



**Draft for Planning Commission Review  
on August 22, 2011**

**Council Meeting: September 13, 2011**

**SUBJECT: 2011-7543 – Resolutions to Update the City-wide Green Building Tables and to Amend the Moffett Park Specific Plan Regarding Green Building Requirements**

**REPORT IN BRIEF**

The City implemented a Green Building Program as part of the Moffett Park Specific Plan (MPSP) in 2004. A citywide Green Building Program was adopted in 2009 and became effective on January 1, 2010. The state mandated CALGreen Building Code took effect on January 1, 2011.

In 2009 and 2010 the country experienced a severe economic downturn. In the Silicon Valley area there has been improvement to the economy, however there is still much evidence that the area is still in recovery (e.g. reduced land values, high unemployment). Green building mandates add to the cost of development.

As part of the city's 2009 Green Building Program, staff will return to Council approximately every 18 months to review the green building tables for possible implementation of a new phase. After 18 months of experience with the program, it is clear that some aspects are working as hoped, and some aspects are not clear. Staff is recommending that the City Council adopt the attached resolutions regarding the green building tables and MPSP (Attachments A and B) to include:

**Non-residential:**

- Condense the number of building size categories from three to two (less than 5,000 square feet and greater than 5,000 square feet);
- Increase the green building requirements necessary to benefit from the green building incentive - specifically require LEED Gold certification to gain 10% additional floor area ratio (FAR);
- Clarify that incentives for density bonuses will not result in development that exceeds the planned growth in the General Plan or MPSP; and
- Provide clarifying language that the MPSP is formally amended to allow an additional density bonus for projects using the green building incentives (i.e. maximum 60% or 80% FAR).

**Residential:**

- For residential projects, maintain the same mandatory thresholds and green building levels;

- Require verification of mandatory requirements for multi-family development by a GreenPoint Rater.

Public Facility:

- For City of Sunnyvale projects, maintain the same mandatory thresholds and green building levels

The proposed changes would take effect October 1, 2011. Staff recommends returning to Council in 18 months (March 2013) to review the provisions for the third phase of the Green Building Program.

**BACKGROUND**

In 2004, the Council adopted the Moffett Park Specific Plan. The plan incentivizes the development of Class A office buildings through a streamlined review process subject to the provision of green buildings. The Plan acknowledges that the LEED standard may need to be changed over time to achieve the city's vision of a more sustainable and energy efficient community.

In March 2009, the City Council approved a citywide Green Building Program that became effective January 1, 2010. The adopted ordinance sets up a framework for residential and non-residential projects that could be modified over time to require higher levels of "green" achievement. This framework is accomplished with a resolution that specifies the green standards and incentives for new construction as well as additions and alterations.

Action establishing the citywide Green Building Program affected the already existing minimum green building requirements in Moffett Park (also effective on January 1, 2010). The MPSP was modified (by resolution) at that time to indicate that new standards and incentives apply.

On January 1, 2011 the statewide CALGreen Building Code took effect for residential and non-residential projects. Staff administratively adjusted the tables in the informational handouts to reflect the minimum requirements to comply with the City's Green Building Program and the CALGreen Code.

As part of the Green Building Program, staff is scheduled to return to Council approximately every 18 months to determine if updates are needed. During the first 18 months of the program the economy was weak and few projects were submitted that attempted any of the incentives. In recent months, however those incentives have been an active force and complement the city's economic development efforts in attracting new businesses to Sunnyvale. In the past several months, several major companies/property owners have indicated that this incentive program is a valuable tool in their efforts to grow and to attract tenants to the city.

To date, there has been no residential project that has taken advantage of or expressed interest in the green building incentives. For the most part, the first 18 months of the program has been an educational experience for homeowners and residential developers. Many of green building options anticipated to be used by homeowners in voluntary ways have been incorporated as part of the state-mandated CALGreen program.

## **EXISTING POLICY**

### **Community Vision Statement**

A regional leader in environmental sustainability ... advocating to reduce dependence on non-renewable resources by providing greater transportation options, reducing waste, protecting our natural resources, and promoting alternative energy usage and research. We take environmental preservation and protection seriously and consider how each action will affect Sunnyvale for future generations.

**Community Vision Goal III. Environmental Sustainability:** To promote environmental sustainability and remediation in the planning and development of the City, in the design and operation of public and private buildings, in the transportation system, in the use of potable water and in the recycling of waste.

### **Green Building Requirements (Title 19)**

#### **19.30.030**

- (h) 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.

### **Moffett Park Specific Plan (MPSP)**

The adoption of the current Green Building Program included related amendments to the MPSP for consistency with the citywide ordinance. As part of the Council's requested review of the program after 18 months in practice, staff is suggesting a further amendment to the MPSP to clarify the application of the Green Building Program on projects located in the MPSP area.

## **DISCUSSION**

### **Green Building Program**

The Green Building tables include graduated requirements based on the size of a project. Although most projects have a requirement to comply with the program, smaller projects are exempt or need only to provide a completed checklist and not actually implement the green measures. For residential projects especially, this approach has been used to educate the public about green measures and to influence their development decisions through this education. The minimum required green effort increases with larger projects and includes voluntary incentives for higher levels of “Green.”

Staff has taken several actions to assist homeowners, designers, and design professionals in achieving the Green Building Program requirements as well as the CALGreen requirements:

- A website with information and links to resources at:  
[www.GreenBuilding.inSunnyvale.com](http://www.GreenBuilding.inSunnyvale.com);
- Informational brochures and FAQs on the Green Building Program;
- Prescriptive checklists that provide applicants with pre-selected items that, if used, will ensure compliance with the green building requirements.

Currently, the green building tables list non-residential projects greater than 5,000 square feet in two ways. Projects between 5,000 and 50,000 square feet have lesser requirements than projects over 50,000 square feet in size. In practice, staff has seen no differences shown between large and small projects in meeting the requirements.

### **Incentives**

The Green Building Program currently allows increased development through an incentive program, generally:

- 1) additional 10% FAR over the allowable non-residential zoning standard or 5% density bonus for multi-family residential projects;  
OR
- 2) additional 10 ft. height for non-residential and 5 ft. height for multi-family residential, OR
- 3) additional 5% lot coverage for residential projects.

This additional development can be reviewed at a staff level, or may require Planning Commission review. Significant changes may require environmental analysis to assure no site-specific significant negative impacts are being created. In 2009, a Negative Declaration (ND) was adopted as part of the Green Building Program. The ND discussed the general environmental benefit of the program and acknowledged that individual projects would still be subject to project specific environmental review. One aspect of the Green Building

ordinance requires projects taking advantage of the increased density incentives to prepare a Transportation Demand Management program to reduce the number of trips to no more than would be permitted by the standard zoning levels.

In the Moffett Park area, the density bonus incentive is subject to Planning Commission design review and includes only bonus FAR as the incentive (15% or 20% depending on zoning).

Currently several projects are pending in the Moffett Park area where the property owner is interested in the maximum green building incentive. To date, no residential project has taken advantage of an incentive.

### **Consistency with the General Plan**

One aspect of the program that was not fully discussed in March 2009 was assurance on how additional development allowed through the incentive program is consistent with the planned growth in the General Plan and MPSP. Although not formally adopted by City Council, staff would subtract any incentive-based development from the citywide development pool (established in 1999) and the Moffett Park Specific Plan development reserve (established in 2003). This approach assures that development is within the planned capacity for land uses in the city. Staff is recommending formally adopting these provisions to clarify the original intent.

### **Possible Changes to the Green Building Tables**

#### Residential

No significant changes are recommended for residential projects. The State mandated CALGreen program has been in place since January 2011, which requires green building elements. No residential application has included an incentive request. It appears that homeowners are more affected by the downturn in the financial markets regarding money available for new homes and remodels. This has made it more difficult for them to include more expensive green building elements as part of their applications. Staff is recommending one change: that Multi-family developments of three or more units require verification by a GreenPoint Rater (rather than a staff review).

#### Non-Residential

For non-residential projects, it is necessary to amend requirements to make the program clearer, and to ensure consistency with the MPSP. Currently, the Phase 1 Table (all areas except Moffett Park) provides for a 10% FAR bonus (for the largest category of buildings) by meeting either the Design Intent of LEED Gold or formal United State Green Building Council (USGBC) certification at the LEED Silver level. The Moffett Park Specific Plan Table (Phase 1C Table) provides a 15% FAR or 20% FAR density bonus with the same requirement as Phase 1 (meeting the Design Intent of LEED Gold or formal USGBC certification

at the LEED Silver level). The intent of the two tables was that the MPSP area was eligible for an *additional* incentive of 10% (per the Phase 1 Table); however this was not adequately reflected in the tables.

Staff is recommending modifying the tables in the following ways (see Attachment C for a comparison):

- Merge Tables 1 and 1C so all information is on one table;
- Provide two levels of non-residential projects: less than, or equal to 5,000 square feet in size, and over 5,000 square feet;
- Decrease the threshold for the minimum size major alteration projects to 5,000 s.f. (from 10,000);
- For all non-residential projects outside Moffett Park:
  - Projects over 5,000 square feet would require a LEED **checklist** with minimum **Silver** level.
  - A 10% FAR or 10 foot height increase can be allowed if the project is **certified** by the USGBC at a minimum **Gold** level.
- In Moffett Park, the requirements would be:
  - Projects over 5,000 square feet would require a LEED **Checklist** with minimum **Silver** level (same as citywide standard).
  - Areas zoned MP-I would be allowed a 15% FAR increase, and areas zoned MP-TOD a 20% FAR increase with a LEED **Checklist** at a minimum **Gold** level. This would result in FAR of 50% for MP-I and 70% for MP-TOD.
  - In either zoning district, an additional 10% FAR can be allowed if the project is **certified** by the USGBC at a **Gold** level. This could result in a maximum FAR of 60% in MP-I and 80% in MP-TOD.

#### Public Facility

No new building construction or major building alterations of city facilities have occurred during the program. Staff is not recommending any changes to the public facility standards.

#### **Accomplishments**

In the first year of the program (2010) the volume of development applications was low. Since January 2011 the city has seen a healthy rise in building activity, however many of the projects were entitled prior to 2010 and already had building permits in the queue. It is during the building permit stage of a project that staff first sees compliance with the program. Although no projects have been approved that have taken advantage of the current Green Building incentive, two formal applications are pending in the Moffett Park area and inquiries have been received for about four other sites throughout the city. All these projects are office developments.

No residential projects have taken advantage of the incentive program. A prescriptive checklist assists residential applicants by identifying green elements to include in their projects that will comply with the City's Build It Green (BIG) standards; the checklist incorporates BIG requirements and CALGreen requirements.

### **ENVIRONMENTAL REVIEW**

The proposed amendments to the Green Building Tables and the Moffett Park Specific Plan have been determined to be exempt from environmental review based on the following findings:

- There is no increase in allowable square footage of building area as a result of the changes;
- The Moffett Park Specific Plan development reserve limits the total allowed square footage, and any incentive used must be within the levels set by that reserve.
- In the rest of the City, the development pool limits the amount of square footage allowed, and any incentive used must be within the levels set by that pool.
- A Negative Declaration was prepared for the 2009 green building ordinance and program, and the proposed changes do not exceed that contemplated by that negative declaration.

### **FISCAL IMPACT**

Implementation of the Green Building requirements created short fiscal impacts to provide training for staff and the public on the new requirements. Long-term fiscal impacts relate to the additional time needed to advise on and review green building elements for building and planning permits. These costs can be recovered through building and planning permit fees.

### **PUBLIC CONTACT**

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

Notices were sent to the Moffett Park Business Group, the Sunnyvale Chamber of Commerce, and architects and developers involved in development in Sunnyvale.

## **ALTERNATIVES**

1. Adopt the Resolutions in Attachment A and Attachment B to A) update the Green Building Tables and clarify that the incentives are consistent with planned General Plan growth and B) Amend the Moffett Park Specific Plan to clarify that development up to 80% FAR is allowed through the Green Building Program.
2. Modify and adopt the attached resolutions.
3. Take no action.

## **RECOMMENDATION**

Alternative 1: Adopt the attached Resolutions to A) update the Green Building Tables, and clarify that the incentives are consistent with planned General Plan growth and B) Amend the Moffett Park Specific Plan to clarify that development up to 80% FAR is allowed through the Green Building Program.

Staff is not recommending a significant increase in the green building standards at this time while the economy is recovering, but believes it may be appropriate to consider this when the Council reevaluates the program in 18 months. The adjustments in the thresholds will capture more projects and the requirement for LEED Gold with certification for the 10% density bonus will strengthen the program. The clarification provisions will assist the Council, staff, and community in applying the green principles within the planned capacity of the city.

Reviewed by:

Hanson Hom: Director, Community Development

Prepared by: Andrew Miner, Principal Planner and Trudi Ryan, Planning Officer

Approved by:

Gary M. Luebbbers  
City Manager

## **Attachments**

- A. Resolution to Update the Green Building Tables and Clarify that the incentives are consistent with planned General Plan growth (with Tables attached)
- B. Resolution Amending the Moffett Park Specific Plan to clarify that development up to 80% FAR is allowed through the Green Building Program
- C. Comparison of existing and proposed Green Building Tables

RESOLUTION NO. \_\_\_\_-11

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
SUNNYVALE TO UPDATE AND ADOPT THE GREEN  
BUILDING TABLES AND CLARIFY INCENTIVES**

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, on March 24, 2009, the City Council adopted Resolution 368-09, the Green Building Tables, which included a phased approach to full implementation of green building intent for building construction throughout the City; and

WHEREAS, the Green Building Tables were to be reviewed by the City Council after approximately 18 months to provide information on effectiveness of the policies and opportunity to refine its impacts; and

WHEREAS, the Green Building Tables attached hereto as Exhibit "A" 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.

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 Green Building Tables attached hereto as "Exhibit A" 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 \_\_\_\_\_, 2011, by the following vote:

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

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk  
(SEAL)

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
David Kahn, City Attorney

## Non-Residential Projects

NON-RESIDENTIAL			
Type of Project	Minimum Standard	Verification/Review Requirement	Voluntary Incentives
<b>New Construction and Initial Tenant Improvements</b>			
≤ 5,000 s.f.	CALGreen Mandatory Measures	Verified/Reviewed by City Staff	--
> 5,000 s.f. (excluding Moffett Park Specific Plan area)	CALGreen Mandatory Measures and LEED <b>Checklist</b> with <b>Silver</b> Level	Verification by LEED AP	Achieve LEED <b>Gold</b> Level with USGBC <b>certification</b> and the project can increase: 10% FAR OR 10 ft. height.
Moffett Park Specific Plan > 5,000 s.f.	CALGreen Mandatory Measures and LEED <b>Checklist</b> with <b>Silver</b> Level	Verification by LEED AP	Achieve LEED <b>Checklist Gold</b> Level and the project can increase: 15% FAR (MP-I) 20% FAR (MP-TOD) Achieve LEED <b>Gold</b> Level with USGBC <b>certification</b> and the project can increase: 10% FAR additional
<b>Major Alterations (structural, mechanical, plumbing, and electrical alterations)</b>			
5,000 - 50,000 s.f.	LEED Checklist: <i>no minimum points required</i>	Verified/Reviewed by City Staff	--
> 50,000 s.f.	LEED <b>Checklist:</b> <b>Certified</b> Level	Verification by LEED AP	--

PUBLIC FACILITY			
Type of Project	Minimum Standard	Verification/Review Requirement	Voluntary Incentives
<b>New Construction</b>			
500-5,000 s.f.	LEED Checklist	Verified/Reviewed by City Staff	--
>5,000 - 25,000 s.f.	LEED <b>Checklist:</b> <b>Certified</b> Level	Verification by LEED AP	--
>25,000 s.f.	LEED <b>Checklist:</b> <b>Silver</b> Level	Verification by LEED AP	--
<b>Major Alterations</b>			
>5,000 - 25,000 s.f.	LEED Checklist	Verification by LEED AP	--
>25,000 s.f.	LEED <b>Checklist:</b> <b>Certified</b> Level	Verification by LEED AP	--

## Residential Projects

SINGLE-FAMILY AND DUPLEX RESIDENTIAL			
Type of Project	Minimum Standard	Verification/Review Requirement	Voluntary Incentives
<b>New Construction</b>			
≤ 1,500 s.f.	CalGreen Mandatory Measures	Verified/Reviewed by City Staff	None
> 1,500 s.f.	GreenPoint Rated Checklist V4.2 or later: <b>70 points</b> minimum	Verified/Reviewed by City Staff	Achieve <b>100 points</b> with GreenPoint Rater verification and the project can increase: 5% lot coverage
<b>Residential Alterations to existing</b>			
Up to \$100,000 construction valuation*	None	N/A	None
> \$100,000 construction valuation*	GreenPoint Rated Checklist V4.2 or later: <b>no minimum points required</b>	Verified/Reviewed by City Staff	None

\*Valuation per square foot of construction is determined in the annually adopted fee resolution

MULTI-FAMILY RESIDENTIAL (including condominiums, townhouses and apartments)			
Type of Project	Minimum Standard	Verification/Review Requirement	Voluntary Incentives
<b>New Construction</b>			
3 or more units	Green Point Rated Checklist v2.2.1 or later: <b>70 points</b> minimum	Verification by GreenPoint Rater	Achieve <b>100 points</b> with GreenPoint Rater verification and the project can increase: 5% lot coverage, OR 5 ft. height OR 5% density
<b>Residential Alterations to existing</b>			
Up to \$250,000 construction valuation*	None	N/A	None
> \$250,000 construction valuation*	Green Point Rated Checklist v2.2.1 or later: <b>no minimum points required</b>	Verified/Reviewed by City Staff	None

\*Valuation per square foot of construction is determined in the annually adopted fee resolution

RESOLUTION NO. \_\_\_\_-11

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
SUNNYVALE AMENDING THE MOFFETT PARK  
SPECIFIC PLAN**

WHEREAS, the Moffett Park Specific Plan ("MPSP") was established on May 18, 2004, upon adoption of Resolution 111-04, and the Moffett Park Specific Plan Zoning District was established by enacting zoning Ordinance No. 2750-04; and

WHEREAS, modifications to the Zoning Code, including modifications to the Moffett Park Specific Plan Zoning District, were adopted by Ordinance No. 2894-09 on April 7, 2009, for the purpose of implementing 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, the Green Building Tables, adopted by separate Resolution and updated from time to time, apply to the Moffett Park Specific Plan area. The Green Building Tables provide incentives for the development of Class A office buildings and achieve higher levels of "green" building construction within the MPSP; and

WHEREAS, to achieve buildings with increased levels of LEED building through meeting, projects may receive an incentive of 15% FAR density bonus in the MP-I District and a 20% FAR density bonus in the MP-TOD District for the level of LEED achievement consistent with the Green Building Tables, and an additional incentive of 10% FAR in both districts if the project achieves a higher level of LEED consistent with the Green Building Tables; and

WHEREAS, the intent of this amendment is that any voluntary green building incentives shall not cause any change in the limits established for the total development in the Moffett Park Specific Plan area and that green building incentive amounts shall be deducted from the MPSP Development Reserve.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT the City Council of the City of Sunnyvale amends the Moffett Park Specific Plan to allow development on individual sites up to 80% Floor Area Ratio, to be effective immediately.

Adopted by the City Council at a regular meeting held on \_\_\_\_\_, 2011, by the following vote:

AYES:  
NOES:  
ABSTAIN: NONE  
ABSENT: NONE

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk  
(SEAL)

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM AND LEGALITY:

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David Kahn, City Attorney

**Existing Requirements**

NON-RESIDENTIAL			
Type of Project	Minimum Standard	Verification/Review	Incentives
<b>New Construction and Initial Tenant Improvements</b>			
0 - <500	None	None	None
500-5,000 s.f.	LEED Checklist: no minimum	City staff	None
> 5,000 - 50,000 s.f. (Except Moffett Park)	LEED Checklist with Certified level	LEED AP	LEED Checklist with Silver level: - 10% FAR OR - 10 ft. additional height
> 5,000 - 50,000 s.f. (Moffett Park)	"	"	LEED Checklist with Silver level: - 15% FAR (MP-I) - 20% FAR (MP-TOD)
> 50,000 s.f. (Except Moffett Park)	LEED Checklist with Silver level	LEED AP	LEED Checklist with Gold level: - 10% FAR OR - 10 ft. additional height
> 50,000 s.f. (Moffett Park)	"	"	LEED Checklist with Gold level: - 15% FAR (MP-I) - 20% FAR (MP-TOD)
<b>Major Alterations (structural, mechanical, plumbing, and electric)</b>			
0 - 5,000 s.f.	None	None	None
5,000 - 10,000 s.f.	None	None	None
10,000 - 50,000 s.f.	LEED Checklist: no minimum	City staff	—
> 50,000 s.f.	LEED Checklist: no minimum	City staff	—

**Proposed Requirements**

NON-RESIDENTIAL			
Type of Project	Minimum Standard	Verification/Review	Incentives
<b>New Construction and Initial Tenant Improvements</b>			
< 5,000 s.f.	CALGreen Mandatory Measures	City staff	None
> 5,000 s.f. (Except Moffett Park)	CALGreen Mandatory Measures and LEED Checklist with Silver level	LEED AP	LEED Gold level with USGBC Certification: - 10% FAR OR - 10 ft. additional height
> 5,000 s.f. (Moffett Park)	"	"	LEED Checklist with Gold level: - 15% FAR (MP-I) - 20% FAR (MP-TOD) LEED Gold level with USGBC Certification: 10% additional FAR
<b>Major Alterations (structural, mechanical, plumbing, and electric)</b>			
0 - 5,000 s.f.	None	None	None
5,000 - 50,000 s.f.	LEED Checklist: no minimum	City staff	—
> 50,000 s.f.	LEED Checklist: Certified Level	LEED AP	—

- Notes:**
- "Design Intent" same as "LEED Checklist"
  - Review by DCD same as "Verification by City staff"
  - Any applicant can get a project certified by USGBC, so "LEED/USGBC" was taken out of the new tables
  - CALGreen Mandatory Measures are recent additional building permit requirements that meet many of the LEED requirements
  - The existing two ranges of 5,000-50,000 sf and > 50,000 sf have been combined into one category of "5,000 sf and greater"