



SAN FRANCISCO PLANNING DEPARTMENT

July 21, 2011

Ms. Angela Calvillo, Clerk
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

**Re: Transmittal of Planning Department Case Number 2010.0182TU:
Standards for Bird-Safe Buildings**

**BOS File No: _____ (pending)
Planning Commission Recommendation: Approval**

Dear Ms. Calvillo,

On July 14, 2011 the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance.

The proposed Ordinance initiated by the Commission would create or amend the following Sections within the Planning Code (hereinafter "Code") to: a) reduce building-related hazards for San Francisco's resident and migrant bird species; b) establish consistent building standards for creating bird-safe buildings; and c) provide certain exemptions from these requirements.

- **Create Section 139 Standards for Bird Safe Buildings to:**
 - a. Identify geographical areas in San Francisco that due to the location may present increased hazards for birds. Certain treatments would be required in the vicinity of these areas.
 - b. Identify certain building features, which in and of themselves create special hazards for birds.
- **Amend Section 145.1 - Street Frontages, Neighborhood Commercial, Residential-Commercial, Commercial, And Mixed Use Districts to:**
 - a. Provide for exceptions to the existing transparency and fenestration requirements for buildings near sensitive habitat.

The proposed changes have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15307 and 15308.

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415.558.6377

At the July 14th, hearing, the Commission voted to recommend approval of the proposed Ordinance. Please find attached documents relating to the Commission's action. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'AM-Rodgers', with a long horizontal stroke extending to the right.

AnMarie Rodgers
Manager of Legislative Affairs

cc:

Mayor's Office, Jason Elliot
Land Use Chair, Supervisor Eric Mar
Supervisor Cohen
Supervisor Wiener

Attachments (one copy of the following):

Planning Commission Resolution No. 18406
Planning Commission Executive Summary for Case No. 2010.0182TU
Draft Ordinance (original)



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 18406 Proposed Commission Policy and Planning Code Amendment

HEARING DATE: JULY 14, 2011

Project Name: Standards for Bird-Safe Buildings
Case Number: 2010.0182TU
Staff Contact: Erika Lovejoy, Senior Planner
erika.lovejoy@sfgov.org, 415-575-9026
Reviewed by: AnMarie Rodgers, Manager Legislative Affairs
anmarie.rodgers@sfgov.org, 415-558-6395

Recommendation: **Approval with Modifications**

ADOPTING A PLANNING COMMISSION POLICY DOCUMENT TITLED, "JULY 2011 STANDARDS FOR BIRD-SAFE BUILDINGS". THIS POLICY DOCUMENT WILL GUIDE THE COMMISSION AND DEPARTMENT IN REVIEW OF BUILDINGS WITH THE GOAL OF REDUCING BUILDING-RELATED HAZARDS FOR BIRDS IN SAN FRANCISCO.

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE TO ACHIEVE THE FOLLOWING: A) REDUCE BUILDING-RELATED HAZARDS FOR SAN FRANCISCO'S RESIDENT AND MIGRANT BIRD SPECIES; B) ESTABLISH CONSISTENT BUILDING STANDARDS FOR CREATING BIRD-SAFE BUILDINGS; AND C) PROVIDE CERTAIN EXEMPTIONS FROM THESE REQUIREMENTS. INCLUDING BUT NOT LIMITED TO CREATING SECTION 139; AMENDING SECTION 145.1; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE PRIORITY POLICIES OF PLANNING CODE SECTION 101.

PREAMBLE

WHEREAS, on February 5, 2009, the San Francisco Planning Commission (hereinafter "Commission") received information from Planning Department staff (hereinafter "staff") on San Francisco's "Lights Out for Birds Program" in response to a Commissioner request; and

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WHEREAS, on October 8, 2009, the Commission requested that staff present information on Bird-Friendly Building Standards Informational Presentation by Christine Sheppard, PhD, Bird Collisions Campaign Manager of the American Bird Conservancy, Washington, DC; and

WHEREAS, on October 14, 2010, the San Francisco Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider a draft document titled "Standards for Bird-Safe Buildings"; and

WHEREAS, at the October 14, 2010 hearing, the Commission requested the following:

1. Collect public comment on the draft "Standards For Bird-Safe Buildings" document through the end of 2010;
2. Consider revisions to the document based upon comments received;
3. Prepare a draft ordinance for the Commission's consideration in early 2011 that would implement proposed controls; and
4. Prepare a final "Standards For Bird-Safe Buildings" policy for the Commission's consideration;

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider initiation of the proposed Ordinance on June 23, 2011; and

WHEREAS, at that hearing the Commission adopted Resolution Number 18383 to Initiate said amendments to the Planning Code and to announce their intent to consider adoption of the both the draft Ordinance and the draft Policy document on or after July 14, 2011;

WHEREAS, pursuant to Planning Code Section 306.3, the Planning Department has provided appropriate notice for a potential public hearing to consider adoption on or after July 14, 2011;

WHEREAS, the Planning Commission finds that vast evidence has demonstrated that bird collisions with buildings are a real threat that can be significantly reduced through design. The issue of bird-safe design is increasingly of interest to the people of San Francisco and across the country. Bird-safe design has been raised as an issue during recent entitlement hearings and CEQA review. By defining the most hazardous conditions and codifying effective and appropriate controls, the Commission seeks to decrease bird casualties and to increase certainty in the development process.

WHEREAS, The Commission finds that there are two circumstances that warrant regulation: 1) location-related hazards where the siting of a structure creates increased risk to birds, and 2) feature-related hazards which may create increased risk to birds regardless of where the structure is located.

WHEREAS, Location-related hazards are created by structures that are near or adjacent to large open spaces and/or water.

WHEREAS, Even if a structure is not located near a locational hazard, particular building features also may create a hazard for birds.

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under Sections 15307 and 15308 of the California Environmental Quality Act Guidelines.

WHEREAS, the proposed legislation and policy document are intended to resolve the aforementioned issues; and

WHEREAS, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Commission has reviewed the proposed Ordinance and policy document; and

MOVED, that the Commission hereby *adopts* this Resolution to:

- 1) recommend approval of the draft Ordinance to the Board of Supervisors with the following modification: The requirements for bird-safe glazing as defined in §139(b)(1) should be revised to read "Bird-Safe Glazing Treatment may include fritting, netting, permanent stencils, frosted glass, exterior screens, physical grids placed on the exterior of glazing or UV patterns visible to birds. To qualify as Bird-Safe Glazing Treatment, vertical elements of the window patterns ~~shall~~ should be at least 1/4 inch wide at a minimum spacing of 4 inches, ~~and~~ or horizontal elements at least 1/8 inch wide at a maximum spacing of 2 inches. ~~No qualified glazing shall have a visible light reflectance exceeding 10%.~~"; and
- 2) adopt as Commission Policy the document titled, "July 2011 Standards for Bird-Safe Buildings".

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. **Issues related to Bird-Safe Buildings.** The Commission finds that:
 - Vast evidence has demonstrated that bird collisions with buildings are a real threat that can be significantly reduced through design. The issue of bird-safe design is increasingly of interest to the people of San Francisco and across the country. Bird-safe design has been raised as an issue during recent entitlement hearings and CEQA review. By defining the most hazardous conditions and codifying effective and appropriate controls, the Commission seeks to decrease bird casualties and to increase certainty in the development process.
 - There are two circumstances that warrant regulation: 1) location-related hazards where the siting of a structure creates increased risk to birds and 2) feature-related hazards which may create increased risk to birds regardless of where the structure is located.

- Location-related hazards are created by structures that are near or adjacent to large open spaces and/or water.
 - Even if a structure is not located near a locational hazard, particular building features may also create a hazard for birds.
 - The proposed legislation and policy document are intended to resolve the aforementioned issues; and
2. **General Plan Compliance.** This Resolution is consistent with the following Objectives and Policies of the General Plan:

I. ENVIRONMENTAL PROTECTION ELEMENT

OBJECTIVE 1

ACHIEVE A PROPER BALANCE AMONG THE CONSERVATION, UTILIZATION, AND DEVELOPMENT OF SAN FRANCISCO'S NATURAL RESOURCES.

POLICY 1.1 Conserve and protect the natural resources of San Francisco.

POLICY 1.2 Improve the quality of natural resources.

POLICY 1.3 Restore and replenish the supply of natural resources.

POLICY 1.4 Assure that all new development meets strict environmental quality standards and recognizes human needs.

OBJECTIVE 3

MAINTAIN AND IMPROVE THE QUALITY OF THE BAY, OCEAN, AND SHORELINE AREAS.

POLICY 3.2 Promote the use and development of shoreline areas consistent with the General Plan and the best interest of San Francisco.

OBJECTIVE 8

ENSURE THE PROTECTION OF PLANT AND ANIMAL LIFE IN THE CITY.

POLICY 8.2 Protect the habitats of known plant and animal species that require a relatively natural environment.

POLICY 8.3 Protect rare and endangered species.

OBJECTIVE 12

ESTABLISH THE CITY AND COUNTY OF SAN FRANCISCO AS A MODEL FOR ENERGY MANAGEMENT.

POLICY 12.1 Incorporate energy management practices into building, facility, and fleet maintenance and operations.

Discussion: The Introduction to the Environmental Protection Element parallels the issues at play in developing controls to ensure San Francisco's buildings are bird-safe. As stated in the Introduction, "The Environmental Protection Element addresses the impact of urbanization ... on the natural environment. In highly urban San Francisco environmental protection is not primarily a process of shielding untouched areas from the initial encroachment of a man-made environment. The scales already are and will continue to be balanced toward the side of development. The challenge in San Francisco is to achieve a more sensitive

balance, repairing damage already done, restoring some natural amenity to the city, and bringing about productive harmony between people and their environment. An important purpose, therefore, of an environmental protection element is to give natural environment amenities and values appropriate consideration in urban development along with economic and social considerations."

II. URBAN DESIGN ELEMENT

OBJECTIVE 2

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

POLICY 2: Limit improvements in other open spaces having an established sense of nature to those that are necessary, and unlikely to detract from the primary values of open space.

Discussion: Part of the value of our open space is the opportunity to feel connection with nature. To ensure that San Francisco's open spaces with bird habitat that provide the opportunity for birdwatching, the City should ensure that nearby buildings compliment this activity.

III. RECREATION AND OPEN SPACE ELEMENT

POLICY 2.13 Preserve and protect significant natural resource areas.

Discussion: The health of birds often reflects the health and trends of the land, air, and water upon which we humans also depend. People rely on birds for such services as pest control and keeping natural systems in balance. By eating insects, weed seeds, and nuisance rodents, birds provide us with free ecological services. The City can help ensure that we continue to reap these benefits by taking efforts to protect the migratory birds that visit and those that live here year round.

II. COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Discussion: According to "Birding in the United States: A Demographic and Economic Analysis by the U.S. Fish and Wildlife Service, "...birdwatchers generated \$85 billion in overall economic output, including \$13 billion in federal and state income taxes, and supported more than 863,000 jobs."

3. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance will not disrupt existing neighborhood-serving retail. Future opportunities for employment in such buildings will not be affected by the proposal.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed amendments will not have an impact on housing in Neighborhood Commercial Districts. Controls are in place in section 317 of the Planning Code that severely restricts the conversion of housing units to commercial units. New retail that is established in areas where these controls would apply would still be able to provide transparency on the ground floor where it is most important.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed amendments will have no adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed amendments will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed amendments would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

Preparedness against injury and loss of life in an earthquake is unaffected by the proposed amendments. Any new construction or alteration associated with a use would be executed in compliance with all applicable construction and safety measures.

7. That the landmarks and historic buildings be preserved;

Landmarks and historic buildings would be unaffected by the proposed amendments. Should a landmark or historic building trigger the requirements of the proposed Ordinance, the controls have been written to preserve the historic character and be compliant with City controls and guidelines for historic buildings as well as the Secretary of the Interior's Standards.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The City's parks and open space and their access to sunlight and vistas would be unaffected by the

proposed amendments. If anything, the proposal would require new development to be more compatible with our parks and open space.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on July 14, 2011.

 **POR.**
Linda Avery
Commission Secretary

AYES: Fong, Miguel, Moore, Olague, Sugaya

NAYS: Antonini

ABSENT: Borden

ADOPTED: July 14, 2011



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Proposed Commission Policy and Planning Code Amendment

HEARING DATE: JULY 14, 2011

Project Name: Standards for Bird-Safe Buildings
Case Number: 2010.0182TU
Staff Contact: Erika Lovejoy, Senior Planner
erika.lovejoy@sfgov.org, 415-575-9026
Reviewed by: AnMarie Rodgers, Manager Legislative Affairs
anmarie.rodgers@sfgov.org, 415-558-6395

Recommendation: **Approval with Modifications**

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POLICY DOCUMENT AND PLANNING CODE AMENDMENT

At a public hearing on June 23, 2011, the Planning Commission (hereinafter referred to as "Commission") approved Resolution Number 18383 announcing the Commission's intent to Initiate Amendments to the Planning Code (hereinafter Code) that would implement the draft policy document titled "Standards For Bird-Safe Buildings". Both the proposed Ordinance and the draft policy document would be considered for adoption on or after July 14, 2011.

The Department received over 2200 comments on the draft proposal. The Department has conducted outreach with relevant private-section professional organizations, building owners, public agencies and non-profits. (See a complete list of associated outreach under public comment.) In response to the comments, the Department revised the policy document and published the June 2011 Standards for Bird-Safe Buildings. Should the Commission choose to adopt this policy document, the Department has drafted the attached proposed Ordinance to implement the policies for Bird-Safe Buildings. Pursuant to Code Section 306.3, the Department has provided notice for a hearing to consider the Code amendments contained in the draft Ordinance on or after July 14, 2011.

The Way It Is Now: Planning Code & Policy Guidance

The existing Code does not include considerations of Bird-Safe design. The General Plan has policies seeking to protect plant and animal life in the City and to ensure balance among conservation, utilization, and development of San Francisco's natural resources.

The Way It Would Be: Policy Guidance

The proposed policy document would seek to achieve the following:

- Review applicable research of bird/building collisions;

- Apply this research to San Francisco's unique built environment;
- Increase education and awareness of structural hazards for birds;
- Establish controls to 1) reduce building-related hazards for San Francisco's resident and migrant bird species and 2) ensure that developers and architects are not surprised by costly last minute requests to address the issue during the design review and approval processes; and
- Encourage voluntary actions by building owners and occupants to reduce future bird/building collisions in San Francisco.

The Way It Would Be: Planning Code Amendment

The proposed Ordinance would create or amend the following existing Sections within the Code to achieve the following: a) reduce building-related hazards for San Francisco's resident and migrant bird species; b) establish consistent building standards for creating bird-safe buildings; and c) provide certain exemptions from these requirements.

- **Create Section 139 Standards for Bird Safe Buildings to:**
 - a. Identify geographical areas in San Francisco that due to the location may present increased hazards for birds. Certain treatments would be required in the vicinity of these areas.
 - b. Identify certain building features which in and of themselves create special hazards for birds.
- **Amend Section 145.1 - Street Frontages, Neighborhood Commercial, Residential-Commercial, Commercial, And Mixed Use Districts to**
 - a. provide for exceptions to the existing transparency and fenestration requirements for buildings near sensitive habitat.

REQUIRED COMMISSION ACTIONS

The proposed draft policy document titled, "July 2011 Draft Standards for Bird-Safe Buildings," is before the Commission so that it may adopt or not adopt the document as Commission Policy.

The proposed Ordinance is before the Commission so that it may approve or disapprove the proposed Planning Code Amendments.

RECOMMENDATION

The Department recommends that the Commission *adopt* the draft policy document and adopt the attached Draft Resolution to that effect.

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinance and adopt the attached Draft Resolution to that effect. Specifically, the draft Ordinance should be modified as follows:

- The requirements for bird-safe glazing as defined in §139(b)(1) should be revised to read "Bird-Safe Glazing Treatment may include fritting, netting, permanent stencils, frosted glass, exterior screens, physical grids placed on the exterior of glazing or UV patterns visible to

birds. To qualify as Bird-Safe Glazing Treatment, vertical elements of the window patterns ~~shall~~ should be at least 1/4 inch wide at a minimum spacing of 4 inches, ~~and~~ or horizontal elements at least 1/8 inch wide at a maximum spacing of 2 inches. ~~No qualified glazing shall have a visible light reflectance exceeding 10%.~~

BASIS FOR RECOMMENDATION

Vast evidence has demonstrated that bird collisions with buildings are real threat that can be significantly reduced through design. The issue of bird-safe design is increasingly of interest to the people of San Francisco and across the country. Bird-safe design has been raised as an issue during recent entitlement hearings and CEQA review. By defining the most hazardous conditions and codifying effective and appropriate controls, the Department seeks to decrease bird casualties and to increase certainty in the development process. Alternatives to codification could include adoption of design guidelines without requirements; further study of the issue; and/or implementation of the proposed certification. See attached draft policy document for more information. The modifications are recommended as 1) the intent was to require *either* vertical or horizontal patterns but not both and 2) in response to additional information from glass manufactures and architects about glass availability.

ENVIRONMENTAL REVIEW

The proposed amendment is exempt from environmental review under Sections 15307 and 15308 of the CEQA Guidelines.

PUBLIC COMMENT

The Department received over 2200 letters and emails on this topic. The vast majority of the comments expressed support for the proposal. There were also questions and suggested edits to the policy document regarding technical glass specifications for bird-safe glazing, consistency with LEED standards, bird-safe treatment options/cost, integration with "Lights Out" programs, timing of policy implementation, qualifying for Bird-Safe Building Certification, and clarifications regarding scientific data. Staff A copy of the public comment is available at the Planning Department for review and will be brought to the adoption hearing. Department outreach on this topic includes but was not limited to: San Francisco's Building Owners Management Association (BOMA), the San Francisco Chapter of the American Society of Landscape Architects (ASLA); the San Francisco Chapter of the American Institute of Architects (AIA); California Business Properties Association (CBPA); San Francisco Urban Planning & Research (SPUR); San Francisco Commission on the Environment and Policy Committee; California Academy of Science; Livable City; the Sierra Club; Point Reyes Bird Observatory; San Francisco Animal Care and Control; the State of California Building Standards Commission's Code Advisory Committee; the San Francisco Department of Building Inspection's Code Advisory Committee (DBI CAC); the Port of San Francisco, the Recreation and Parks Department; the Department for the Environment; private architects, scientists, developers, land use attorneys, and journalists.

RECOMMENDATION:	Recommendation of Approval with Modifications
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Attachments:

Exhibit A: Draft Planning Commission Resolution: Recommending Approval of Amendments to the Planning Code and Adoption of the 2011 Standards for Bird-Safe Buildings

- Exhibit B: 2011 Standards for Bird-Safe Buildings
- Exhibit C: Draft Ordinance Creating Controls for Bird-Safe Buildings in the Planning Code
- Exhibit D: Map of Proposed Urban Bird Refuge Areas