Supplemental Communications (2)

(The following are communications received after 12pm on **March 1** - 12pm, **March 2.**)

From: kelly hammargren <kellyhammargren@gmail.com>
Sent: Tuesday, March 1, 2022 1:31 PM
To: Pearson, Alene <apearson@cityofberkeley.info>
Subject: March 2, 2022 #11 Bird Safe Requirements - please share and post for commissioners

As a child in the north Midwest the return of the Robin each spring was celebrated with unrestrained glee. All these years later the bird population is in staggering decline.

The Planning Commission has an opportunity Wednesday evening to set the Bird Safe Ordinance in the direction of strong mandatory requirements for 100% bird safe glass in all new construction and glass replacement. The model legislation from the American Bird Conservancy is not limited to glass and includes plexiglass, transparent materials and highly reflective free-standing structures.

After digging my way into the IPCC "Climate Change 2022 Impacts, Adaptation and Vulnerability" released this week, you will not find me arguing for making exceptions to glass in historic buildings.

We are well past time to act on preserving biodiversity.

As I wrote this weekend in the Activist's Diary:

The twenty-seven-month wait is nearly over for the Bird Safe Glass and Dark Skies Ordinance at least that is the hope. The Bird Safe Ordinance is #11 on the March 2nd Planning Commission agenda as a “discussion” item. This long wait could be a plus if Zoe Covello, Assistant Planner starts with the model legislation from the American Bird Conservancy https://abcbirds.org/glass-collisions/model-ordinance/.

The model for legislation was written in December 2020 a little over a year after the Bird Safe ordinance proposal from CEAC was referred by City Council to the Planning Commission. Unfortunately, Covello’s presentation of options starts with problematic ordinances from neighboring cities that might have looked innovative years ago, but contain too many exceptions at a time when bird populations are in staggering decline https://www.birds.cornell.edu/home/bring-birds-back/ To compound this problem, it looks like the recommendation may be guidelines instead of mandatory compliance with an ordinance.

Having attended years of Design Review Committee (DRC) and Zoning Adjustment Board (ZAB) meetings, I can tell you for a fact, voluntary guidelines do not work. It is a very rare exception for a developer to commit to Bird safe glass and in those two rare instances observed in the recent past, the commitment from Bayer and 600 Addison was limited to the west facing facades not 100/100/100 as recommended by the American Bird Conservancy. The 100/100/100 stands for the first 100 feet ground to 100 feet high, 100% bird safe glass and 100% of the building.

kelly hammargren
Berkeley Resident

From: Charlene Woodcock <charlene.woodcock@protonmail.ch>
Sent: Tuesday, March 1, 2022 9:42 PM
To: Pearson, Alene <apearson@cityofberkeley.info>
Subject: Planning Commission Item #11 - Bird Safe Berkeley Requirements

The city of Berkeley should strive to take all feasible measures to protect birds in the design of any new construction. Bird protection regulations must be mandatory, not mere “guidelines," since we know the majority of developers will only do what is required.

The most effective regulations to follow are those of the American Bird Conservancy’s Model Ordinance: https://abcbirds.org/glass-collisions/model-ordinance/

The regulations need to cover all sizes of glass windows and reflective surfaces, from ground floor to top floor, in all parts of Berkeley. They need to address light pollution, which confuses birds’ navigation at night and can draw them to danger of collision with glass or other reflective surfaces, especially lighting pointing skyward such as the new (to me anyway) lighting on the Wells Fargo Building downtown.

Thank you.

Charlene M. Woodcock
2355 Virginia Street
Berkeley 94709

From: Judith Dunham <jldunham@earthlink.net>
Sent: Wednesday, March 2, 2022 9:18 AM
To: Pearson, Alene <apearson@cityofberkeley.info>
Subject: Planning Commission 3/2/22 meeting regarding Item #11, Bird Safe Berkeley Requirements

Dear Alene Pearson,

Because I am unable to attend the meeting, I request that my comments be distributed to the committee members.

As a resident of Berkeley and a homeowner here since 1994, I have long been concerned about the city's policies regarding conservation of the local environment and protection of wildlife on a local level. When it comes to protecting birds, collisions with buildings, especially traditionally reflective window glass, are a major result of human-caused deaths. The American Bird Conservancy and other reputable organzations estimate that up to 1 billion birds are killed each year in such collisions. Berkeley's buildings contribute to that mortality.

Now that more and more cities require buildings to be designed with bird-friendly materials, it is time for Berkeley to do the same. The standards should be mandatory, not merely suggested or recommended. Most importantly, any standards established by the city should be *enforced*. I am not a against the construction of homes and businesses in Berkeley. Rather, I am in favor of building *smart*, with materials that will help protect resident and migratory bird species.

Building smart means requiring bird-safe glass from the sidewalk level of a building along the entire height, as the standard traditional reflective glass is a danger at all heights. In this glass, birds see nearby trees or the sky, and fly into the glass, with fatal results. The requirement needs to apply to all buildings, whether they are in the middle of the city or adjoin a park.

I recently discovered that the American Bird Conservancy has invaluable information on establishing safe-building ordinances: https://abcbirds.org/glass-collisions/legislation/. Local organizations here in Berkeley, such as the Golden Gate Audubon Association, can be allies in advising and in moving an ordinance forward.

Thank you for reading.

Judith Dunham

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Berkeley, CA 94705

From: Rusty Scalf <rscalf@sonic.net>
Sent: Wednesday, March 2, 2022 9:59 AM
To: Pearson, Alene <apearson@cityofberkeley.info>
Cc: Erin Diehm <erindiehm@hotmail.com>
Subject: Bird Safe Windows

Dear Alene Pearson,

Mortality among migratory birds by window collision is shocking. Informed estimates put that number at close to a billion annually. This is ghastly and preventable. Protecting wildlife for future generations is not just a good idea, it is a moral obligation. Berkeley has historically been at the forefront of environmental concern. What about now? Does development supersede conscience?

I wish I could express my disappointment with the Berkeley's city government, unable or unwilling to enact an ordinance passed by a democratically elected city council more than two years ago.

Does it even make sense to plead 'Do Something" ? That 'something' has already been done, at least by that portion of our city government answerable to the people. Must we wait endlessly wait for that decision to be acted upon?

Thank you for your attention,

Russell F Scalf
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From: Christine Sheppard <csheppard@abcbirds.org>
Sent: Wednesday, March 2, 2022 10:43 AM
To: Pearson, Alene <apearson@cityofberkeley.info>
Subject: bird-friendly design support for Planning Commission

Please accept this testimony for tonight's meeting. I apologize for its being so late.

Sincerely,

Christine Sheppard, Ph.D.
Director, Glass Collisions Program
American Bird Conservancy

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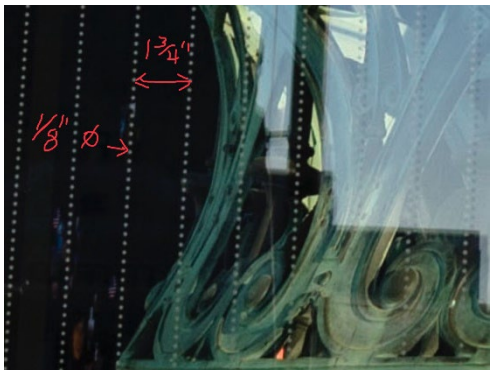
Products & Solutions to Stop Birds Flying Into Windows | ABC (abcbirds.org)

AMERICAN BIRD CONSERVANCY

Bringing back the birds

I'm Doctor Christine Sheppard, director of American Bird Conservancy's Glass Collisions Program. Thank you for allowing me to contribute my testimony. I've been working on this issue for over 20 years. People have been designing bird-friendly buildings as long as they have been building structures – it is only recently that the expanded use of glass has begun to threaten the existence of birds, with hundreds of millions of fatal collisions every year. Luckily, it is possible to retain the advantages of glass, providing clarity of view, insulation and structure, while significantly reducing the risk of collisions by birds. For humans, this is self-serving – birds provide billions of dollars to us in services we often don't notice, bringing seeds so that habitat can regrow after fires, eating insects that can spread diseases, or ruin our crops and forests. Bird-friendly design should not be considered and extra or an add on. It uses the same strategies and materials used to control heat and glare, so there is usually no incremental cost, if considered from the initial design phase. Almost any style of architecture can be safe for birds, using well tested techniques. Two examples are shown below. New York City Local Law 15, in effect as of January 11,2021, requires bird-friendly design for all new structures and major retrofits in all five boroughs. We strongly support the bird-friendly proposals forBerkeley.

Statue of Liberty Museum, NYC



Museum glass close up, with vertical lines

Intuit Headquarters, Mountainview, CA

Interior view of glass with horizontal stripes

ABC is a 501(c)(3), non-profit organization dedicated to the conservation of wild native birds and their habitats throughout the Americas. Founded in 1994, ABC has long been a leader in Partners in Flight and the North American Bird Conservation Initiative, and is the only U.S.-based group dedicated solely to overcoming the greatest threats facing native birds in the Western Hemisphere. ABC is also the leading force in ongoing efforts to protect birds from collisions with the only national bird collisions program.

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From: margots999@aol.com <margots999@aol.com>
Sent: Wednesday, March 2, 2022 10:59 AM
To: Pearson, Alene <apearson@cityofberkeley.info>
Subject: - Bird Safe Berkeley Requirements -

Please encourage Berkeley to use bird safe glass.
Thank you.

Margot Smith
510-486-8010 (no text)
Margots999@aol.com

To: Berkeley City Planning Commission Members
Re: Citywide Affordable Housing Requirements (Item #9, May 2 agenda)

Dear Planning Commission Members –

I am a local resident with deep ties to Berkeley who is helping develop a resident-driven "cohousing" condominium project at San Pablo Avenue and Channing Way. I have comments on two of the proposed changes to Berkeley's Citywide Affordable Housing Requirements.

First, the project's other future residents and I commend the recommendation to standardize ownership and rental fees for affordable housing. There is no policy justification for a disparity in fees, which currently can be *three times higher* for ownership projects. If the City wants to encourage home ownership and the production of middle-income housing, it should establish parity between ownership and rental fees. We applaud this aspect of the proposed changes.

Second, while we also support the recommendation to convert to a per-square-foot fee, the proposed fee of $45 per square foot is too high. We say this for two reasons, both of which are based on data from the Planning Commission's staff report:

- **$45 per square foot is much higher than comparable cities.** Table 6 of the report shows the affordable housing fee for nearby jurisdictions. Of the nine examples presented, only two – Pleasanton and San Francisco – are higher than the $45 per square foot fee proposed for Berkeley (or the roughly equivalent $40,000 fee per unit). Neither city is affordable for middle-income households, a condition exacerbated by their high affordable housing fees. These cities aren't suitable models for Berkeley.

  The other seven nearby jurisdictions have *considerably lower fees* than those proposed for Berkeley: Oakland and Alameda, our immediate neighbors, have fees that are roughly half of Berkeley's; Fremont's fees ($27/sf) are 60% of what is being proposed; Hayward's ($19/sf) are 43%. (See table below.) A fee of $30 per square foot would be comparable to the fees charged by these seven cities that remain more affordable to middle-income residents.

- **$45 per square foot makes projects infeasible.** By the report's own analysis, a $45/sf fee would result in profit "just above" the *minimum* feasibility benchmark for condominium projects. Setting fees that push projects so close to this threshold is bad policy. If the financial model is even a little too optimistic, returns to housing construction will fall under the threshold and housing won't get built. If construction costs rise – as they have *by a lot* since the report was produced – returns will fall under the threshold and housing won't get built.

  Furthermore, the report considers just a single prototype project and thus fails to account for a spectrum of potential projects, some of which will fall above the feasibility threshold and others of which will fall below it. A lower fee would make more projects feasible,

resulting in more housing built and more projects paying affordable housing fees. With a fee of $30 per square foot, the City could wind up with both more housing built and, as a consequence, more revenue raised for affordable housing.

If we want more *mid-market* housing in Berkeley, we have to establish fees that are competitive with peer jurisdictions, and we have to make housing financially feasible to build. If we want more *low-income* housing in Berkeley, we have to encourage construction of the mid-market housing that will generate affordable housing fees. If instead we set fees that are inconsistent with our neighbors and at the knife-edge of feasibility, it should be no mystery when not enough housing gets built. The staff report data suggest that a fee of **$30 per square foot** would be most comparable to peer jurisdictions, make housing feasible to build, *and* provide a revenue stream for creating affordable housing.

Sincerely,
~Roger Studley

Comparison of Berkeley's Affordable Housing Fees to Those of Nearby Jurisdictions
(Data source: Berkeley Planning Commission staff report)

City	IZ Fee	% of Berkeley
Alameda	$20K/unit	50%
Emeryville	$31K/unit	74%
Fremont	$27/sf	60%
Hayward	$19.37/sf	43%
Livermore	$29.23/sf	65%
Oakland	12K, 18K, or 22K	30%, 40%, or 55%
Pleasanton	45K/unit	113%
San Francisco	$60/sf	133%
San Jose (proposed)	$18/sf or $43/sf	40% or 96%