



SAN FRANCISCO PLANNING DEPARTMENT

Letter of Determination

June 16, 2016

Ms. Rachel B. Horsch
Partner
Pillsbury Winthrop Shaw Pittman LLP
Four Embarcadero Center, 22nd Floor
San Francisco, CA 94111

Site Address:	181 Fremont Street
Assessor's Block/Lot:	3719/010, 011
Zoning District:	C-3-O(SD) (Downtown—Office (Special Development))
Staff Contact:	Nicholas Foster, (415) 575-6167 or nicholas.foster@sfgov.org
Record No.:	2016-007743ZAD

Dear Ms. Horsch:

This letter is in response to your March 30, 2016 letter, requesting a general waiver or modification from Planning Code Section 139 (Standards for Bird-Safe Buildings) for the project known as 181 Fremont Street ("Project") located at 181 Fremont Street ("Property"). The Property is located in the C-3-O(SD) (Downtown - Office - Special Development) Zoning District and 700-S-2 Height and Bulk District. The Project is being undertaken by 181 Fremont Street, LLC ("Project Sponsor").

Planning Code Section 139(c)(3)(C) states that the Zoning Administrator may either waive the requirements contained within Sections 139(c)(1) (Location-Related Standards) and 139(c)(2) (Feature-Related Standards) or modify such requirements to allow equivalent Bird-Safe Glazing Treatments upon the recommendation of a qualified biologist.

In considering a waiver or modification from Section 139, it is necessary to determine which Bird-Safe Standards apply (Location-Related or Feature-Related Standards). While the Property is not located within 300 feet of an established Urban Bird Refuge, the Property is located immediately adjacent the site of the future Transbay Transit Center, which contains an elevated rooftop park known as City Park. This park will be approximately 5.4 acres and will be well vegetated with trees and shrubs that could provide habitat for birds. Because the park has a landscaped area greater than 2 acres, Location-Related Standards would apply because the glass façade of the Project is directly adjacent to the park and extends upwards 60 feet from the level of the Park.

Additionally, the Project contains a crown at the upper-most portion of the building comprised of glass panels arranged in an overlapping manner at heights of 700-740 feet above ground level, to conceal the rooftop penthouses and mechanical equipment. As the glass panels are larger than 24 square feet and there will be open sky behind these panels, it has been determined that Feature-Related Standards would apply at the crown.

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In assessing Bird Safe Standards for the Project, the Project Sponsor retained the services of H.T. Harvey & Associates, an ecological consulting firm, to prepare an Avian Collision Risk Assessment report (dated June 2015) and a supplemental report (dated August 2015). These reports, prepared by Stephen C. Rottenborn, Ph.D., a wildlife ecologist and qualified ornithologist, challenged the overall avian collision risk posed by the Project citing a low, native resident bird population in the existing conditions surrounding the Property, and the likelihood of low bird use in City Park given that migratory birds are less likely to habituate to the conditions found in urban parks. The reports also cited the Project's unique architectural design features that would prove more conspicuous to avian populations, thereby helping to reduce avian collisions. With respect to the crown, the reports find the potential collision risk to be low, as the "saw-tooth" architectural design is continued at this level of the building, making the structure more conspicuous to passing birds. Additionally, given its height above grade, the birds flying at this altitude would primarily consist of long-distance migrants that would perceive the building as a solid structure and avoid flying into it, long before they came close to the building itself, therefore no additional treatment of the glass panels would be necessary.

In consideration of these reports, the Planning Department concurs with the findings that the Project's design features could help reduce avian collisions. The Project's façade is comprised of a glass curtain system (glass panels separated by non-glass mullions) that is arranged in a "saw-tooth" pattern. While the "saw-tooth" pattern was originally designed to minimize solar heat gain, the staggering of glazing may help to disrupt reflections compared to unbroken segments of plain glass, thereby functioning as a Bird-Safe Standard. The Department also concurs with the findings in the reports that the crown at this height poses a minimal collision risk.

Additionally, the Project Sponsor, after consultation with the Planning Department, has agreed to the installation of architectural features that are in service of reducing bird mortality from circumstances that are known to pose a high risk to birds and are considered to be "bird hazards." These features will apply within the Bird Collision Zone, which begins at the height of the building where the pedestrian bridge connects City Park to the Project (approximately 71'-4" above grade) to a height 60 feet upwards (approximately 133'-10") or floors 5-9. These features include:

1. The addition of horizontal mullions to the glass curtain wall fronting onto City Park (north façade) to limit the size of the segments of glass, such that all unbroken glazed segments are no larger than 24 square feet.
2. Prohibition of indoor vegetation placed within the building, along the norther façade (facing City Park).

Lastly, the Project Sponsor has voluntarily introduced an Avian Collision Monitoring Plan ("Monitoring Plan"), prepared by H.T. Harvey & Associates, aimed at monitoring avian collisions following the construction of the Project. The Monitoring Plan, which is intended to collect data from avian collisions, calls for the evaluation of potential "hotspots" where there are higher frequencies of avian collisions occurring, and the consideration of post-construction measures to reduce avian collisions.

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In response to the requirements set forth in Planning Code Section 139 for Location-Related and Feature-Related Standards, the Project Sponsor has demonstrated partial compliance with these requirements. Therefore, based upon the findings listed above and the evidence outlined in the March 30, 2016 letter, I hereby grant the modification from Planning Code Section 139.

Please note that a Letter of Determination is a determination regarding the classification of uses and interpretation and applicability of the provisions of the Planning Code. This Letter of Determination is not a permit to commence any work or change occupancy. Permits from appropriate Departments must be secured before work is started or occupancy is changed.

APPEAL: If you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator, an appeal may be filed with the Board of Appeals within 15 days of the date of this letter. For information regarding the appeals process, please contact the Board of Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

Sincerely,



Scott F. Sanchez
Zoning Administrator

cc: Nicholas Foster, Planner
Property Owner
Neighborhood Groups
BBN Requestor (if any)