED/USGBC or LEED AP	LEED Gold: "design intent" 15% FAR (MP-I) or 20% FAR (MP-TOD). ²
>50,000 sq. ft.	LEED Gold "design intent"	LEED/USGBC or LEED AP	LEED Platinum: "design intent" 15% FAR (MP-I) or 20% FAR (MP-TOD). ³
Major Alterations			
10,000-50,000 sq. ft.	LEED Certified "design intent"	LEED/USGBC or LEED AP	None
>50,000 sq. ft.	LEED Silver "design intent"	LEED/USGBC or LEED AP	None

1. Incentive is available for projects that register and certify with USGBC at the LEED Certified level
2. Incentive is available for projects that register and certify with USGBC at the LEED Silver level
3. Incentive is available for projects that register and certify with USGBC at the LEED Gold level

Phase 3 – Estimated Effective Date January 1, 2013
MOFFETT PARK SPECIFIC PLAN
NON-RESIDENTIAL

PRIVATE NON-RESIDENTIAL			
Type of Project	Minimum Standard	Verification	Incentive
New Construction or New Large Non-residential Interiors			
500- 5,000 sq. ft.	LEED Silver "design intent"	LEED/USGBC or LEED AP	LEED Gold: "design intent" 15% FAR (MP-I) or 20% FAR (MP-TOD). ¹
>5,000 – 50,000 sq. ft.	LEED Gold "design intent"	LEED/USGBC or LEED AP	LEED Platinum: "design intent" 15% FAR (MP-I) or 20% FAR (MP-TOD). ²
>50,000 sq. ft.	LEED Platinum "design intent"	LEED/USGBC or LEED AP	LEED Platinum: 15% or 20% FAR
Major Alterations			
10,000-50,000 sq. ft.	LEED Silver "design intent"	LEED/USGBC or LEED AP	None
>50,000 sq. ft.	LEED Gold "design intent"	LEED/USGBC or LEED AP	None

1. Incentive is available for projects that register and certify with USGBC at the LEED Silver level
2. Incentive is available for projects that register and certify with USGBC at the LEED Gold level.

Considered Phasing of Sustainability Requirements and Incentives
 Initial Phase January 1, 2009

Table Approved by City Council
 on August 26, 2008

Private Commercial /Industrial/Office		STANDARD		REQ'D OR ENC'D?	INCENTIVES	EFFECTIVE DATE
THRESHOLD	Basic		Advanced			
500 - 5,000 sq ft new or remodel	Min LEED Certified Level, provide checklist			ENCOURAGED		1/1/2009
>5,000 sq ft and <50,000 sq. ft. -new or remodel		Min LEED Certified Level, provide 3 rd party approved checklist		REQUIRED		1/1/2009
>5,000 sq ft and <50,000 sq. ft. -new or remodel			Min. LEED Silver Level, provide 3 rd party approved checklist	ENCOURAGED	10% Bonus F.A.R, additional building height	1/1/2009
>50,000 sq.ft.- new or remodel			Min. LEED Silver Level, provide 3 rd party approved checklist	REQUIRED		1/1/2009
>50,000 sq.ft.- new or remodel				ENCOURAGED	10% Bonus F.A.R , additional building height	1/1/2009

Public Facility		STANDARD		REQ'D OR ENC'D?	INCENTIVES	EFFECTIVE DATE
THRESHOLD	Basic		Advanced			
>5,000 sq ft and <25,000 sq. ft. - new or remodel	Min LEED Certified Level			REQUIRED		1/1/2009
>25,000 sq.ft.- new or remodel			Min LEED Silver Level	REQUIRED		1/1/2009

Considered Phasing of Sustainability Requirements and Incentives
Initial Phase January 1, 2009

THRESHOLD	STANDARD		REQ'D OR ENC'D?	INCENTIVES	EFFECTIVE DATE
	Basic	Advanced			
	Multi-Family Residential				
Additions or Renovations to Multi-family	B.I.G .Checklist		REQUIRED		1/1/2009
3 or more units	B.I.G .Checklist with min 70 points		REQUIRED		1/1/2009
3 or more units		B.I.G. Checklist with min 100 points	ENCOURAGED	Height exception, 5% bonus lot coverage or density bonus	1/1/2009

THRESHOLD	STANDARD		REQ'D OR ENC'D?	INCENTIVES	EFFECTIVE DATE
	Basic	Advanced			
	Single-Family Residential & Duplex				
<1,500sq.ft. new home or addition	B.I.G .Checklist		REQUIRED		1/1/2009
>1,500sq.ft. new construction	B.I.G .Checklist with min 70 points (reviewed by certified rater)		REQUIRED		1/1/2009
>1,500sq.ft. new construction		B.I.G. Checklist with min 100 points (reviewed by certified rater)	ENCOURAGED	Bonus 5% lot coverage	1/1/2009

*Projects greater than 50,000 s.f. required USGBC Verification

Considered Phasing of Sustainability Requirements and Incentives
July 1, 2010 Implementation

Private Commercial /Industrial/Office	STANDARD		REQ'D OR ENC'D?	INCENTIVES	EFFECTIVE DATE
	Basic	Advanced			
500 - 5,000 sq ft new or remodel	Min LEED Certified Level, provide checklist		REQUIRED		7/1/2010
>5,000 sq ft and <50,000 sq. ft. -new or remodel *		Min LEED Silver Level, provide 3 rd party approved checklist	REQUIRED		7/1/2010
>5,000 sq ft and <50,000 sq. ft. -new or remodel *			ENCOURAGED	10% Bonus F.A.R., additional building height	7/1/2010
>50,000 sq.ft.- new or remodel *			REQUIRED		7/1/2010

Public Facility	STANDARD		REQ'D OR ENC'D?	INCENTIVES	EFFECTIVE DATE
	Basic	Advanced			
>5,000 sq ft and <50,000 sq. ft. - new or remodel	Min LEED Silver Level		REQUIRED		7/1/2010
>50,000 sq.ft.- new or remodel		Min LEED Gold Level	REQUIRED		7/1/2010

**Considered Phasing of Sustainability Requirements and Incentives
July 1, 2010 Implementation**

Multi-Family Residential					
THRESHOLD	STANDARD		REQ'D OR ENC'D?	INCENTIVES	EFFECTIVE DATE
	Basic	Advanced			
Additions or Renovations to Multi-family	B.I.G .Checklist		REQUIRED		7/1/2010
3 or more units	B.I.G .Checklist with min 100 points		REQUIRED		7/1/2010
3 or more units		B.I.G. Checklist with min 140 points (maximum level)	ENCOURAGED	Height exception or 5% bonus lot coverage	7/1/2010

Single-Family Residential & Duplex					
THRESHOLD	STANDARD		REQ'D OR ENC'D?	INCENTIVES	EFFECTIVE DATE
	Basic	Advanced			
<1,500sq.ft. new home or addition	B.I.G .Checklist		REQUIRED		7/1/2010
>1,500sq.ft. new construction	B.I.G .Checklist with min 100 points (reviewed by certified rater)		REQUIRED		7/1/2010
>1,500sq.ft. new construction		B.I.G. Checklist with min 140 points (reviewed by certified rater)	ENCOURAGED	Bonus 5% lot coverage	7/1/2010

***Projects greater than 25,000 s.f. required USGBC Verification**

Considered Phasing of Sustainability Requirements and Incentives
January 1, 2012 Implementation

Private Commercial /Industrial/Office	THRESHOLD	STANDARD		REQ'D OR ENC'D?	INCENTIVES	EFFECTIVE DATE
		Basic	Advanced			
	500 - 5,000 sq ft new or remodel	Min LEED Silver Level, provide checklist		REQUIRED		1/1/2012
	>5,000 sq ft and <50,000 sq. ft. -new or remodel *		Min LEED Gold Level, provide 3 rd party approved checklist	REQUIRED		1/1/2012
	>5,000 sq ft and <50,000 sq. ft. -new or remodel *		Min. LEED Platinum Level, provide 3 rd party approved checklist	ENCOURAGED	10% Bonus F.A.R., additional building height	1/1/2012
	>50,000 sq.ft.- new or remodel *		Min. LEED Platinum Level, provide 3 rd party approved checklist	REQUIRED		1/1/2012

Public Facility	THRESHOLD	STANDARD		REQ'D OR ENC'D?	INCENTIVES	EFFECTIVE DATE
		Basic	Advanced			
	>5,000 sq ft and <50,000 sq. ft. - new or remodel	Min LEED Gold Level		REQUIRED		1/1/2012
	>50,000 sq.ft.- new or remodel		Min LEED Platinum Level	REQUIRED		1/1/2012

Considered Phasing of Sustainability Requirements and Incentives
January 1, 2012 Implementation

THRESHOLD	STANDARD		REQ'D OR ENC'D?	INCENTIVES	EFFECTIVE DATE
	Basic	Advanced			
Multi-Family Residential					
Additions or Renovations to Multi-family	B.I.G .Checklist		REQUIRED		1/1/2012
3 or more units	B.I.G .Checklist with min 100 points		REQUIRED		1/1/2012
3 or more units		B.I.G. Checklist with min 140 points (maximum level)	REQUIRED		1/1/2012

THRESHOLD	STANDARD		REQ'D OR ENC'D?	INCENTIVES	EFFECTIVE DATE
	Basic	Advanced			
Single-Family Residential & Duplex					
<1,500sq.ft. new home or addition	B.I.G .Checklist		REQUIRED		1/1/2012
>1,500sq.ft. new construction	B.I.G .Checklist with min 100 points (reviewed by certified rater)		REQUIRED		1/1/2012
>1,500sq.ft. new construction		B.I.G. Checklist with min 140 points (reviewed by certified rater)	REQUIRED		1/1/2012

*Projects greater than 25,000 s.f. required USGBC Verification

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE ADOPTING THE GREEN BUILDING TABLES AS COUNCIL POLICY AS PART OF TITLE 19 OF THE MUNICIPAL CODE

WHEREAS, on August 27, 2008, the City Council directed staff to develop sustainable building guidelines to adopt for new construction, remodels and additions to buildings in the City; and

WHEREAS, the Green Building Tables will provide current requirements for building construction throughout the City; and

WHEREAS, the Green Building Tables will include multiple phases of adoption in order to remain current; and

WHEREAS, the Green Building Tables will be an integral part of shaping an improved future for development of property throughout the City of Sunnyvale, meeting the City's goals of sustainability;

WHEREAS, the Green Building Tables will be reviewed approximately every 18 months to consider implementation of the next phase; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT the City Council of the City of Sunnyvale adopts the Phase 1 and Phase 1C Green Building Tables (Exhibit A) to be effective January 1, 2010, and directs staff to apply the requirements listed in the Green Building Tables to all building construction (as appropriate) in the City of Sunnyvale.

Adopted by the City Council at a regular meeting held on _____, 2009, by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor

APPROVED AS TO FORM AND LEGALITY:

David Kahn, City Attorney



PLANNING DIVISION
CITY OF SUNNYVALE
P.O. BOX 3707
SUNNYVALE, CALIFORNIA 94088-3707

File Number: 2007-0346
No. 09-03

ATTACHMENT F
Page 1 of 20

**NOTICE OF INTENT TO ADOPT
NEGATIVE DECLARATION**

This form is provided as a notification of an intent to adopt a Negative Declaration which has been prepared in compliance with the provisions of the California Environmental Quality Act of 1970, as amended, and Resolution #193-86.

PROJECT TITLE:

Application for an **Amendment to Title 19** by **City of Sunnyvale**.

PROJECT DESCRIPTION AND LOCATION (APN):

2007-0346 - City of Sunnyvale [Applicant]: Amendments to Title 19 to implement the City-wide Green Building Policies. These changes implement the policies adopted by the City Council on August 26, 2008.
AM

In August 2008, the City adopted a framework of sustainability for all development within the City. The framework included long-range, educational, and financial efforts to promote sustainability throughout the City. As part of that framework, the City undertook the task of development. The ordinance will include new administrative Process for reviewing development to ensure specific levels of LEED and/or GreenPoint Rated levels are met based on the scale or type of development. Incentives that include increased floor area ratio, building height and density bonuses in exchange for projects with exception green building design. There is no construction related to this project therefore no physical changes to the environment result. As a result of the adopted ordinance, subsequent projects may request increased levels of building height, floor area ratio and density provided that higher levels of environmental design, construction and protection, are incorporated and demonstrated.

WHERE TO VIEW THIS DOCUMENT:

The **Negative Declaration**, its supporting documentation and details relating to the project are on file and available for review and comment in the Office of the Secretary of the Planning Commission, City Hall, 456 West Olive Avenue, Sunnyvale.

This **Negative Declaration** may be protested in writing by any person prior to 5:00 p.m. on **Tuesday March 24, 2009**. Protest shall be filed in the Department of Community Development, 456 W. Olive Avenue, Sunnyvale and shall include a written statement specifying anticipated environmental effects which may be significant. A protest of a **Negative Declaration** will be considered by the adopting authority, whose action on the protest may be appealed.

HEARING INFORMATION:

A public hearing on the project is scheduled for:

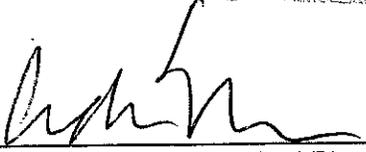
Monday, March 9, 2009 at 8:00 p.m. and **Tuesday, March 24, 2009** at 7 p.m. in the Council Chambers, City Hall, 456 West Olive Avenue, Sunnyvale.

TOXIC SITE INFORMATION:

(No) listed toxic sites are present at the project location.

Circulated On February 5, 2009

Signed: _____


Andrew Miner, Principal Planner

INITIAL STUDY
 City of Sunnyvale
 Department of Community Development
 Planning Division
 P.O. Box 3707
 Sunnyvale, CA 94088-3707

Project #: 2007-0346 Project Address: City-wide Applicant: City of Sunnyvale

1. Project Title: Green Building Ordinance
2. Lead Agency Name and Address: City of Sunnyvale, Community Development Department, Planning Division
3. Contact Person and Phone Number: Ryan M. Kuchenig, Associate Planner (408) 730-7431
4. Project Location: 456 W. Olive Avenue
Sunnyvale, CA, 94088
5. Project Sponsor's Name and Address: City of Sunnyvale
P.O. Box 3707, Sunnyvale, CA 94088-3707
6. General Plan Designation: City-wide
7. Zoning: City-wide
8. Description of the Project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. (Attach additional sheets if necessary))

In August 2008, the City adopted a framework of sustainability for all development within the City. The framework included long-range, educational, and financial efforts to promote sustainability throughout the City. As part of that framework, the City undertook the task of developing an ordinance that included new green building requirements and incentives for private development. The ordinance will include new administrative process for reviewing development to ensure specific levels of LEED and/or GreenPoint Rated levels are met based on the scale or type of development. Incentives that include increased floor area ratio, building height and density bonuses in exchange for projects with exception green building design. There is no construction related to this project therefore no physical changes to the environment result. As a result of the adopted ordinance, subsequent projects may request increased levels of building height, floor area ratio and density provided that higher levels of environmental design, construction and protection, are incorporated and demonstrated.

9. Surrounding Land Uses and Setting: (Briefly describe the project's surroundings) This study pertains to all land use development in the City, including residential and non-residential construction with the exception of development in the Moffett Park Specific Plan.
10. Other public agencies whose approval is required (e.g. permits, financing approval, or participation agreement). None

ENVIRONMENTAL CHECKLIST REFERENCE LIST

Note: All references are for the most recent version, as of the date the Initial Study was prepared.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|---|--|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Agricultural Resources | <input type="checkbox"/> Hydrology/Water Quality | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Air Quality | <input type="checkbox"/> Land Use/Planning | <input type="checkbox"/> Transportation/Traffic |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Utilities/Service Systems |
| <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Noise | <input type="checkbox"/> Mandatory Findings of Significance |
| <input type="checkbox"/> Geology/Soils | <input type="checkbox"/> Population/Housing | |

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

I find that the proposed project MAY have a "potential significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature  Date 2/25/09

Printed Name: ANDREW MINER For: City of Sunnyvale

ENVIRONMENTAL CHECKLIST REFERENCE LIST

Note: All references are for the most recent version, as of the date the Initial Study was prepared.

EVALUATION OF ENVIRONMENTAL IMPACTS

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g. the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g. the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Potentially Significant Unless Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section 17, "Earlier Analysis," may be cross-referenced).
- 5) Earlier analysis may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063 (c) (3) (d). In this case, a brief discussion should identify the following:
 - a. Earlier Analysis Used. Identify and state where they are available for review.
 - b. Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c. Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g. general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
- 9) The analysis of each issue should identify: (a) the significance criteria or threshold used to evaluate each question; and (b) the mitigation measure identified, if any, to reduce the impact to less than significance.

ENVIRONMENTAL CHECKLIST REFERENCE LIST

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Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Source
I. AESTHETICS. Would the project:					
a. Have a substantial adverse effect on a scenic vista?	0	0	X	0	2,17
b. Substantially damage scenic resources, including, but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?	0	0	0	X	2,17
c. Substantially degrade the existing visual character or quality of the site and its surroundings?	0	0	X	0	2,17
d. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	0	0	0	X	2,17
II. AIR QUALITY: Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:					
a. Conflict with or obstruct implementation of the applicable air quality plan?	0	0	0	X	3
b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation.	0	0	0	X	3
c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	0	0	0	X	3
d. Expose sensitive receptors to substantial pollutant concentrations?	0	0	0	X	3
e. Create objectionable odors affecting a substantial number of people?	0	0	0	X	3

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Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Source
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III. BIOLOGICAL RESOURCES:

a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U. S. Fish and Wildlife Service?	0	0	0	X	111
b. Have a substantially adverse impact on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S Wildlife Service?	0	0	0	X	111
<i>Storm Water Runoff Guidance:</i>					
Include aquatic and wetland habitats as part of the sensitive habitat review. Also evaluate adverse changes to sensitive habitats that favor the development of mosquitoes and other biting flies that may pose a threat to public health. Aquatic and wetland habitats such as those found near Stevens Creek, Calabazas Creek, Sunnyvale East Channel, Sunnyvale West Channel, El Camino Channel, Moffett Channel, Guadalupe Slough and the Baylands are considered sensitive habitat areas.					
c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	0	0	0	X	111
d. Interfere substantially with the movement of any resident or migratory fish or wildlife species or with established native resident migratory wildlife corridors, or impede the use of native wildlife nursery sites?	0	0	0	X	111
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	0	0	0	X	111

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Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Source
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservation Community Plan, other approved local, regional, or state habitat conservation plan?	0	0	0	X	111
IV. CULTURAL RESOURCES. Would the project:					
a. Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?	0	0	0	X	111
b. Cause a substantial adverse change in the significance of an archaeological resources pursuant to Section 15064.5?	0	0	0	X	111
c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	0	0	0	X	111
d. Disturb any human remains, including those interred outside of formal cemeteries?	0	0	0	X	111
V. LAND USE AND PLANNING. Would the project:					
a. Physically divide an established community?	0	0	0	X	111
b. Conflict with an applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	0	0	0	X	111
c. Conflict with any applicable habitat conservation plan or natural communities conservation plan?	0	0	0	X	17
VI. MINERAL RESOURCES. Would the project:					
a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	0	0	0	X	19
b. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	0	0	0	X	19

ENVIRONMENTAL CHECKLIST REFERENCE LIST

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Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Source
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VII. NOISE. Would the project result in:

a. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	θ	θ	θ	X	16
b. Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	θ	θ	θ	X	16
c. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	θ	θ	θ	X	16
d. A substantially temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	θ	θ	θ	X	16

VIII. POPULATION AND HOUSING. Would the project:

a. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	θ	θ	X	θ	See discussion
b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	θ	θ	θ	X	111
c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	θ	θ	θ	X	111

IX. PUBLIC SERVICES. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered government facilities, need for new or physically altered government facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

a. Parks?	θ	θ	θ	X	111
b. Fire protection?	θ	θ	θ	X	111
c. Schools?	θ	θ	θ	X	111

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d. Other public facilities?	0	0	0	X	111
e. Police protection?	0	0	0	X	111
X. MANDATORY FINDINGS OF SIGNIFICANCE					
a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	0	0	0	X	111
b. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of the past projects, the effects of other current projects, and the effects of probable future projects)?	0	0	0	X	111
c. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	0	0	0	X	111
XI. GEOLOGY AND SOILS. Would the project:					
a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death involving:					
(i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	0	0	0	X	UBC, UPC, UMC, NEC
(ii) Strong seismic ground shaking?	0	0	0	X	UBC, UPC, UMC, NEC

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Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Source
(iii) Seismic-related ground failure, including liquefaction?	θ	θ	θ	X	UBC, UPC, UMC, NEC
(iv) Landslides?	θ	θ	θ	X	UBC, UPC, UMC, NEC
b. Result in substantial soil erosion or the loss of topsoil?	θ	θ	θ	X	UBC, UPC, UMC, NEC
c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	θ	θ	θ	X	UBC, UPC, UMC, NEC
d. Be located on expansive soil, as defined in Table 18-a-B of the Uniform Building Code (1994), creating substantial risks to life or property?	θ	θ	θ	X	UBC, UPC, UMC, NEC
e. Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	θ	θ	θ	X	UBC, UPC, UMC, NEC
XII. UTILITIES AND SERVICE SYSTEMS. Would the project:					
a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	θ	θ	θ	X	20, 111
b. Require or result in construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	θ	θ	θ	X	20, 111
c. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	θ	θ	θ	X	20, 111
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	θ	θ	θ	X	20, 111

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Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Source
e. Result in a determination by the wastewater treatment provider that services or may serve the project determined that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	0	0	0	X	20, 111
f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	0	0	0	X	22
g. Comply with federal, state, and local statutes and regulations related to solid waste?	0	0	0	X	22
XIII. TRANSPORTATION/TRAFFIC. Would the project:					
a. Cause an increase in the traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	0	0	X	0	See discussion
b. Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	0	0	X	0	See discussion 111
c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	0	0	0	X	111
d. Substantially increase hazards to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?	0	0	0	X	111
e. Result in inadequate emergency access?	0	0	0	X	111
f. Result in inadequate parking capacity?	0	0	0	X	12
g. Conflict with adopted policies or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	0	0	0	X	

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Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Source
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XIV. HAZARDS AND HAZARDOUS MATERIALS. Would the project?

a. Create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials?	0	0	0	X	UFC, UBC, SVM C
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the likely release of hazardous materials into the environment?	0	0	0	X	UFC, UBC, SVM C
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	0	0	0	X	UFC, UBC, SVM C
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result would it create a significant hazard to the public or the environment?	0	0	0	X	UFC, UBC, SVM C
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	0	0	0	X	UFC, UBC, SVM C
f. Impair implementation of, or physically interfere with an adopted emergency response plan or emergency evacuation plan?	0	0	0	X	UFC, UBC, SVM C
g. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	0	0	0	X	UFC, UBC, SVM C

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Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Source
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XV. RECREATION

a. Would the project increase the use of existing neighborhood or regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	θ	θ	θ	X	13
b. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	θ	θ	θ	X	13

XVI. AGRICULTURE RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project?

a. Convert Prime Farmland, Unique Farmland or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency to non-agricultural use?	θ	θ	θ	X	2,111
b. Conflict with existing zoning for agricultural use, or a Williamson Act contract?	θ	θ	θ	X	2,111
c. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	θ	θ	θ	X	2,111

XVII. HYDROLOGY AND WATER QUALITY. Would the project?

a. Violate any water quality standards or waste discharge requirements?	θ	θ	θ	X	24, 87
(i) Is the project tributary to an already impaired water body, as listed on the Clean Water Act Section 303(d) list? If so, will it result in an increase in any pollutant for which the water body is already impaired?	θ	θ	θ	X	24,87

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Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Source
(ii) Will the proposed project cause or contribute to an exceedance of applicable surface or groundwater receiving water quality objectives or degradation of beneficial uses? <i>Storm Water Runoff Guidance:</i> For example, projects that could increase pollutant discharges such as mercury, copper, nickel, sediment, organophosphate pesticides, PCBs, or other listed contaminants will need to address those impacts. Beneficial uses for Sunnyvale water bodies may include Cold Freshwater Habitat (e.g., Stevens Creek), Estuarine Habitat (e.g., Guadalupe Slough, north portions of Sunnyvale East and West Channels), Groundwater Recharge (e.g., Calabazas Creek and Stevens Creek), Preservation of Rare or Endangered Species (e.g., Stevens Creek, Baylands), Warm Freshwater Habitats and Wildlife Habitat (e.g., Sunnyvale East and West Channels).	0	0	0	X	24, 87
b. Substantially degrade groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	0	0	0	X	25

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Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Source
<p>c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?</p> <p><i>Storm Water Runoff Guidance:</i> Evaluation of a project's effect on drainage patterns should refer to the final approved SCVURPPP Hydromodification Management Plan (HMP) where applicable, to assess the significance of altering existing drainage patterns and to develop any mitigation measures. The evaluation of hydromodification effects should also consider any potential for streambed or bank erosion downstream from the project. Areas that may be impacted within Sunnyvale include the storm water drainage area into Stevens Creek and the southern reach of Calabazas Creek between Homestead Road and Lawrence Expressway. Areas that drain into Sunnyvale East and West Channels and El Camino Channel have been proposed to be exempt from HMP requirements since they are artificial channels and the northern portions of Sunnyvale East and West Channels are under tidal influence.</p>	0	0	0	X	24
<p>d. Create or contribute runoff which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?</p>	0	0	0	X	24
<p>(i.) Will the proposed project result in increased impervious surfaces and associated increased runoff?</p>	0	0	0	X	24
<p>(ii.) If so, does the project meet the NPDES permit's Group 1 or Group 2 criteria?</p>	0	0	0	X	24
<p><i>Storm Water Runoff Guidance:</i> If applicable, document Best Management Practices in fulfillment of Provision C.3 requirements as CEQA mitigation measures.</p>					

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e. Otherwise substantially degrade water quality?	0	0	0	X	24
(i.) Would the proposed project result in an increase in pollutant discharges to receiving waters?	0	0	0	X	24
<i>Storm Water Runoff Guidance:</i>					
Consider water quality parameters such as temperature, dissolved oxygen, turbidity and other typical storm water pollutants (e.g., heavy metals, pathogens, petroleum derivatives, synthetic organics, sediment, nutrients, oxygen-demanding substances, and trash).					
(ii.) Does the project have the potential to result in a significant impact to surface water quality, marine, fresh, or wetland waters, or to groundwater quality?	0	0	0	X	24
(iii.) Will the project result in avoiding creation of mosquito larval sources that would subsequently require chemical treatment to protect human and animal health?	0	0	0	X	24
f. Place housing within a 100-year floodplain, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	0	0	0	X	24
g. Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	0	0	0	X	111 56
h. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	0	0	0	X	56
i. Inundation by seiche, tsunami, or mudflow?	0	0	0	X	

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DISCUSSION OF IMPACTS THAT ARE LESS THAN SIGNIFICANT

1 a. & c. Aesthetics The proposed ordinance will not result in any aesthetic impacts to the built environment; however, subsequent projects that request increased building height in substitute for exceptional sustainable building design may exceed the applicable zoning standards. Each project will be evaluated individually to determine impacts to neighboring uses and further environmental review will be undertaken.

8) a. Population and Housing Subsequent projects that request incentives for density bonuses which enable current density levels under the applicable zoning district to be exceeded, will be evaluated on a case by case basis. Traffic and parking analysis will be undertaken to determine any possible impacts to the surrounding environment and possible mitigation measures could be required.

13) a. & b. Transportation and Traffic The new ordinance implements green building requirements, which include aspects that will reduce impacts to the environment, specifically traffic. The new regulations require projects include aspects of sustainability, specifically transportation demand management programs that would reduce traffic impacts. Also, each subsequent project that must adhere to the adopted ordinance or requests incentives will be evaluated on a case by case basis to determine possible traffic issues that could result from a particular assembly use. Subsequent traffic analysis and possible traffic demand management plans may be required to determine possible over-concentration issues that could result.

Completed By:



Date:

2/6/09

ENVIRONMENTAL CHECKLIST REFERENCE LIST

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City of Sunnyvale General Plan:

1. Map
2. Air Quality Sub-Element
3. Community Design Sub-Element
4. Community Participation Sub-Element
5. Cultural Arts Sub-Element
6. Executive Summary
7. Fire Services Sub-Element
8. Fiscal Sub-Element
9. Heritage Preservation Sub-Element
10. Housing & Community Revitalization Sub-Element
11. Land Use & Transportation Sub-Element
12. Law Enforcement Sub-Element
13. Legislative Management Sub-Element
14. Library Sub-Element
15. Noise Sub-Element
16. Open Space Sub-Element.
17. Recreation Sub-Element
18. Safety & Seismic Safety Sub-Element
19. Sanitary Sewer System Sub-Element
20. Socio-Economic Sub-Element
21. Solid Waste Management Sub-Element
22. Support Services Sub-Element
23. Surface Run-off Sub-Element
24. Water Resources Sub-Element

City of Sunnyvale Municipal Code:

25. Chapter 10
26. Chapter 12.60 Storm Water Management
27. Chapter 19.18. Residential Zoning Districts
28. Chapter 19.20. Commercial Zoning Districts
29. Chapter 19.22. Industrial Zoning Districts
30. Chapter 19.24. Office Zoning Districts
31. Chapter 19.26. Combining Zoning Districts
32. Chapter 19.28. Downtown Specific Plan
33. Chapter 19.42. Operating Standards
34. Chapter 19.46. Off-Street Parking & Loading
35. Chapter 19.56. Solar Access
36. Chapter 19.66. Affordable Housing
37. Chapter 19.72. Conversion of Mobile Home Parks to Other Uses
38. Chapter 19.94. Tree Preservation
39. Chapter 19.96. Heritage Preservation

Specific Plans:

40. Downtown Specific Plan (SMC 19.28)
41. El Camino Real Precise Plan
42. Lockheed Site Master Use Permit
43. Moffett Field Comprehensive Use Plan
44. 101 & Lawrence Site Specific Plan
45. Southern Pacific Corridor Plan

Environmental Impact Reports:

46. Futures Study Environmental Impact Report
47. Lockheed Site Master Use Permit Environmental Impact Report
48. Tasman Corridor LRT Environmental Impact Study (supplemental)
49. Kaiser Permanente Medical Center Replacement Center Environmental Impact Report (City of Santa Clara)
50. Downtown Development Program Environmental Impact Report
51. Caribbean-Moffett Park Environmental Impact Report
52. Southern Pacific Corridor Plan Environmental Impact Report

Maps:

53. Zoning Map
54. City of Sunnyvale Aerial Maps
55. Flood Insurance Rate Maps (FEMA)
56. Santa Clara County Assessors Parcel
57. Utility Maps (50 scale)

Lists / Inventories:

58. Sunnyvale Cultural Resources Inventory List
59. Heritage Landmark Designation List
60. Santa Clara County Heritage Resource Inventory
61. Hazardous Waste & Substances Sites List (State of California)
62. List of Known Contaminants in Sunnyvale

Legislation / Acts / Bills / Codes:

63. Subdivision Map Act

Note: All references are the most recent version as of the date the initial Study was prepared:

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| <p>64. Uniform Fire Code, including amendments per SMC adoption</p> <p>65. National Fire Code (National Fire Protection Association)</p> <p>66. Title 19 California Administrative Code</p> <p>67. California Assembly Bill 2185 / 2187 (Waters Bill)</p> <p>68. California Assembly Bill 3777 (La Follette Bill)</p> <p>69. Superfund Amendments & Reauthorization Act (SARA) Title III</p> <p>Transportation:</p> <p>70. California Department of Transportation Highway Design Manual</p> <p>71. California Department of Transportation Traffic Manual</p> <p>72. California Department of Transportation Standard Plan</p> <p>73. California Department of Transportation Standard Specification</p> <p>74. Institute of Transportation Engineers - Trip Generation</p> <p>75. Institute of Transportation Engineers Transportation and Traffic Engineering Handbook</p> <p>76. U.S. Dept. of Transportation Federal Highway Admin. Manual on Uniform Traffic Control Devices for Street and Highways</p> <p>77. California Vehicle Code</p> <p>78. Traffic Engineering Theory & Practice by L. J. Pegnataro</p> <p>79. Santa Clara County Congestion Management Program and Technical Guidelines</p> <p>80. Santa Clara County Transportation Agency Short Range Transit Plan</p> <p>81. Santa Clara County Transportation Plan</p> <p>82. Traffic Volume Studies, City of Sunnyvale Public works Department of Traffic Engineering Division</p> <p>83. Santa Clara County Sub-Regional Deficiency Plan</p> <p>84. Bicycle Plan</p> <p>Public Works:</p> <p>85. Standard Specifications and Details of the Department of Public Works</p> | <p>86. Storm Drain Master Plan</p> <p>87. Sanitary Sewer Master Plan</p> <p>88. Water Master Plan</p> <p>89. Solid Waste Management Plan of Santa Clara County</p> <p>90. Geotechnical Investigation Reports</p> <p>91. Engineering Division Project Files</p> <p>92. Subdivision and Parcel Map Files</p> <p>Miscellaneous:</p> <p>93. Field Inspection</p> <p>94. Environmental Information Form</p> <p>95. Annual Summary of Containment Excesses (BAAQMD)</p> <p>96. Current Air Quality Data</p> <p>97. Chemical Emergency Preparedness Program (EPA) Interim Document in 1985?)</p> <p>98. Association of Bay Area Governments (ABAG) Population Projections</p> <p>99. Bay Area Clean Air Plan</p> <p>100. City-wide Design Guidelines</p> <p>101. Industrial Design Guidelines</p> <p>Building Safety:</p> <p>102. Uniform Building Code, Volume 1, (Including the California Building Code, Volume 1)</p> <p>103. Uniform Building Code, Volume 2, (Including the California Building Code, Volume 2)</p> <p>104. Uniform Plumbing Code, (Including the California Plumbing Code)</p> <p>105. Uniform Mechanical Code, (Including the California Mechanical Code)</p> <p>106. National Electrical Code (Including California Electrical Code)</p> <p>107. Title 16 of the Sunnyvale Municipal Code</p> <p>Additional References:</p> <p>108. USFWS / CA Dept. F&G Special Status Lists</p> <p>109. Project Traffic Impact Analysis</p> <p>110. Project Description</p> <p>111. Project Development Plans</p> <p>112. Santa Clara County Airport Land Use Plan</p> <p>113. Federal Aviation Administration</p> <p>114. Site Map</p> |
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