



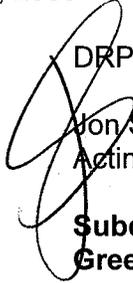
Los Angeles County
Department of Regional Planning



Planning for the Challenges Ahead

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August 3, 2009

TO:  DRP Staff

FROM: Jon Sanabria
Acting Director of Planning

Subject: **Subdivision & Zoning Ordinance Interpretation No. 02-2009
Green Building Ordinance – Part 20 of 22.52**

This memo provides interpretation of sections of the Green Building Ordinance. This memo responds to specific issues that were raised by the Land Use Regulation and Current Planning Divisions. This memo is necessary in order for planners to accurately and consistently advise applicants regarding the Ordinance's intent.

22.52.2110 Definitions

- **Section 22.52.2110.H** "First-time tenant improvement" is the initial improvement of the interior of a building or portion thereof, where the work requires a building, electrical, plumbing and/or mechanical permit.

This definition shall be clarified to mean the first time interior improvements made within a building where only the shell and core exist. The Green Building Ordinance will not apply to improvements of structures built for a change of use, redevelopment of interior spaces for human habitation, hotel/motel or lodging house, or refurbishment of currently improved spaces. Table 22.52.2130-1 lists requirements for first-time tenant improvements with a gross floor area of $\geq 10,000$ up to $\geq 25,000$ square feet. The gross floor square footage refers to the area of tenant improvement only, not the total building square footage.

- **Section 22.52.2110.P** "Project" shall mean the construction of any building, as defined in Title 22, or first-time tenant improvement, but shall exclude the remodel or addition to an existing building. If a site contains one or more separate buildings, each separate building shall comply with this Title 20.

This definition includes all new accessory structures, but Section 22.52.2160 exempts agricultural accessory buildings, which include barns, greenhouses, coops, corrals and pens. Other accessory buildings such as sheds, guest houses, pool houses, and second units do need to comply. Some accessory buildings, such as sheds without any mechanical, electrical or plumbing may not be able to comply with the County green building standards. However, per Section 22.52.2150, only the Director of Public Works can waive or modify the green building requirements, so any modifications to the requirements would happen at building permits stage. Therefore, depiction of the required green building elements or notes indicating intent to comply with the requirements must be placed on the site plan prior to approval.

22.52.2120 Applicability

- **Section 22.52.2120.A.1** Any project where a complete building permit application was filed with Public Works prior to January 1, 2009.

The applicability exception is based on building permit filing date. Therefore, projects with approved discretionary permits or other types of entitlements would still be subject to Green Building requirements if the complete application for a building permit was not filed prior to the effective date. A receipt from Building and Safety will be required when verifying whether or not a project meets this exception.

- **Section 22.52.2120.A.3** Any project involving construction of single-family residences on lots created by a parcel map which created four or fewer residential lots, or any project involving a building permit for the construction of one single-family residence on a legal lot, in both cases where a complete building permit application was filed with Public Works prior to April 1, 2009;

If the lot was not legally created, a Certificate of Compliance must be approved and recorded prior to April 1, 2009 **and** a complete building application must be filed prior to April 1, 2009 for the project to receive this exception.

Any accessory buildings on a lot with a single-family residence must have complete building applications for the accessory buildings filed by January 1, 2009 to be exempt from the Green Building requirements, unless they are agricultural accessory structures. Only single-family residences are subject to the April 1, 2009 applicability date, all other projects were subject to requirements starting January 1, 2009.

- **Section 22.52.2120.B** Projects involving a subdivision map with single-family lots where the map was approved after the effective date would require the total lots in the subdivision to be the project number of lots for green building purposes.

Regional Planning staff will be responsible to determine whether the lot is within a tract map and the tentative approval date of the subdivision is in order to determine which provisions apply.

22.52.2130 Green Building Requirements

- **Section 22.52.2130.C.3** All tank-type toilets installed in residential projects containing five or more dwelling units regardless of gross floor area.....shall be high-efficiency toilets (maximum 1.28 gallons/flush).

If a project is proposing the construction of less than five dwelling units, then this requirement would not apply. If a subdivision proposes single-family lots and contains more than five dwelling units, pursuant to section 22.52.2120.B, this requirement shall apply.

- **Section 22.52.2130.C.5**
 - a. For each lot containing a single-family residence, a minimum of two 15-gallon trees shall be planted and maintained, at least one of which shall be from the drought-tolerant plant list. The satisfaction of this requirement may be used to fulfill other tree-planting requirements of this Title 22.

b. For each lot containing a multi-family building, a minimum of one 15-gallon tree shall be planted and maintained for every 5,000 square feet of developed area, at least fifty (50) percent of which shall be from the drought-tolerant plant list. The satisfaction of this requirement may be used to fulfill other tree-planting requirements of this Title 22.

c. For each lot containing a hotel/motel, lodging houses, and non-residential buildings, a minimum of three 15-gallon trees shall be planted and maintained for every 10,000 square feet of developed area, at least sixty-five (65) percent of which shall be from the drought-tolerant plant list. (underline added)

Two-family residences shall be treated like single-family residences for the purposes for the tree planting requirement. Section 22.52.2130.C.5.a shall dictate the requirement for two-family residences.

Lots containing more than one multi-family building, lots with multiple main residential buildings (i.e. detached condos), and lots containing one multi-family building and any other structure containing additional dwelling units shall use the ratio used for multi-family buildings. Section 22.52.2130.C.5.b shall dictate the requirements for these projects.

In regard to section 22.52.2130.C.5.c the word and should be treated as the word or. Only one of the listed uses must be applicable for the requirement to come into effect.

Section 22.52.2130.C.5 only allows the tree planting requirements to satisfy other tree-planting requirements within Title 22. Although the intention was to allow this requirement to count toward any tree-planting requirement that may apply to the project, as written, these trees cannot be used to fulfill the tree-planting requirements of Title 21.

- **Section 22.52.2130.C.5.d.i** If the lot size or other condition makes the planting of the required trees pursuant to subsection C.5 impractical in the opinion of the Director, the Director may approve the planting of the required trees off-site at twice the ratio than would otherwise be required by this subsection C.5....

Section 22.52.2150 provides the Director of Public Works with the authority to grant a waiver or modification to the requirements contained within Part 20. If Public Works grants said waiver or modification, the applicant must also submit the waiver or modification to Regional Planning for review with their site plan submittal, as Regional Planning is responsible for verifying compliance with section 22.52.2130.C.5 (Tree Planting).

- **Section 22.52.2130.D** Additional Green Building Requirements for certain projects after January 1, 2010. In addition to the green building requirements set forth in subsections C.1 through C.5, this subsection sets forth green building requirements for certain projects, described below, where the building permit application for such project is filed on or after January 1, 2010.

Public Works Building and Safety will determine the various procedures for when certification is achieved through the County or through third-party; however, the applicant should inform Building and Safety of their desired method of certification.

When a LEED AP is required as part of the design team, verification of this person's participation would take place by the Department of Public Works when the applicant is in the

building design stage. This person will be responsible for completing the LEED Checklist indicating what points they are planning to obtain in the proposed design. This checklist is provided by Building and Safety upon the submittal of plans for building permit approval.

- **Section 22.52.2130.D.4** For purposes of this subsection D, the determination of whether a project achieves the equivalency of LEED certification shall be based on the project's use of a defined subset of menu options as set forth in the green building technical manual.

The Department of Public Works (DPW) will be responsible for making the determination of LEED achievement as outlined above. Section 22.52.2150 provides the Director of Public Works with the authority to waive or modify the requirements of the Green Building Ordinance.

Section 22.52.2130.E provides the Green Building Taskforce with the responsibility for reviewing and recommending changes to the Green Building Technical Manual (Manual). The Manual was presented to the Regional Planning Commission during the public hearings regarding the Green Building Program. It can also be found on the Green Building Program website (<http://planning.lacounty.gov/green>).

22.52.2140 Site Plan Review

The County Green Building Standards, which are required on or after January 1, 2009, and the additional Green Building Requirements, which are required on or after January 1, 2010, are detailed in Table 22.52.2130-1. Per Section 22.52.2140, applicants shall clearly depict or list any green building elements that are to be incorporated into the project. Department of Regional Planning (DRP) must ensure these elements are depicted on site plans submitted to Regional Planning; however, it is not DRP's responsibility to assess the accuracy or feasibility of the elements depicted. DRP is approving in concept only, final approval is by DPW.

If a tentative map does not include an Exhibit "A" or site plan, no depiction of green building compliance is necessary at that approval stage. As Section 22.52.2110.P defines a project as "the construction of any building," the tentative map itself would not be required to depict green building compliance. As green building compliance is not required at the tentative map stage, waivers or modifications to said requirements would not have to be reflected on the map or circulated for review and approval.

22.52.2160 Exemptions

- **Section 22.52.2160.B** Areas of a project that include warehouse/distribution buildings, refrigerated warehouses, and industrial/manufacturing buildings shall be exempt from the energy conservation requirements in Section 22.52.2130.C.1 and the third-party standards and rating system requirements in Section 22.52.2130.D. Any offices space, non-refrigerated, non-warehouse, and non-industrial/manufacturing areas of a building that are physically separated from the exempted area of the building just described, as determined by the Director, shall comply with all of the requirements of this Part 20.

Physical separation shall mean a wall or some type of enclosure that serves to separate various portions of the structure. It should be clarified to applicants that only energy conservation and the third-party standards and rating system requirements are exempted. These portions of the building still must comply with other measures in the Green Building Ordinance such as (where

applicable), high efficiency toilets, trees, smart irrigation controller. The Director of Public Works will be responsible for granting this exemption and waiving or modifying the energy efficiency and/or third-party certification equivalency requirements.

JS:KMS:LR