

MONTEREY COUNTY PLANNING COMMISSION

Meeting: July 25, 2012 Time: 9:00 A.M.	Agenda Item No.: 3
Project Description: Hold a Public Workshop to discuss proposed amendments to the Green Building Standards Code (Chapter 18.12 of the Monterey County Code) to implement the 2010 Monterey County General Plan, Policy OS-10.12, and provide direction to staff.	
Project Location: County-wide	APN: N/A
Planning File Number: REF110058	Owner: N/A Agent:
Planning Area: County-wide	Flagged and staked: N/A
Zoning Designation: : County-wide	
CEQA Action: This Workshop is Statutorily Exempt per 15262.	
Department: RMA – Planning Department and RMA – Building Department	

RECOMMENDATION:

Staff recommends that the Planning Commission hold a Public Workshop to discuss proposed amendments to the Green Building Standards Code (Chapter 18.12 of the Monterey County Code) to implement the 2010 Monterey County General Plan, Policy OS-10.12, and provide direction to staff.

PROJECT OVERVIEW:

The Green Building Ordinance update is required by the 2010 General Plan under Policy OS-10.12 and it is one of the energy efficiency ordinances being implemented under the Department of Energy (DOE), Energy Efficiency Conservation Block Grant (EECBG) program awarded to the County. Green building requirements were included in the General Plan Policy as a result of the evaluation and mitigation of Greenhouse Gas impacts in the Environmental Impact Report for the General Plan. The EECBG program specifically focuses on energy efficiency measures. The overlap comes as a result of energy generation and consumption being a major contributor to greenhouse gases. There are many other interrelated environmental benefits of green building techniques such as reducing water consumption, increasing the use of recycled materials and reducing construction waste at landfills.

The current Green Building Standards Code (Chapter 18.12 MCC) adopts a portion of the 2010 California Building Code (Title 24, Part 11 of the California Code of Regulations) commonly referred to as CALGreen. CALGreen is a state-wide building efficiency code with minimum mandatory measures and two tiers that achieve a greater level of efficiency. CALGreen Tiers 1 and 2 are currently optional. Chapter 18.12 of the Monterey County Code adopts the CALGreen mandatory requirements and provides incentives for voluntary compliance with Tiers 1 and 2. Incentives include providing priority service for Building Permit applications complying with Tier 1 standards and Priority Service and an incentive rebate in an amount to be determined by the Board of Supervisors (said amount has not yet been determined) for Building Permit applications complying with Tier 2 standards.

2010 General Plan, Chapter 3, Conservation and Open Space Element, Policy OS-10.12 requires the County to adopt a Green Building Ordinance that implements the following direction:

- All new County government projects and major renovations shall meet, at a minimum, LEED-Silver standards or an equivalent rating system;
- All new commercial buildings shall meet requirements of the LEED rating system for commercial buildings or an equivalent rating system;

- All new residential projects of 6 units or more shall meet the GreenPoint Rating System for residential buildings, or an equivalent alternate rating system;
- The County shall require consideration of solar building orientation, solar roofs, cool pavements, and planting of shade trees in development review of new commercial and industrial projects and new residential projects of 6 units or more;
- Prioritized parking within new commercial and retail areas for electric vehicles, hybrid vehicles, bicycles, and alternative fuel vehicles shall be provided for new commercial and institutional developments; and
- New commercial and industrial projects greater than 25,000 square feet shall be required to provide on-site renewable energy generation as part of their development proposal. This requirement can be met through a solar roof or other means.

The EECBG grant does not have any specific requirements other than the underlying purpose of the grant to minimize energy use County-wide. Planning staff has worked closely with Building staff to draft an update to the existing Green Building Standards Code (Chapter 18.12) to implement the General Plan policy direction. The updated standards will ultimately be implemented by the Building Department. Planning and Building staff have also met with the Permit Streamlining Task Force (a committee of interested builders, architects, and land use attorneys) and the Alternative Energy and Environment Committee (a sub-committee of the Board of Supervisors) to seek input and feedback on the draft ordinance.

At the most basic level, the issue of what green building standards to use has been the focus of discussions amongst staff and stakeholders. The General Plan policy referenced above was drafted and adopted prior to the CALGreen standards being added to the fold. Arguably, adoption of the CALGreen standards accomplished some portion of the intent of the General Plan policy to require a higher level of new building energy efficiency in itself. The inclusion of the CALGreen standards also provided a potential alternative rating system to the rating systems specifically referenced in the General Plan Policy (e.g. LEED and GreenPoint).

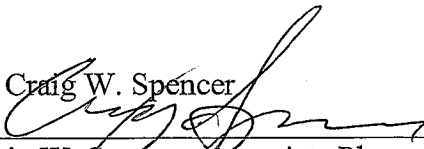
Based on input from the Permit Streamlining Task Force, combined with other benefits, staff is suggesting that the CALGreen standards be considered as the appropriate rating system to achieve the General Plan policy direction. In arriving at this suggestion, it is the presumption that CALGreen mandatory requirements achieve an equivalent level of efficiency to the LEED-basic and GreenPoint rating systems with a minimum of 18 points applied across all resource categories for the purposes of satisfying the intent of the General Plan policy. Use of CALGreen standards would provide consistency for Building staff and architects who already must comply with the minimum CALGreen mandatory requirements regardless of other green building criteria. Mixing the requirement to comply with CALGreen mandatory provisions with the use of some other rating system could be problematic. Also, use of CALGreen standards would not require inspection and verification of third-party raters like LEED or GreenPoint would. On the down side, LEED or GreenPoint rating systems include some desirable measures that could be implemented to achieve the desired efficiency level (i.e. silver or platinum) where CALGreen may not.

Other items discussed in stakeholder meetings included providing incentives for voluntary compliance with green building standards that are above and beyond the required minimum standards and specifying the performance criteria when on-site renewable energy is required. Incentives for voluntary compliance include things such as reduced permit fees, priority process, a recognition program, and providing zoning based exceptions.

The design considerations and parking standards outlined in the applicable General Plan Policy are currently being evaluated for inclusion in a Planning based zoning ordinance update rather than in the Building Department based code requirement. The thought is that these design considerations are best achieved early in the Planning and design process rather than in the technical Building based code.

Staff is now seeking public comment and direction prior to bringing an ordinance back for consideration. This action, a public outreach/workshop, is Statutorily exempt per Section 15262 of the California Environmental Quality Act (CEQA), because the Planning Commission is not considering approving, adopting, or funding the draft ordinance at this time and there will be no legally binding effects of the actions of the Commission on this item. The ordinance will be evaluated pursuant to CEQA prior to taking official action.

/s/ Craig W. Spencer




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July 5, 2012

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cc: Front Counter Copy; Planning Commission; Building Department; Environmental Health Bureau; Water Resources Agency; Jacqueline R. Onciano, Planning Services Manager; Craig Spencer, Project Planner; Karen Riley-Olms, interim Building Services Manager; The Open Monterey Project; LandWatch; Michael Waxer, AIA Monterey Chapter President; Planning File REF110058

Attachments: Exhibit A Draft Ordinance
 Exhibit B General Plan Policy OS-10.12
 Exhibit C Correspondence

This report was reviewed by Jacqueline R. Onciano, Planning Services Manager and Michael Rodriguez, Director of Building.  

ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTEREY AMENDING CHAPTER 18.12 – GREEN BUILDING STANDARDS CODE OF THE COUNTY OF MONTEREY ORDINANCE CODE RELATING TO GREEN BUILDING PRACTICES AND MATERIALS FOR NEW RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL BUILDINGS AND PUBLIC FACILITIES.

County Counsel Summary

This ordinance amends Chapter 18.12 to the Monterey County Code to include the following changes to the existing code: Require new County of Monterey government facilities and major remodels of County facilities to be designed to meet current Tier 1 efficiency levels of the 2010 California Green Building Standards Code (Also known as CALGreen); To update the incentives for voluntary compliance with CALGreen Tier 1 and Tier 2 Standards (Tier 1 and Tier 2 standards currently achieve greater levels of building efficiency than the minimum mandatory requirements) and provide those same incentives for voluntary compliance with equivalent green building rating systems, and to Require new non-residential structures that are greater than 25,000 square feet to provide on-site renewable energy generation. Carried forward from the existing Chapter 18.12, this amended ordinance also incorporates the official local adoption of the 2010 California Green Building Standards Code (CALGreen) and the incentives provided for voluntary compliance with CALGreen Tier 1 and Tier 2 standards. (Draft summary to be revised by County Counsel)

The Board of Supervisors of Monterey County ordains as follows:

SECTION 1. Section 18.12.10 of the Monterey County Code is amended to read as follows:

18.12.010 Adoption

That certain document entitled 2010 California Green Building Standards Code, California Code of Regulations, Title 24, Part 11, also known as CALGreen, or as amended and published by the California Building Standards Commission, is hereby adopted as the green building standards code for the County of Monterey. In addition, mandatory compliance with 2010 CALGreen Tier 1 equivalency standards are adopted as the minimum design standards for new County of Monterey facilities and major remodels of existing County of Monterey facilities.

SECTION 2. Section 18.12.020 of the Monterey County Code is amended to read as follows:

~~18.12.020 Definitions.~~

~~A. Priority service means performing the necessary services as soon as the next available service opening occurs without regard for who is next in the service queue, unless otherwise required by law. Priority service shall include but not be limited to the following:~~

- ~~1. Begin formal staff review of complete submittal documents by the next available County employee or agent as soon as that person completes their current assignment;~~
- ~~2. inspect all completed and accessible construction at the required stages of construction within one business day of permit holder's request.~~
- ~~3. Issue certificate of occupancy within seven (7) days of completion of all applicable requirements.~~

18.12.020 Purpose.

~~A. The purpose of this chapter is to enhance public health and welfare and assure that green building principles and practices are incorporated into new development to limit impacts to the natural and human environment within unincorporated Monterey County. The green building provisions referenced in this chapter are designed to achieve the following goals:~~

- ~~1. Increase energy efficiency in buildings;~~
- ~~2. Reduce potable water demand;~~
- ~~3. Encourage natural resource conservation;~~
- ~~4. Reduce waste generated by construction projects;~~
- ~~5. Provide durable buildings that are efficient, cost effective, and economical to own and operate;~~
- ~~6. Promote the health and productivity of residents and workers who occupy and live in buildings within the County; and,~~
- ~~7. Implement General Plan Policies and direction.~~

SECTION 3. Section 18.12.030 of the Monterey County Code is amended as follows:

~~18.12.030 Incentives for voluntary compliance with CALGreen tier 1.~~

~~A. Incentives. Newly constructed buildings or structures that incorporated additional prerequisite and elective green building measures to meet or exceed the CALGreen Tier 1 threshold shall receive priority service.~~

18.12.030 Definitions.

The following definitions shall apply to this chapter:

- A. "Applicant" means any person or entity applying to the County for a building permit to undertake any covered project within the County.
- B. "Alternative means" means a method of achieving the green building performance standards equivalent to CALGreen Tiers 1 or 2 (for example: compliance and certification by third party green building standards such as Leadership in Energy and Environmental Design or GreenPoint rated systems).
- C. "Compliance Official" means the Building Official or his/her designee charged with the administration and enforcement of this Chapter.

- D. "County verification" means confirmation by qualified employees of the County or consultants under contract with the County.
- E. "Green building" means a whole systems approach to the design, construction, and operation of buildings that substantially mitigates the environmental impacts of buildings. Green building practices recognize the relationship between the natural and built environments and seek to minimize the use of energy, water and other natural resources to provide a healthy, productive indoor environment.
- F. "Green building rating system" means the rating system associated with specific green building criteria and used to determine compliance thresholds. Examples of rating systems include, but are not limited to, the LEED and GreenPoint rated systems.
- G. "GreenPoint rated" means a residential green building rating system developed by the Build it Green organization.
- H. "LEED" means the "Leadership in Energy and Environmental Design" green building rating system developed by the U.S. Green Building Council.
- I. "Major remodel" means any remodel that exceeds the permit valuation thresholds established within the Standards for Compliance in Section 18.12.040.
- J. "New residential unit" means the construction of a new dwelling, under the Occupancy Classification of R in the California Building Code, containing only one kitchen and intended to house one family.
- K. "Non-residential" means buildings not used for a residential use that are defined under Occupancy Classifications A, B, E, F, H, I, L and M in the California Building Code.
- L. "Priority Service" means performing the necessary services as soon as the next available service opening occurs without regard for who is next in the service queue, unless otherwise required by law. Priority service shall include but not be limited to the following:
1. Begin formal staff review of complete submittal documents by the next available County employee or agent as soon as that person completes their current assignment;
 2. Inspect all completed and accessible construction at the required stages of construction within one business day of permit holder's request; and
 3. Issue certificate of occupancy within seven (7) days of completion of all applicable requirements.
- M. "Rebuild" means demolition and reconstruction of a building or structure involving the repair or replacement of fifty percent (50%) or more of the exterior walls or involving work that exceeds half of the appraised value of the structure.

SECTION 4. Section 18.12.040 of the Monterey County Code is amended to read as follows:

~~18.12.040 — Incentives for voluntary compliance with CALGreen Tier 2.~~

- ~~A. — Incentives. Newly constructed buildings or structures that incorporate additional prerequisite and elective green building measures to meet or exceed the CALGreen tier 2 threshold shall receive priority service and an incentive rebate to be applied towards construction permit fees as determined by resolution of the Board of Supervisors.~~

18.12.040 Applicability.

A. The 2010 California Green Building Standards Code (CALGreen) shall be applicable to all newly constructed buildings or structures, unless otherwise indicated in said standards.

B. All new County of Monterey facilities, and major remodels to County facilities involving more than 5,000 square feet and with a permit valuation of \$100,000 or more, shall be designed to meet 2010 CALGreen Tier 1 standards or the equivalent building efficiency rating system level.

C. Incentives may be applied to any Building Permit involving voluntary compliance with Green Building standards exceeding mandatory minimums, as outlined in Section 18.12.060.

SECTION 5. Section 18.12.050 of the Monterey County Code is added to read as follows:

18.12.050 Standards for compliance.

A. Standards for Compliance with 2010 CALGreen Code shall be those standards contained in Part 11 of the California Building Standards Code, Title 24.

B. For the purposes of this Chapter the following equivalency levels are assumed:

1. 2010 CALGreen mandatory requirements are generally equivalent to LEED basic standards and GreenPoint rating system with a minimum of 18 points across all resource categories;

2. 2010 CALGreen Tier 1 standards are generally equivalent to LEED-silver standards and GreenPoint ratings with a minimum of 33 points across all resources categories; and

3. 2010 CALGreen Tier 2 standards are generally equivalent to LEED gold or better and GreenPoint ratings with a minimum of 65 points across all resource categories.

C. All new Non-residential structures greater than 25,000 square feet, shall also provide on-site renewable energy generation as part of their development proposal. A minimum of 15% of the projected energy demand shall be provided by on-site renewable sources. An exception to this requirement may be approved by the Compliance Official if the applicant can demonstrate that on-site renewable energy generation is not appropriate at the site and that alternative design elements better achieve the desired level of efficiency (at least 15% of the total energy demand).

SECTION 6. Section 18.12.060 of the Monterey County Code is added to read as follows:

18.12.060 Incentives for Voluntary Compliance with CALGreen Tier 1, Tier 2 or Alternative means.

A. Newly constructed buildings or structures, including a Rebuild, that incorporate additional prerequisite and elective green building measures to meet or exceed the 2010 CALGreen Tier 1 thresholds, or the equivalent, shall receive Priority Service and a Healthier Home or Business Award from the County.

B. Newly constructed buildings or structures, including a Rebuild, that incorporate additional prerequisite and elective green building measures to meet or exceed the 2010 CALGreen Tier 2 thresholds, or the equivalent, shall receive Priority Service, a Healthier Home or Business Award, and an incentive rebate to be applied towards construction permit fees as determined by resolution of the Board of Supervisors.

C. Certification of compliance with Alternative means to the 2010 CALGreen code shall be determined by a qualified professional for the chosen Green Building rating system at the applicant's expense.

SECTION 7. Section 18.12.070 of the Monterey County Code is added to read as follows:

18.12.070 Appeal

A. Any applicant or other interested person may appeal the determination of the Compliance Officer regarding compliance with any provision of this ordinance to the Board of Supervisors. Any such appeal must be filed within 15 days of the decision by the Compliance Officer and shall be accompanied by a payment of a fee in an amount established by resolution by the Board of Supervisors.

B. Any appeal related to any provision required to comply with the California Building Energy Efficiency Standards (Title 24, Part 6) of the California Building Code shall be limited to whether the provision applies to the project, but the appeal process shall not be used to exempt any project from compliance with applicable California Building Energy Efficiency Standards.

SECTION 8. Section 18.12.080 of the Monterey County Code is added to read as follows:

18.12.080 Interaction with Other Regulations

A. This chapter is not intended to apply where its application shall result in its preemption by federal or state laws or rules, including but not limited to conservation standards applicable to appliances and equipment, including heating, ventilating, and air conditioning ("HVAC") products and water heaters. There are many other laws, regulations, and ordinances that apply to building design construction and maintenance and to development. The provisions of this chapter are intended to be in addition to and not in conflict with these other laws, regulations, and ordinances. If any provision of this chapter conflicts with any duly adopted and valid statutes or regulations of the federal government or the State of California, the federal or state statutes or regulations shall take precedence.

RECEIVED

JUL 17 2012

Ernie Mill, Chair
Streamlining Task Force
Monterey County

MONTEREY COUNTY
PLANNING & BUILDING
INSPECTION DEPT.

Re: Green Building Ordinance (draft version 1)

Dear Ernie, committee members, and staff,

I appreciate seeing this first draft of a green building ordinance which was unveiled and discussed at our meeting on 6/1/12. I wanted to follow-up on some of the comments I made at that meeting.

Now, after having had the opportunity to read the draft ordinance in its entirety, I can tell you that I am quite surprised that 3rd party proprietary standards are once again being discussed. Two years ago I was one of several community members who were working with the County of Monterey, and other local jurisdictions, to encourage our local jurisdictions to pass local Green Building Ordinances.

There was a specific window of time, up thru December 31, 2010, where jurisdictions could have their own Green Building Ordinance in lieu of the new CALGREEN state code, which otherwise would automatically come into effect on January 1, 2011. In fact, I personally presented a detailed powerpoint to the AEE committee in the early Fall of 2010 demonstrating the benefits of a local ordinance.

Although the general consensus was in agreement to adopt an ordinance at that time, the bottom line is that it didn't happen and CALGREEN became the de facto law of the land. It was recognized, even at that time, that having a local ordinance would likely be in place only a few years anyway, since ultimately all jurisdictions in California should have similar standards... such as is the case for energy (Title 24), accessibility, structural standards, etc. In other words there were pro's and con's for either decision.

Fast forward to today, and now a green building ordinance is being put forth? CALGREEN is already the law of the land. It would not make sense to have CALGREEN in place and to add 3rd party private green standards at this time. To go backwards at this point, and to re-consider these proprietary standard (such as LEED and or Green Points), when we already are now in the CALGREEN universe, would only add confusion and chaos.

The time for that decision was over 18 months ago and the decision was to be in the CALGREEN universe as we now are. The effect of keeping CALGREEN and laying these additional standards on top is no longer appropriate.

INCENTIVES

CALGREEN is designed to have incentive levels, and that is the case. Within CALGREEN there is Tier 1 and Tier 2, both of which describe higher levels of performance (i.e. lower energy use, etc.) than the 'base' level. If one achieves these higher levels than one is rewarded with certain benefits, such as priority plan check, priority inspection, reduced fees, some type of recognition by the Jurisdiction, and/or other possible benefits.

Additional incentives could be considered. For example, one of the principles of green construction is to use local materials. One possible incentive would be to allow someone who proposes to use local full dimensioned stone as an exterior material, to allow that stone dimension to enter into the setback areas. In this case using the local product is then not penalized by being the naturally thicker dimension, and is 'greener' than putting on a thin stone veneer that is made elsewhere and shipped here.

Similarly think of the thick walls of an original adobe, versus a thin exterior veneer. Even the calculation of building square footage favors the thin material versus the local, thicker material. The definition of 'square footage' could be modified for Tier 1 or 2 structures to calculate from the inside of the exterior walls. This basic calculation affects permit fees initially and property taxes each year thereafter.

Another example would be to allow the consideration of a 'tower element' in the design of a structure if that element is thermodynamically connected to the structure. This is one of the basic tenants of a natural design method called 'Passive Design' where a structure is designed to take advantage of natural flows of energy. In this case, the second law of thermodynamics, wherein heat rises, allows a properly designed structure to naturally collect heat and redistribute it within the structure, thereby reducing energy use. The taller the 'tower element' or 'chimney' the better it works, and so the Jurisdiction may want to consider allowing part of a structure to exceed the maximum height which zoning otherwise allows.

These are just three examples of creative incentives that could be discussed, and may be appropriate to put in an ordinance.

SUMMARY

Do **not** consider new green building standards. Stick with base level CALGREEN.

Do **not** require independent 3rd party certification of a green standard to final a permit. CALGREEN, just like the addition of accessibility into the building code, is best when it is part of a methodology that has been working well for decades which is the Building Code process. CALGREEN is part of this process and it is enforced by the Jurisdiction, just like the rest of the building codes.

Do consider creating normal incentives, such as priority plan check, priority inspection, reduced fees, local recognition, etc. for the achievement of a higher level standard, such as Tier 1 or Tier 2 of CALGREEN.

Do consider creating special incentives, such as the ability to encroach into one or more setbacks and/or to modify how 'building square footage' is calculated (see the stone example, above), or to have a chimney (or tower element) be allowed higher than the normal zoning height limit (see the passive design example, above), as further incentives to encourage more creative design solutions to achieve these 'green' objectives.

CONCLUSION

It is also important to remember that any and all of these standards are in a constant state of flux, and competing standards will inevitably have relational conflicts. I remember the odd time in California history where it was not possible to design a handicap shower that met both State and Federal law. There was no design that could meet both standards that were purportedly trying to achieve the exact same goal.

One additional item to mention is that CALGREEN initially applies only to new construction, at least in its initial release of 2010. It was understood that each new version would affect more structures and that is exactly what we are seeing. The newest version of CALGREEN, in fact, will be applicable to existing non-residential buildings starting July 1, 2012.

In other words, one of the benefits of being in the CALGREEN 'universe' is that the standards are going to be regularly getting revised and more rigorous, so the net effect of any new standards in a local ordinance would not only be confusing, but increasingly difficult to interpret. There is, at this point, clear advantage in trying to get everyone to understand and to implement CALGREEN, and the County would

be confusing the situation by additionally requiring other changing, and private, standards such as LEED and Green Points.

Finally, as I indicated at the meeting, I am on the Board of Directors of the American Institute of Architects California Council (AIACC), headquartered in Sacramento, and I will try and access information that will help to document the high standards that CALGREEN already represents, and what is anticipated in its upcoming State revisions.

Respectfully,

Michael Waxer, AIA, LEED AP