



POLICY REPORT
ENVIRONMENT

Report Date: July 7, 2010
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Meeting Date: July 22, 2010

TO: Standing Committee on Planning and Environment
FROM: The Manager of Sustainability in Consultation with the Director of Planning
SUBJECT: Green Building Policy for Rezoning Update

RECOMMENDATION

- A. THAT Council adopt the Amended Green Building Policy for Rezoning as outlined in Appendix A of this report to replace all previous iterations of the Green Building Policy for Rezoning.
- B. THAT Staff report back to Council with the results of the first five rezonings that have been required to certify under this policy to ensure that the Green Buildings Policy for Rezoning is delivering LEED™ or Built Green™ Gold Certified Buildings and that the process for compliance is achieving Council priorities.
- C. THAT Staff and industry meet annually at a minimum to ensure that “Green Building” market transformation and continued “Green Building” design innovation which are the primary goals of the Green Buildings Policy for Rezoning are being supported by the implementation of this initiative.

CITY MANAGER'S COMMENTS

The City Manager recommends the approval of the recommendation.

COUNCIL POLICY

On June 10, 2008, Council passed a policy requiring all rezonings to be LEED Silver™ equivalent and directed staff to undertake consultation and education with Industry with the intent of moving to LEED Gold™ in 2010 which is the subject of this report.

In May 2009, Council received the Greenest City Action Team's (GCAT) Quick Starts Report, which recommended early actions the City can take to help Vancouver become the greenest city by 2020. Council approved a motion directing staff to report back with an implementation plan for the recommended actions.

October 2009, Council received the GCAT 2020 report and directed the City Manager to work with staff and report back with recommendations on practical implementation steps to meet the targets set out in the report.

In February 2010, Council approved the Amended Green Buildings Policy for Rezoning. Staff were directed to report back to Council before July 30th 2010 after consulting with industry on how the City could move to requiring all rezonings to achieve LEED Gold "certification" by early 2011.

SUMMARY

Staff from the City Manager's Office and the Sustainability Group have met with representatives from the development industry, as directed by Council, to collaborate on the development of an Amended Green Buildings Policy for Rezoning. This amended policy addresses Council's objectives of achieving LEED Gold Certification, or other appropriate standard (eg: Built Green), for all rezonings in January 2011. It also addresses the technical concerns raised by industry related to new home warranties and consumer protection legislation as it pertains to the requirement of LEED certification within a policy context. All three recommendations in this report are the product of a collaboration between government and industry. The first recommendation establishes the process by which LEED certification will be achieved in 2011 and the two supporting recommendations ensure that as the policy develops there are mechanisms in place to monitor its progress and adapt it if necessary.

PURPOSE

The purpose of this report is to provide an update on the industry consultation process with regard to implementation of the new "Green Rezoning" requirements and to recommend a policy that meets both Council's and industry's objectives. City staff have met with key industry representatives, presenting the policy recommendations and outlining details of its implementation.

BACKGROUND

In February of this year Council approved a new Green Buildings Policy for Rezoning that will as of July 30th 2010 require all new rezonings to be equivalent to LEED Gold and Built Green Gold. Further it required that all rezonings 'register' their projects with either the CaGBC (LEED) or Built Green BC. The second recommendation in the report was that Staff consult further with the development industry and report back on how the City could require all rezonings to 'certify' under the LEED or Built Green programs at the Gold level in early 2011.

DISCUSSION

The development industry responded, raising technical concerns that there may be issues with mandatory LEED Certification specifically with regard to the provision of new home warranties, and with other Provincial consumer protection legislation. These concerns specifically were that if a level of certification was required to achieve permit it could result in new warranties not being issued and or unwarranted presale termination by the buyer. Thus, while industry supported the Council direction of developing "greener" policy and therefore "greener" buildings, they felt that these two issues may at times compromise a developers' ability to undertake rezonings.

Staff have explored industry concerns with the expressed result of developing a process that addresses any potential friction with new home warranty provision or provincial consumer protection policies. For the purposes of an expedited consultation process Staff have dealt exclusively with the staff and leadership of the Urban Development Institute (UDI), BC Home Builders Association (BCHBA), and the Greater Vancouver Home Builders Association (GVHBA).

The proposed Green Buildings Policy for Rezoning achieves this by not specifying that a specific certification (e.g. Gold, Platinum etc.) must be achieved, but rather by requiring the submission of evidence that the certification has been applied for with the appropriate agency to achieve Gold level certification. The verification of requisite number of credits, or points, will be done via the City's permitting process to ensure that when the paperwork is filed by the applicant both the applicant and the City will have full confidence that the project will achieve Gold Certification.

This important policy distinction provides security to insurers that the City is not setting up a policy circumstance that is adding undue risk to projects and their insurers. For example if the policy were to require that projects achieve a level of certification as a condition of permit and certification is not granted until after occupancy it would be impossible for new home warranty providers to ensure that all conditions of a permit are met prior to providing insurance. This added risk for insurance providers cannot be assessed and valued under the terms of the provincial legislation that governs new home warranties and sets their price. Requiring only submission of the requisite paperwork, while managing green building compliance via the permit process, ensures that developers can satisfy the terms of the permit for their warranty provider with no incremental risk.

This proof of submission process also allows projects to comply with Provincial property disclosure requirements without jeopardizing pre-sales. The development community expressed concern that if it was disclosed that a level of green building certification was required by permit, and that level of certification could not be verified until after occupancy, that this could cause buyer confusion and possibly lead to unwarranted pre-sale termination.

CONSULTATION

Since adoption of the Policy in February 2010, Staff met separately with representatives from the BCHBA, GVHBA, and UDI and the board of directors of UDI. Executive of the Canada Green Building Council, staff from the Home-owner Protection Office and warranty providers were also consulted. Staff have also circulated the draft policy for comment to UDI and where issues were identified, and as noted above, adjustments were made in both policy and approach.

During staff's meetings with BCHBA staff and their President, Staff heard that the BCHBA were supportive of this direction and specifically the policy's use of the Built Green program. These discussions also led to Staff and the BCHBA investigating further opportunities for collaboration specifically in a study on new building performance, how the City can improve new home labelling process through Energuide and the possible creation of a Vancouver "Green Home Awards" program.

Staff have met briefly with the GVHBA staff and no new issues were identified by the association at that time in relation to this policy after its initial adoption in February 2010.

There was the re-iteration of the GVHBA's concern that voluntary program's such as built green were being required by the City even if it was by a smaller self selected group pursuing rezonings.

FINANCIAL IMPLICATIONS

There are no financial implications to the City of Vancouver.

ENVIRONMENTAL IMPLICATIONS

Increased green building standards will assist in reducing building-related greenhouse gases, energy consumption, potable water use, stormwater runoff, harmful indoor air quality, and material waste in Vancouver. This policy will also increase the number of third party certified "green buildings" in the Vancouver market with the intended consequence of transforming the local real-estate market to one that demands improved environmental performance out of its buildings and inspires more innovation in green building design.

IMPLEMENTATION PLAN

This policy (see Appendix A) will come into effect January 31st 2011. Notice to the building industry will be done via the professional and industry associations as well as via a bulletin from the Rezoning Centre. After implementation Staff will meet annually on this topic with industry to ensure that the policy remains current and reflects changes in the marketplace, updates to green building rating systems, and new technologies.

Additionally, staff will report back to Council after the first five rezonings that have been required to file for certification under this policy are completed.

COMMUNICATIONS PLAN

The Sustainability Group is working with staff from the Rezoning Centre to draft a bulletin regarding the updating rezoning policy.

CONCLUSION

The Amended Green Buildings Policy for Rezoning in this report addresses Council's objectives of achieving LEED Gold Certification, or other appropriate standard (eg: Built Green), for all rezonings in January 2011, and also addresses the concerns raised by industry with regards to this target. The recommendation in this report is the product of a unique collaboration between government and industry who are both dedicated to the development of greener buildings and the transformation of our local market in one where environmental performance is valued.

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City of Vancouver Amended "Green" Rezoning Policy:

Green Buildings Policy for Rezonings

THAT it be Council Policy effective January 1st 2011 that all rezonings for buildings that meet the minimum requirements to participate in the Leadership in Energy and Environmental Design (LEED™) for New Construction program, and commit to achieving a minimum 63 points (LEED Gold), with a minimum of 6 optimize energy performance points, 1 water efficiency point, and 1 storm water point. Buildings will be required to register in the LEED program and demonstrate to the City at all three levels of permitting that the project is on track to achieve 63 points. Upon receiving occupancy permit projects are further required to submit proof of application for LEED certification and may be required to send a copy of all certification materials to the City if requested. See Appendix B for further clarification on how compliance will be managed and this program is proposed to be implemented.

Rezoning projects being enacted between July 30th 2010 and January 1st 2011 are exempted from the requirement to submit proof of application for certification.

Buildings that are either not eligible or extremely ill-suited to participate in the LEED for new construction program due to form of development shall achieve a minimum of Built Green BC Gold, or LEED for Homes Gold, and a score of Energuide 82. If neither of these systems are applicable the City will negotiate an equivalent green standard. The application of this policy shall favor approaches that use passive design practices to reduce energy demand before the application of green energy technologies, as outlined in the City of Vancouver Passive Design Toolkits.

Other Green Building Rating Systems:

Applicants may also choose to use another green building rating system if equivalent or greater performance and rigor can be demonstrated. Programs that are widely proven, have broad credibility, and are third party verified are preferred. For example, Green Globes would not be viewed as equivalent in performance to LEED. By comparison, systems such as Passiv Haus, BREEAM, and Living Buildings would be considered as preferred alternatives.

Heritage Buildings:

This change in policy does not apply to Heritage Revitalization Agreements (HRAs) where density is being increased. As with rezonings, HRAs often have both heritage aspects and new development aspects. For heritage components in either HRAs or rezonings, the increased LEED requirement will not directly apply, however reasonable design efforts shall be made to improve green performance where appropriate while respecting heritage aspirations and promoting heritage retention.

Green Rezoning Process

Key Desired Outcomes of the Green Buildings Policy for Rezonings:

- Increase the number of third-party certified Green Buildings in Vancouver.
- Transform the market by increasing consumer choice and awareness for Green Buildings.
- Develop a process that is workable for industry participants that wish to rezone their property.
- Nurture an already rapidly growing Green Building industry in Vancouver.

Proposed Program Design Principles:

- Develop a process that is equitable, and able to be applied evenly.
- Deliver clear expectations to industry on what is required to rezone a property in Vancouver
- Create a Green Buildings Policy for Rezonings context and process that allows for the development community to still achieve their financing, insurance, and warranty requirements.
- Achieve a process that does not add significant administrative burden to the City's rezoning or development permit process.
- Provide security to the City that the goals, objectives and desired results of the Green Buildings Policy for Rezonings are being achieved.

Green Buildings Policy for Rezonings Requirements:

When an application for rezoning is received by rezoning staff, new standard conditions will be added to the rezoning report. The objective of these standard conditions will be as follows, noting that the actual language may change:

A: The applicant commits to building, designing and constructing a building that enables them to achieve a LEED Gold standard as defined by the CaGBC (63 points). The applicant will demonstrate where possible to the City of Vancouver that their project is on a pathway to compliance with the above stated standard at all three levels of permitting (Development Permit (DE), Building Permit, (BU) Occupancy (OC)).

B: The applicant will register their project for LEED certification with the CaGBC and demonstrate this as part of the Development Permit application.

C: The applicant will submit all necessary documents and fees in order to certify their project with the CaGBC within six months of achieving occupancy. They will also supply the City of Vancouver with proof of submission and if requested separate copies of all application documents.

The development industry has outlined concerns with warrantees and potential loss of presales resulting from the implementation of a LEED Gold mandate. As a result we are proposing a strategy for implementing Council's goals of achieving LEED Gold certification in a way that does not jeopardize the viability of the developments, nonetheless, it is our expectation that all projects will achieve LEED Gold certification. We plan to revisit this strategy with a report to Council after the first five projects are completed to reassess whether we are achieving Council's goals.

With reference to item 'A' we propose that the submissions from the applicant to demonstrate a pathway of compliance will include, but may not be limited to at:

(DE) A 'Sustainable Design Strategy' submitted at Development Permit that articulates which LEED Credits the applicant will be pursuing and how their building application, as submitted, incorporates features or technologies that will help achieve these credits. References to these strategies will be incorporated into the drawings submissions for Development and Building Permits where possible.

And proof of registration with the CaGBC

(BU) An updated sustainable design strategy that reflects the refinement of the sustainable design approach and interventions outlined at the DP stage. Full energy modeling demonstrating energy savings requirements over and above the energy efficiency requirements of the Vancouver Building By-law will be submitted at this time.

(OC) A LEED Gold compliance report with a credit by credit outline of how each of the targeted credits was addressed in construction and applicant's opinion on how successful they believe they will be in achieving each of the targeted credits