



SAN FRANCISCO PLANNING DEPARTMENT

Draft Planning Commission Resolution Proposed Commission Policy and Planning Code Amendment

HEARING DATE: JULY 14, 2011

Project Name: Standards for Bird-Safe Buildings
Case Number: 2010.0182TU
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Recommendation: **Approval with Modifications**

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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

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.

Linda Avery
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: July 14, 2011