

Director's Report and Recommendation LIVING BUILDING AND SEATTLE DEEP GREEN PILOT PROGRAM AMENDMENTS

Introduction

In response to Resolution 31400, the Department of Planning and Development (DPD) is proposing amendments to the existing Living Building and Seattle Deep Green Pilot Program. In summary, the amendments would:

- Eliminate the existing Seattle Deep Green option (to allow the City and the Living Building and Deep Green Technical Advisory Group (TAG) time to fully evaluate and develop a new pilot program for Deep Green);
- Revise the minimum standards of the program related to energy use to align with the new Seattle Energy Code;
- Require an independent report to verify compliance;
- Modify or remove some available departures; and
- Increase the maximum penalty for projects failing to demonstrate full compliance with the standards from five percent (5%) to ten percent (10%) of construction costs.

At this time, DPD is proposing amendments to focus the pilot program on the Living Building option. Meanwhile, DPD will continue to develop recommendations for the program that would re-introduce an updated Seattle Deep Green standard. DPD is working with the recently appointed TAG to develop recommendations.

Background

The Living Building and Seattle Deep Green Pilot Program facilitates the development of innovative very deep green buildings to:

- Reduce environmental impacts
- Test new technologies
- Serve as a model for development throughout the region and country

Recognizing that the Living Building Challenge™ and the Seattle Deep Green program are difficult standards to meet, the Pilot Program allows developers to request departures from the Land Use Code through Design Review. The program was adopted through ordinances amending the Code as follows:

- The “Living Building Challenge™” is a nationally-recognized green building certification programs that define the most advanced measure of sustainability for buildings and landscapes possible today. The original legislation (Ordinance 123206) implementing the Living Building Pilot Program in Seattle became effective in January 2010.
- “Seattle Deep Green” tailors the Living Building Challenge to Seattle by providing developers with the option—or *pathway*—to meet 60% of the Living Building Challenge requirements with additional minimum standards related to energy use, water use, and storm water management. The Code was amended in 2012 to add the Seattle Deep Green option (Ordinance 123942).
- Today, developers have the option of choosing either the Living Building or the Deep Green pathway.

The Existing Living Building and Seattle Deep Green Pilot Programs

The Living Building and Seattle Deep Green Pilot Program was developed to provide flexibility for projects seeking Living Building Challenge™ certification. The Living Building Challenge™ is a green building rating system created by the International Living Future Institute (formerly the International Living Building Institute) to recognize buildings meeting the highest level of sustainability. Version 2.1 of the Living Building Challenge requires buildings to meet 20 imperatives (i.e., requirements or prerequisites) within seven performance areas or petals: site, water, energy, health, materials, equity, and beauty. In general, the imperatives require buildings to be built on non-environmentally sensitive sites, use recycled materials, generate as much or more electricity as they use through sustainable sources, capture as much rainwater as they use, treat wastewater on site, and meet a number of standards for other elements.

While the goal of the project has always been to encourage buildings that meet the Living Building Challenge™, DPD recognizes that the Living Building Challenge™ is a difficult standard to meet and that some design flexibility is necessary. Participating projects that receive departures are required to either meet all of the requirements of the Living Building Challenge™ (either full certification or petal recognition with additional requirements related to energy, water and storm water management) *or* meet 60 percent of the Living Building Challenge™ requirements and additional standards related to reduced energy usage, reduced water usage, and enhanced storm water management (the Deep Green option).

A project that meets or exceeds the minimum requirements for either the Living Building or Seattle Deep Green option is achieving a higher level of sustainability than a typical building; reducing environmental impacts, testing new technologies, and serving as a model for development throughout the region and country. However, given feedback that the City has received regarding the Seattle Deep Green pathway, amendments are proposed to allow time to evaluate and further develop the program requirements.

Resolution 31400

On June 6, 2013, the City Council passed a resolution directing DPD to:

- 1) establish a technical advisory group to advise the City on sustainable building practices by August 30, 2013;

- 2) develop recommendations to revise the Living Building Program by December 31, 2013 (the proposed legislation accompanying this report is intended to implement this request); and
- 3) develop recommendations to revise the Seattle Deep Green Program by December 31, 2014.

The resolution was adopted due to concerns about allowable departures. These include the departures related to floor area ratios and structure height. Some of the departures are proposed to be modified at this time for the Living Building pilot program. Meanwhile, DPD will work with the TAG through 2014 to develop recommendations to revise or replace the Seattle Deep Green pilot program, including reviewing departures available in that pilot.

Analysis: Proposed Living Building Amendments

Minimum Standards

An applicant participating in the Pilot Program is required to meet minimum sustainability requirements per the minimum standards of the Pilot Program, or face monetary penalties. A change proposed to the minimum standards for the Living Building Pilot Program modifies the building energy usage requirement for projects that seek petal recognition under the Living Building pathway (subsection 23.40.060.E.2.a). The recently adopted energy code requires a higher level of performance for any building in terms of energy use. Therefore, the proposal to change the energy use requirement from a 75 percent to a 25 percent reduction based on the new Energy Code, is consistent with previous expectations, and will still require very high-performing projects.

Project Compliance

Ability to enroll in the Pilot Program expires on December 31, 2015, or when applications for twelve pilot projects have been submitted for a Master Use Permit, whichever comes earlier. In order to participate in the Pilot Program, an applicant must submit a plan demonstrating how their proposal would meet each of the prerequisites of the Living Building Challenge. The amendments would clarify that applicants must demonstrate compliance by submitting a verification report from an independent third party. The report must be produced by the International Living Future Institute (ILFI) or another independent entity approved by the DPD Director.

Design Departures

In addition to the criteria governing departures from development standards for all projects subject to design review, additional departures are allowed for a Living Building Pilot Program projects if an applicant demonstrates that such departures would better meet the goals of the Living Building Challenge and would not conflict with adopted design guidelines. In recommending any departure from development standards, the Design Review Board must consider the extent to which the anticipated environmental performance of the building would be substantially compromised without the departures.

Given the comments and concerns regarding the available departures, the proposal removes or modifies eligible departures for this program. This includes modifying the departure related to height to accommodate additional floor-to-floor height but not additional floors or occupied

space. In addition, the departures related to downtown view corridor requirements and exempting floor area for street level uses are proposed to be removed.

Penalties

In the event a building does not meet these minimum standards, the owner is currently subject to a maximum penalty of five percent (5%) of the construction value and a minimum penalty of one percent (1%) of construction value, based on the extent of compliance with standards. The proposed changes include an increase in the maximum penalty for projects that do not comply with the minimum standards of the program. DPD has heard concerns that the current penalties are not high enough to ensure that project applicants will strive to fully comply with the program requirements rather than paying the penalty in lieu of complying. As an example, under the existing penalty, a project with a construction value of eight million would have a maximum penalty of \$400,000; with the proposed changes the maximum penalty for the same project would increase to \$800,000. Increasing the maximum penalty is intended to further encourage project applicants to comply with the program standards.

The two projects that have been authorized under the pilot program are not yet at the stage of submitting the required documentation demonstrating compliance with the standards. As those projects and others move forward the City can more fully evaluate if the penalties need to be adjusted further.

Recommendation

The recommendation is to focus the pilot program on projects seeking entrance through the Living Building pathway. The proposal will further ensure that buildings fit within the context of neighborhoods by limiting certain departures available through design review and increases the City's ability to ensure compliance with the program's requirements. Finally, the proposal to place the Seattle Deep Green program on hold allows the City and the TAG time to fully evaluate and develop a new pilot program for Deep Green. DPD recommends approval of the amendments.