



## **Zoning & Planning Committee** **Report**

### **City of Newton** **In City Council**

**Monday, November 25, 2019**

Present: Councilors Albright (Chair), Danberg, Kalis, Baker, Krintzman, Leary, Downs, Brousal-Glaser

Also Present: Councilors Crossley, Greenberg

Planning Board: Peter Doeringer (Chair), Jennifer Molinsky, Kevin McCormick, Kelley Brown

City Staff: Barney Heath, Director of Planning and Development; Jennifer Caira, Chief Planner; Zachery LeMel, Chief of Long Range Planning; Nathan Giacalone, Committee Clerk

**#358-19**      **Appointment of Martin Smargiassi to the Community Preservation Committee**  
HER HONOR THE MAYOR appointing Martin Smargiassi, 20 Fern Street, Auburndale, as a member of the COMMUNITY PRESERVATION COMMITTEE for a term to expire July 10, 2022. (60 days: 12/14/19)

**Action:**      **Zoning and Planning Approved 6-0 (Councilors Leary and Krintzman not voting)**

**Notes:**      The Chair invited Mr. Smargiassi to join the Committee to explain why he was interested in serving on the Community Preservation Committee (CPC). Mr. Smargiassi answered that he is a planner, architect, builder, real estate developer, and a member of the Auburndale Historic District Commission. Because of his credentials, Mr. Smargiassi said that both Mr. Heath and Mayor Fuller thought he would be a good fit for the CPC. He has already attended CPC meetings to get acquainted with how the Committee operates and he believes that membership on the CPC would allow him to use his skills to directly enhance Newton.

A committee member asked Mr. Smargiassi whether there was any area within the CPC that he was most focused on. Mr. Smargiassi answered that his specialties were in historic buildings, urban redevelopment, and affordable housing.

A committee member thanked Mr. Smargiassi for his willingness to serve on the CPC and offer his talents to public service.

Councilor Danberg moved to approve the appointment of Mr. Smargiassi. The Committee voted 6-0 in favor of the motion.

**#398-19**      **Appointment of Visda Saeyan to the Urban Design Commission**  
HER HONOR THE MAYOR appointing Visda Saeyan, 7 Marcellus Drive, Newton Center, as a member of the URBAN DESIGN COMMISSION for a term to expire on December 31, 2022. (60 days: 01/07/20)

**Action:**      **Zoning and Planning Approved 6-0 (Councilors Leary and Kritzman not voting)**

**Notes:**      The Chair invited Ms. Saeyan to join the Committee and asked her to say why she wanted to be on the Urban Design Commission (UDC). Ms. Saeyan explained that she is a longtime architect and is also involved in Newton real estate. She said that she moved to Newton mostly because she wanted her son to benefit from the public schools. Ms. Saeyan said that she works with families trying to find homes which has made her aware of the difficult housing situation in Newton. She said that she has long been interested in serving the City to give back and that Mayor Fuller made it easy for her to approach the administration and apply.

A committee member asked Ms. Saeyan if the UDC is the body primarily responsible for dealing with fence permits. Ms. Saeyan answered that the UDC does deal with signage in addition to fence permits. The UDC deals with fence permits when they are appealed.

The Committee members thanked Ms. Saeyan for her willingness to serve and how beneficial it would be to have another architect on the UDC as Newton has seen multiple large development projects. Councilor Kalis moved to approve the appointment of Ms. Saeyan. The Committee voted 6-0 in favor of the motion. Ms. Saeyan then said that she brought her son to the meeting to show him how City Hall works.

**#397-19**      **Reappointment of Michael Kauffman to the Urban Design Commission**  
HER HONOR THE MAYOR reappointing MICHAEL KAUFFMAN, 24 Turner Terrace, Newtonville, as a member of the URBAN DESIGN COMMISSION for a term to expire December 31, 2022. (60 days: 01/07/20)

**Action:**      **Zoning and Planning Approved 6-0 (Councilors Leary and Kritzman not voting)**

**Notes:**      Councilor Danberg moved to approve the reappointment of Mr. Kauffman. The Committee voted 6-0 in favor of the motion.

**Public Hearing**

**#327-19 Ordinance amendment to repeal Zoning Ordinance 3.4.4 Garages**  
COUNCILOR ALBRIGHT requesting that Chapter 30 of Newton's Zoning ordinance be amended to repeal section 3.4.4 Garages (effective December 31, 2019 after three postponements). Garages will be discussed during Zoning Redesign next term.

**Action: Zoning and Planning voted to Delay Implementation for 6 months 6-0, Public Hearing Closed 11/25/19 (Councilors Leary and Krintzman not voting)**

**Notes:** Jennifer Caira, Chief Planner, presented to the Committee on this item.

Ms. Caira began by explaining that the ordinance in question was adopted to address the issue of "snout houses" (an architectural design in which the garage is pushed forward and dominates the façade of the home). After the ordinance went into effect, many residents complained due to the unintended consequences which soon became apparent. Ms. Caira said that the intent was to repeal the ordinance rather than another deferment as they planned to address it as part of Zoning Redesign. She said that Zoning Redesign would re-examine the way that garages feature in home construction.

A committee member asked if this item could be deferred again and prioritized deferment rather than repeal, citing concerns about it getting lost within Zoning Redesign. Another committee member echoed these concerns and said that they would support a deferment to find a solution in line with existing zoning.

A committee member said that they would rather repeal it, saying it has been deferred long enough. The Chair mentioned that she had worked with the Planning Department to prioritize solutions in the next term for two issues: teardowns and single-family attached homes and said that this item could be a third action item to be addressed in advance of zoning redesign.

Committee members expressed their support for this idea.

A committee member spoke about how several houses built in the "snout house" manner failed the "trick or treat test," meaning it is difficult to find the front door because of the prominent garage. They said that this problem emphasizes the need to deal with snout houses now before they proliferate their negative impact on the community further.

A committee member asked if the item could be amended to say that the garage item would be discussed "early next term" instead of leaving it a part of Zoning Redesign. The committee members said that they were amenable to this change.

A Councilor asked what the problems were with the ordinance. The issues included the fact that no garage could be even 1-inch front of the front façade even though there are many lovely examples of houses ranging from a couple of feet to even with a six or eight foot porch.

In addition, no side-facing garages are allowed and by contrast there are many examples of side facing garages that form a courtyard with the front door. Finally, the last issues were with the proposed "exemption" section rather than waivers by special permit. This was the first time such an ISD Commissioner-exemption was proposed and if used would require appeal through the Zoning Board of Appeals.

Peter Doeringer, Planning Board Chair, said that the Planning Board has also been having conversations on the matter over whether to continue deferments or to repeal the ordinance. Mr. Doeringer suggested the advantage of a short deferral in case other items come up and displace attention to this matter.

A committee member said that they would rather defer the item for four months.

The Chair opened for public hearing on docket item #327-19 before a vote was taken on the item.

Public Comment:

Simon French of 47 Glenn Avenue said that Zoning Redesign has been going on for a long time and that it was going to happen again. He said he agreed with the committee members proposing to defer the item to conduct more research on the matter.

The Committee voted 6-0 to close the public hearing (Councilors Leary and Krintzman not voting), and the Planning Board voted 4-0-1 (Mr. Heath abstaining) to close the public hearing as well.

Councilor Danberg moved to repeal the ordinance.

Multiple committee members voiced their concern over the increasing number of snout nose homes and wanted to have more research and planning done before making a final decision on the ordinance. The committee members asked if six months would be enough time to accomplish the research, to which Ms. Caira agreed.

After the committee discussed the options of repeal versus another delay of implementation, Councilor Danberg rescinded her motion. The Committee discussed the appropriate length of time for the delay with Planning staff who suggested that six months from January 1 would be appropriate.

Councilor Brousal-Glaser moved to further delay implementation of the garage ordinance for 6 months from the beginning of the new term to July 1, 2020. The committee voted 6-0 in favor of the motion (Councilors Leary and Krintzman not voting).

**Public Hearing**

**#363-19**      **Amendment(s) to Chapter 30 relative to building efficiencies**  
DIRECTOR OF PLANNING & CO-DIRECTORS OF SUSTAINABILITY requesting discussion and adoption of amendments to Chapter 30, the Newton Zoning Ordinance to create exemptions to building envelope standards such as height and setback to facilitate the implementation of energy efficiency and alternative energy measures in buildings including external insulation, doorway vestibules, heat pumps, and solar panels among other features.

**Action:**      **Zoning and Planning Held 8-0**

**Notes:**      Docket items #363-19 and #364-19 were discussed together but voted on separately.

**Public Hearing**

**#364-19**      **Amendment(s) to Chapter 30 relative to sustainable design**  
DIRECTOR OF PLANNING & CO-DIRECTORS OF SUSTAINABILITY requesting discussion and adoption of amendments to Chapter 30, the Newton Zoning Ordinance to create a new set of standards related to sustainable development design with requirements for new buildings and development projects to include environmental and energy efficiency features.

**Action:**      **Zoning and Planning Approved 8-0**

**Notes:**      Docket items #363-19 and #364-19 were discussed together and voted on separately.

Ms. Caira presented to the committee regarding these items.

Ms. Caira explained that there were two separate items being discussed. Docket item #363-19 would reduce barriers to environmental improvements while docket item #364-19 would introduce new green building requirements. She said that after the last meeting, the only item that still required discussion from reduction of environmental barriers was the height of solar panels above a pitched roof. Ms. Caira said that the Planning Department revisited the issue and felt that four feet was not necessary for pitched roofs. They now recommend one foot above the ridge line for a pitched roof. After consultation with Green Newton, staff felt that four feet may not always be sufficient for a flat roof, especially when mechanical equipment is present on the roof, so a waiver provision was added. Ms. Caira then welcomed questions from the Committee.

A council member asked Ms. Caira if there was any research on how these changes would affect the cost of doing business in Newton and what barriers to development might be caused as a result. Ms. Caira answered that no research on this question has been done but based on recent results in the special permitting process, the Council is already asking large scale projects to

pursue this level of sustainable design. She feels that requiring this level of sustainable design for projects smaller than 20,000 square feet might provide disincentives to smaller development.

A committee member commented on an east-west facing house which had solar panels installed perpendicular to the roof that clashed with the neighborhood. Ms. Caira said that these proposals would not address an issue such as the one described by the committee member unless they went above the ridgeline.

A committee member asked if distinctions could be made between new construction and retrofits of older buildings.

The committee also discussed how vestibules would be accounted for under these new guidelines. A Councilor suggested that a requirement could be added defining how close a vestibule could be to the lot line, suggesting five feet as a possibility.

A committee member cited the possibility for unintended consequences and asked if docket item #363-19 could be voted on in a subsequent meeting to further study the impact. They felt comfortable voting on docket item #364-19.

A committee member said that they had not previously thought about how vestibules would impact the side setbacks and neighboring lots and appreciated the suggestion to set a maximum in proximity to the lot line. There was also a discussion on whether this exemption should apply to side facing vestibules.

The Chair then opened docket item #364-19 to public comment.

Public Comment:

Peter Barrer of 60 Endicott Street spoke on behalf of Green Newton. He said that Green Newton supported the initiative and supported the efforts to include both developers and Green Newton constituents. He spoke in favor of the metrics which offer clearly defined goals to be met. He said that Green Newton planned on working with the City to develop the strategies to meet these goals.

The Committee then voted 8-0 to close the public hearing.

Councilor Baker moved approval on docket item #364-19. The Committee voted 8-0 in favor of the motion.

A committee member then expressed concerns over building into the setback in denser communities. They recommended that language be included to say that external technologies such as heat pumps be no closer than five feet to the lot line. They also expressed concerns about vestibule construction on side yards and asked for guidance from the Planning Department.

Ms. Caira answered that the Planning Department could review a requirement that the vestibule could encroach into the setback no further than five feet from the lot line and limit vestibules to the front setback.

With respect to heat pumps in the setback, a council member added that putting this equipment in the setback would work better than putting the equipment on the side of the house as they had to do. They suggested that greater leniency be shown to the sides and rear of houses to allow for green electrification sought by the City.

Committee members felt that it would be best to hold the item until the next meeting to allow for more research. Barney Heath, Director of Planning, agreed. A committee member called specific attention to the issue of side-vestibules.

A committee member spoke in favor of the five-foot idea. They expressed concerns at only allowing side vestibules under a special permit, citing how when used with an attached garage they become the *de facto* main entrance to the house.

Planning Board member Jennifer Molinsky said that the proposed elements had different effects depending on the setback in question. Because of this, Ms. Molinsky suggested more flexibility rather than a total ban on side-vestibules.

A committee member spoke in favor of flexibility regarding vestibules. They said that since people do not always use the traditional front door as the main entrance, this flexibility was necessary as they may want to install the vestibule on whichever door, they use the most.

Councilor Brousal-Glaser moved to hold docket item #363-19. The Committee voted 8-0 in favor of the motion.

Councilor Downs moved to adjourn the meeting. The Committee voted 8-0 in favor of the motion.

The meeting adjourned at 9:38pm.

**Respectfully Submitted,**

**Susan S. Albright, Chair**

# Zoning & Planning Committee November 25, 2019



**ITEMS:**

- **GARAGE ORDINANCE REPEAL  
(#327-19)**
- **CLIMATE ACTION ZONING PROPOSED ORDINANCES  
(#363-19 & #364-19)**

## Garage Ordinance Repeal



### Background

- Zoning section 3.4.4 “Garages” adopted June 2016
  - Residents and design professionals raised concerns
- Council deferred implementation repeatedly
- Currently scheduled to go in effect after 12/31/2019, unless Council takes other action before then

### Recommendation


- Repeal ordinance
- Address garage regulation through citywide Zoning Redesign



**Discussion**  
**#327-19**

**Ordinance amendment to repeal Zoning Ordinance 3.4.4 Garages**

**Climate Action Zoning  
Proposed Ordinances**



## Climate Action Zoning Proposed Ordinances

**#363-19**

**Reducing Barriers to Environmental Improvements**

- Setback Encroachments
- Height
- FAR

**#364-19**

**Sustainable Building/Site Design Requirements**

- Standard tied to 1 of 3 Green Building Programs
- Submissions at special permit, building permit, and certificate of occupancy phases

**EV Charging Station Requirements**

- 10% of parking access to EV charging stations
- 10% of parking EV ready

## Reducing Barriers to Environmental Building Improvements

**Updates:**

- ZAP Committee requested Staff to further evaluate the exemption of solar panels from measuring height on a pitched roof

Section 1.5.4.A.d	Previous	Current
Solar panel which do not extend above the roof ridgeline more than -	Four feet	One foot

- Greater height extensions allowed by special permit

**Discussion  
#363-19**

**Amendment(s) to Chapter 30 relative to  
building efficiencies**

**Sustainable Building/Site Design Requirements**



**Setting the Standard**

- 20,000 sf & SP
- Choice of Green Building Programs
- Standard Tied to Green Building Program Rating Systems
- EV Charging Stations
- Other Specific Requirements

**Sustainability Review**

- Special Permit Application Submission
- Green Building Program Professional

**Ensuring Compliance**

- Submissions at Building Permit and Certificate of Occupancy
- Green Building Program Professional
- Green Commissioning Agent

## Sustainable Building/Site Design Requirements



### Updates :

- Certifiable vs. Certification (sec. 5.12.4.A)
  - LEED – Certifiable
  - Passive House – Certified
  - Enterprise Green Communities – Certifiable
- Reserved Sections (sec. 5.12.4.D-E)
  - Embodied carbon
  - Electrification
- Review Procedures (sec. 5.12.6.C)
  - Certain documentation required when applying for Temp C/O
  - Final documentation required by final C/O
- Commissioning (sec. 5.12.6.D)
  - Removed because it is duplicative - all Green Building Rating Programs have built in commissioning requirements

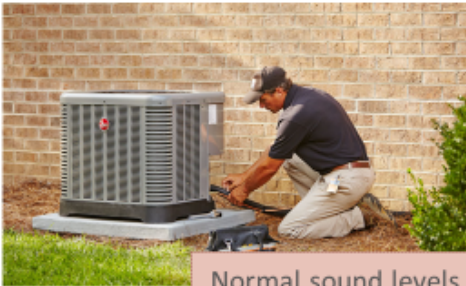
## Discussion #364-19

**Amendment(s) to Chapter 30 relative to  
sustainable design**

# Appendix

- Green improvement examples
- Sustainable design details
- Green building examples

## Heat Pump Compressors



Normal sound levels emitted from most heat pumps range between 40 and 50 decibels. That's less than a working dishwasher or a light rainfall

Proposed Rule

- Allowed in setback

Definition

- A device that serves as a heating and cooling system for a building by transferring heat energy into a building to heat it and out of the building to cool it

# Exterior Insulation



Proposed Rule

- Exemptions only apply for existing buildings
- Allowed in setback up to 8 inches
- Not counted towards FAR

Definition

- Insulation that is installed exterior to the exterior structural wall of the building

Green improvement examples

# Doorway Vestibule



Proposed Rule

- Allowed in setback to project up to 4 feet with a width no greater than 6 feet
- Not counted towards FAR up to a maximum of 24 feet

Green improvement examples

# Window Shades



Proposed Rule

- Allowed to project into setback up to 2 feet

Definition

- Non-habitable architectural features attached to a building above windows to reduce the amount of sunlight entering the window

Green improvement examples

# Roof Overhang



Proposed Rule

- Allowed to project into setback up to 3 feet

Green improvement examples

## Solar Panels



### Proposed Rule

- Allowed up to 4 feet above the roofline

Green improvement examples

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## Setting the Standard



- **Applicability** - 20,000 sf and a special permit
- **Standard** – Choice from three Green Building Programs
  - LEED – Must meet silver, gold if 50,000+ sf
  - Passive House – base standard
  - Enterprise Green Communities – base standard

Sustainable design details

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## Sustainability Review



- **Checklist** – Submitted list identifying the green building program, rating system, target rating, and the “points” of other indications of how achieved.
- **Narratives** – Descriptions of the design elements of the project and specifically, the energy components of that.
- **Credentials & Affidavit** – From the green building professional certifying that the project as designed meets the requirements of this ordinance and the appropriate rating system.

Sustainable design details

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## Ensuring Compliance



- **Building Permit** – Submit everything again with the building permit application – especially the certification of the Green Building Professional.
- **Certificate of Occupancy** – Submit everything again before receiving the Certificate of Occupancy.
- **Green Commissioning Process** – Submit required materials based on the used Green Building Rating Program

Sustainable design details

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## Additional Notes



- **Exceptions Provision** – By special permit if environmental outcomes can be achieved by some other approach or project design and full exception possible for projects where literal compliance is impractical due to the nature or use

Sustainable design details

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## Passive House



**Boston**

Green building examples

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# Passive House



## Nonantum

Green building examples

## 5.12. Sustainable Development Design

### 5.12.1. Intent and Purpose

The intent of this section is to reduce the use of energy, water, and other natural resources in Newton's building stock and minimize adverse environmental impacts from buildings and development in both construction and long-term operation by:

- A. Increasing the use of renewable energy sources for electricity, transportation, heat/cooling, and hot water
- B. Increasing the use of efficient electricity technology for transportation and buildings
- C. Increasing the number of buildings built to Passive House, net zero, or similar standards.
- D. Minimizing the environmental impacts of construction materials and methods, including waste reduction.

### 5.12.2. Definitions

- A. **Green Commissioning.** The process of verifying and documenting that a building and all of its systems and assemblies are installed, tested, operated, and maintained to meet specified levels of environmentally sustainable performance in accordance with the provisions of Section 5.12 of this Zoning Ordinance.
- B. **Green Commissioning Agent.** An entity or person with documented experience on at least 2 building projects with a scope of work similar to the proposed project extending from early design phase through at least 10 months of occupancy.
- C. **Green Building Professional.** A professional who holds a credential from a Green Building Rating Program indicating advanced knowledge and experience in environmentally sustainable development in general as well as specific Green Building Rating Systems or otherwise possesses comparable experience in environmentally sustainable development. In instances where a Green Building Rating Program that does not offer such a credential is being applied to meet the provisions of Section 5.12, the designated Green Building Professional must have demonstrated experience as a project architect or engineer, or as a consultant providing third-party review, on at least 3 projects that have been certified using the applicable Green Building Rating Program.
- D. **Green Building Project.** Any development project that meets the provisions of Section 5.12.3.
- E. **Green Building Rating Program.** A collection of activities and services directed by an organization to promote environmentally sustainable development and to recognize projects that achieve defined environmentally sustainable development objectives, including the establishment and oversight of one or more Green Building Rating Systems.
- F. **Green Building Rating System.** A specific set of design standards for environmentally sustainable performance established under the auspices of a Green Building Rating Program against which a project or building design may be evaluated.

### 5.12.3. Application of the Sustainable Development Requirements

- A. These sustainable development requirements apply to any proposed development in any zoning district that includes the construction or substantial reconstruction of one or more buildings totaling 20,000 sf or more of gross floor area that also requires issuance of a special permit under any provision of this Zoning Ordinance.
- B. **No Segmentation.** The zoning provisions of this Section apply to projects at one site or two or more adjoining sites in common ownership or under common control within a period of five years from the first date of application for any special permit for construction on the lot or lots, or for the 12 months immediately preceding the date of application for any special permit. An applicant for development may not segment or divide or subdivide or establish surrogate or subsidiary entities to avoid the requirements of Section 5.12. Where the City Council determines that this provision has been violated, a special permit will be denied. However, nothing in Section 5.12 prohibits the phased development of a property.

#### 5.12.4. Sustainable Development Requirements

- A. A green building project must be designed to meet the standards of one of the authorized green building rating systems identified in Section 5.12.5 according to the requirements listed below.
  - 1. **LEED Green Building Rating Program.** A green building project being designed according to the LEED Green Building Rating Program must be designed to achieve a minimum 'Silver' level standard. Projects of greater than 50,000 sf of gross floor area must be designed to meet a minimum 'Gold' level standard. Certification by the LEED Green Building Rating Program is not required.
  - 2. **Passive House Green Building Rating Program.** A green building project being designed according to the Passive House Green Building Rating program must be designed to achieve certification. Certification by the Passive House Green Building Rating Program is required.
  - 3. **Enterprise Green Communities Green Building Rating System.** A green building project being designed according to the Enterprise Green Communities Green Building Rating program must be designed to achieve the minimum criteria for certification. Certification by the Enterprise Green Communities Green Building Rating Program is not required.
- B. **Electric Vehicle Charging Stations.** A green building project must provide that a minimum of 10% of parking spaces have access to electric vehicle charging stations up to a maximum of 40 spaces. An additional 10% of parking spaces must be electric vehicle charging station ready, meaning that electrical systems and conduit are prepared to expand the number of charging stations as demand increases. This Section 5.12.4.B only applies to new or rebuilt parking facilities; those projects using existing parking lots are exempt.
- C. **Solar Panels.** [reserved]
- D. **Embodied Carbon** [reserved]
- E. **Electrification of heating/cooling and residential cooking, domestic water heating, and laundry** [reserved]

#### 5.12.5. Authorized Green Building Rating Programs

- A. Any of the following green building rating programs may be used to meet the requirements of this Section 5.12.
1. The Leadership in Energy and Environmental Design (“LEED”) Green Building Rating Program developed and overseen by the United States Green Building Council;
  2. The Passive House Green Building Rating Program developed and overseen by either Passive House Institute US, Inc. or the Passive House Institute; or
  3. The Enterprise Green Communities Green Building Rating Program developed and overseen by Enterprise Community Partners, Inc.
- B. **Applicability of Rating Systems.**
1. If a green building rating program offers different green building rating systems, a green building project must use the system that is most directly applicable to the project or building type, as determined by the Planning Director.
  2. The green building rating system must address the design and construction of buildings, not building operations or neighborhood development.
  3. A green building project must use the most current version of the applicable green building rating system at the time of the special permit application.
  4. The green building rating system, including the applicable version, must be specified at the time of special permit application.

#### 5.12.6. Sustainable Development Review Procedures

- A. **Special Permit Submittal Requirements.** The following must be submitted with the special permit application:
1. **Rating System Checklist.** A document enumerating the criteria set forth in the applicable green building rating system and indicating which technical and design requirements will be met in the green building project design and the resulting rating level of the green building project.
  2. **Rating System Narrative.** A written description of the technical and design elements of the green building project that will be utilized to achieve compliance with the applicable green building rating system.
  3. **Energy Narrative.** A written description of the energy efficiency, renewable energy, and other technical and design elements of the green building project that serve to minimize energy use, make use of renewable energy sources, and otherwise demonstrate how close the project is to achieving net zero energy use status. This narrative should include descriptions of building envelope performance, anticipated energy loads, site planning, mechanical systems and on-site and off-site renewable energy systems. The narrative must also describe how the building could be made to achieve net zero status in the future.
  4. **Credentials.** A document demonstrating the credentials of the green building project’s designated green building professional, which must include a credential from the green building rating program indicating advanced knowledge in the specific green building rating system being applied to the green building project.
  5. **Affidavit.** An affidavit signed by the green building professional stating that he/she has reviewed all relevant documents and that to the best of their knowledge, the documents provided indicate that the green building project is being designed to achieve the requirements of this Section 5.12.

- B. **Building Permit Submittal Requirements.** When applying for a building permit for a Green Building Project, the documentation listed in Section 5.12.6.A above, updated from any previous version to reflect the current Green Building Project design, and the additional documentation listed below must be submitted to the Department of Planning and Development.
1. Credentials of the Green Building Project's Green Commissioning Agent.
  2. For a Green Building Project using the Passive House Green Building Rating Program, the following set of documents is required:
    - a. Credentials of the Passive House rater/verifier who will perform testing and verification and letter of intent stating he/she has been hired to complete the on-site verification process;
    - b. Credentials of the Certified Passive House Consultant who has provided design, planning, or consulting services;
- C. **Certificate of Occupancy Submittal Requirements.** When applying for a temporary certificate of occupancy for a Green Building Project, the documentation listed in Sections 5.12.6.A and 5.12.6.B above, updated from any previous version to reflect the current Green Building Project design, must be submitted to the Department of Planning and Development. The additional documentation listed below must be submitted prior to issuance of a final certificate of occupancy.
1. An affidavit signed by the Green Commissioning Agent, certifying that the pre-construction commissioning process requirements of the applicable Green Building Rating Program have been met and that the post-construction commissioning process requirements of this Section were included in the scope of work and will be met, including a schedule of when each commissioning requirement was or will be met.
  2. For Green Building Projects using the Passive House Green Building Rating Program, the final testing and verification report completed by the Passive House rater/verifier.
  3. Credentials of the Green Building Project's accredited Green Building Professional and an affidavit signed by that professional stating that he/she has reviewed all relevant documents and that to the best of his/her knowledge, the documents provided indicate that the Green Building Project was built to achieve the requirements of Section 5.12.

#### 5.12.7. Exceptions

A special permit may be granted to allow for exceptions to this Section 5.12 if an applicant can demonstrate that the same or better environmental outcomes can be achieved through a different approach or project design. An exception may also be granted where literal compliance is impracticable due to the nature of the use or that such exceptions would be in the public interest.