

**Jacob, Melinda**

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**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW: Supplemental communication for October 26, 2023 ZAB Meeting re: #DRCP2023-0002  
**Attachments:** Supplemental Letter to ZAB 600 Addison Signage Appeal.pdf

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**From:** Steven F <berkeley1860@gmail.com>  
**Sent:** Tuesday, October 24, 2023 4:39 PM  
**To:** Zoning Adjustments Board (ZAB) <Planningzab@berkeleyca.gov>  
**Subject:** Supplemental communication for October 26, 2023 ZAB Meeting re: #DRCP2023-0002

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Attached, a supplemental letter for the ZAB regarding the above referenced appeal. I am the appellant. Please place this correspondence in the ZAB supplemental packet, to be distributed on Wednesday.

Thank you.

Steven Finacom

October 24, 2023

ZONING ADJUSTMENTS BOARD  
CITY OF BERKELEY

**Re; 600 Addison Street - Appeal #DRCP2023-0002**

Dear members of the ZAB:

I have read through the staff report on the appeal of the 600 Addison Street signage. Below are my follow-up comments, in advance of the hearing.

In summary, the staff report is a mix of evasions, revisions, and unsupported assertions, all tangled together to try to justify the approval of the signage.

To disentangle things a bit, let's take a look at the fundamental questions.

There are three basic issues / questions here:

**(1) Does the approved signage violate the basic City prohibition on illuminated commercial signage within 100 feet of a public park?**

**(2) Does the approved signage violate the basic City prohibition on commercial signage that is located 40 feet or three floors (which ever is less) above grade?**

**(3) Is the inclusion of night-lighted signage in the package reasonable and advisable adjacent to sensitive bird habitat?**

The answers to these questions are (1) YES, (2) YES, and (3) NO.

Let's discuss them one by one.

**(1) Setbacks of illuminated commercial signage from public parks.** The municipal code on this is very simple. No illuminated commercial signage may be displayed less than 100 feet from a public park.

In their initial presentations to the Design Review Committee and staff report, the staff stated that the proposed signage was more than 100 feet from the property border of the park, which they located on the west side of Bolivar Drive, a roadway completely within the City park.

I contested this statement at the DRC hearing, and the staff reaffirmed their contention, that there is indeed 100 feet from park property line to the proposed signage.

Let's be clear about this. To obtain conformity with the City ordinance on setbacks, the staff moved the park property line to the west side of Bolivar Drive, a roadway entirely owned by the City and within the park, to accomplish this set back. They essentially added about 20 feet of width to the private property by pretending the park roadway was outside the park itself.

It turns out I was right to contest this.

In their appeal response, the applicant and staff have finally realized moving the property line on paper is not a defensible position. They admit in the appeal response that ***“the true property line between the project site and Aquatic Park is on the east side of Bolivar Drive”***, which was my contention all along.

I thank them for finally conceding and acknowledging this fact. I wish they had conceded it months ago and made an accurate presentation to the Design Review Committee so the DRC did not make its determination based on false information.

**What is the regulatory effect of confirming the property line lies east, not west, of Bolivar Drive?** It cuts at least 20 feet off the actual setback. (We don't know the exact dimension because we haven't been given a site plan showing both the exact property line and its relationship to the approved building footprints. However, I have measured the existing temporary traffic lane along Bolivar Drive as about 18 feet curb to curb.)

**From reviewing site plans, designs, and on-site conditions, it appears that the actual setback from the actual park property line may be as little as 50-60 feet to some of the proposed illuminated sign locations, particularly those on Building 2, at the southwest corner of the site.** If so, that's a huge violation of the 100 foot setback, not a minor violation.

The staff have turned this violation now into a “requested exception.”

But here, the ZAB, as always needs to be guided by the Ordinance.

This is not a technical, minor, difference in distance. It's major. It flaunts the very reasonable setback requirement, which was put in place to prevent private commercial interests from essentially using public parkland as their landscaped front yard in displaying their commercial advertising.

The reduced signage setback staff advice commodifies the park. The signs will loom over the park, visible from most perspectives, near and far, and make it look like the park is simply a foreground landscape for the commercial development.

The staff present no tangible justification for this egregious violation of a very clear ordinance, other than that they say they are allowed to make modifications to signage

requirements. They may be allowed to make minor modifications and adjustments—they are not allowed to essentially set a Council requirement at naught.

The ZAB should disallow the extensive violation of the setback requirements and require that where the signage is substantially closer to the Park than the ordinance allows, it must be set back to at, or beyond, the 100 foot distance, or it must not be illuminated.

**(2) Prohibition on commercial signage above 40 feet.**

The staff report states that the violation of the height requirement is “minor”, only one foot above 40 feet.

But the elevation from which the signage would be hung on the building is actually a bit over 53 feet, as shown on project plans. In addition, the applicant is publicly marketing the project as having three lab floors with a minimum 16 foot floor-to-floor dimension. That means 3 floors x 16 feet minimum = 48 foot minimum height of the rentable space of the building. Again, according to the applicant.

Both those numbers are far in excess of 40 feet.

The physical reality is that the top of the signage will hang 48 to 53 feet above grade. More than a dozen feet in some instances—*not* a single foot—above the allowed maximum height. Since the signs are four feet high, they will be entirely above the limit.

How does the staff report accomplish the legerdemain of reducing 53 or 48 feet to 41 feet? By one technical expedient.

They measure the height from an *artificial average grade*, not *actual grade*.

So the staff report is asking you to imagine this situation. *You’re standing in Aquatic Park, looking across the road at this building. How high is that sign above the base of the building?*

Well, it’s hung **53 feet in the air** according to the elevations presented in the project plans. Except, the staff have magically relocated the ground measurement point 10.5 feet above the *actual* ground level, presumably so they can claim the sign is only about 41 feet in the air.

That is not what the Council intended. I attended the Council discussion where they enacted the 3 story / 40 foot maximum requirement. Council wanted something very simple and easy to understand and enforce for both applicants and City staff.

**Forty feet, maximum.** A very easy round number to remember and evaluate.

There was no point in its discussions or actions where the Council specified calculating

“grade” based on a formula or gave staff the latitude to ignore the 40 foot above grade limit.

**Grade, in this case is where the building actually meets the ground** (or sidewalk, in the case of most commercial buildings). How do we know? The Signage Ordinance tells us.

**20.08.060. Definitions. Existing Grade. “The elevation of the ground at any point within a three-foot radius of the base as shown on the required survey submitted in conjunction with an application for a permit required pursuant to this title, excluding any filling, berming, mounding, or excavating solely for the purpose of locating the sign.”**

You start there, and measure straight upwards 40 feet. Sign hanging below that point, that’s OK. Sign hanging above that point. Not permitted.

How did the staff arrive at placing the “grade” suspended in the air, 10.5 feet above actual ground level? They used a calculation of “Average Grade Elevation”, mentioned nowhere in the Signage Ordinance.

ZAB members are probably familiar with that type of formula which is typically used to do things like calculate maximum height of the roof of a residential building on a steep hillside lot. It’s useful in those instances.

But the formula is not relevant for calculating the height of a sign above the ground.

Signage is only a small part of the length of the building roof / parapet, and sits a certain, visible, distance above the grade / ground, a distance which can be calculated.

Again, the Council wanted the signage height maximum to be a simple and transparent calculation. The ordinance specifies distance above grade (or nearest sidewalk curb in some cases). NOT distance above “average grade elevation”.

**(3) Is the inclusion of night-lighted signage in the package reasonable and advisable adjacent to sensitive bird habitat?**

I’m not an expert on lighting impacts on birds. But there are others who are, and I ask that the ZAB take cognizance of the correspondence it has received opposing the illuminated signage from the Golden Gate Audubon Society, as well as from Erin Diehm, an expert on local bird issues and one of the principal architects of Berkeley’s Bird Safe Glass ordinance.

**What are the ZAB's remedies?**

The appeal does not ask for the complete elimination of the proposed signage. It asks for relocation of the signage to conform with the City's very reasonable signage ordinance and Council intent, and that the ZAB also take into consideration the unwise precedent of allowing night-time illuminated commercial signage less than 100 feet from a public park and known bird sanctuary.

I ask the ZAB to, at a minimum:

- (1) acknowledge, as the Planning staff have now finally acknowledged in writing, that the DRC hearing and decision was based on an inaccurate calculation of setback distance from the park property line;
- (2) Direct that the distance between the actual park property line and the proposed illuminated signage be accurately calculated and, in any instances where the signage is closer than 100 feet to the Park property line, either: relocate the signage to a further back distance; eliminate illumination from that particular signage, in conformance with the Signage Ordinance.
- (3) Direct that the distance from grade (actual ground level) to 40 feet above grade on the building be calculated and that no signage be located substantially above 40 feet. In some locations this might require moving the signage down one floor—from the top floor, to the second from top—which would not be an undue hardship on the applicants or their project.

Sincerely,

Steven Finacom

**Footnote:** as I prepared for submission of this supplemental today, I learned that not one but two separate supplemental communications sent by third parties to ZAB on this topic before the submission deadline for the ZAB packet were not included in the regular agenda packet. One of the correspondents was since told by City staff that *"they were not able to get it into the initial meeting packet,"* even though it was sent on time. Since the correspondence was sent before the packet deadline, it's very disappointing that it was somehow impossible to include it and, as a result, the only public communications included in the standard agenda packet were a follow-up memo from me, and a letter from a paid consultant of the developer. The City has to do better on these matters.



October 18, 2023

Zoning Adjustments Board  
Planning and Development  
1947 Center Street, 2nd Floor  
Berkeley, CA 94704

RE:600 Addison Street - Appeal #DRCP2023-0002

Dear Zoning Board Members:

While the Golden Gate Bird Alliance (formerly Golden Gate Audubon) is generally satisfied with the plans for Berkeley Commons, including the use of bird-friendly glass and extensive use of native plants in the landscape, the proposed lighted exterior building signage is out of step with the City of Berkeley's commitment to protecting its environment and biodiversity.

Artificial Light at Night (ALAN) is well-documented to be harmful to people, wildlife, and the environment. Mounting evidence shows that ALAN alters biological processes across all levels of organization, from cells to communities, and that this growing and pervasive problem can impact most organisms, including humans. In Birds, we know that ALAN increases collision rates, disrupts endocrine systems, alters migration behavior, reduces nest productivity, and depresses populations for many species.

Given the close proximity of the project to Aquatic Park, one of the few relatively dark places within the city, a lighted sign that is visible from I80 will undoubtedly cause environmental damage to Aquatic Park and its wildlife, and contribute to increased light pollution at a time when we all know better. Aquatic Park is host to more than 200 species of birds, including many declining migratory species.

On behalf of Golden Gate Audubon's 7,000 members and supporters, and especially our 3,000 supporters who are Berkeley residents, I am writing to respectfully ask the ZAB to reconsider its approval of this lighted signage.

Sincerely,

A handwritten signature in purple ink that reads "Glenn Phillips".

Glenn Phillips

Executive Director

**Jacob, Melinda**

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**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW: 600 Addison Street - Appeal #DRCP2023-0002

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**From:** Erin Diehm <erindiehm@hotmail.com>  
**Sent:** Wednesday, October 18, 2023 5:00 PM  
**To:** Zoning Adjustments Board (ZAB) <Planningzab@berkeleyca.gov>  
**Subject:** Fw: 600 Addison Street - Appeal #DRCP2023-0002

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**From:** Erin Diehm <erindiehm@hotmail.com>  
**Sent:** Wednesday, October 18, 2023 4:52 PM  
**To:** [zab@cityofberkeleyca.gov](mailto:zab@cityofberkeleyca.gov) <[zab@cityofberkeleyca.gov](mailto:zab@cityofberkeleyca.gov)>  
**Subject:** 600 Addison Street - Appeal #DRCP2023-0002

Dear ZAB,

I am writing to express my deep concern about the proposed commercial lighting for 600 Addison that was approved at the DRC on August 17<sup>th</sup> and coming to ZAB on appeal on October 26<sup>th</sup>. I write in support of the appeal for the following reasons:

1. THE ILLUMINATED SIGNAGE WILL CONTRIBUTE TO UNNECESSARY LIGHT POLLUTION THAT HARMS HUMAN HEALTH
2. THE SIGNAGE WILL CONTRIBUTE TO UNNECESSARY LIGHT POLLUTION THAT WILL HARM WILDLIFE, INCLUDING MIGRATING BIRDS (and especially young birds)
3. THE SIGNAGE MAY BE WITHIN 100' OF THE PARK, VIOLATE BMC 20.32.050, and FURTHER COMMERCIALIZE ONE OF OUR LARGEST PARKS
4. THE SIGNAGE APPEARS TO EXCEED THE 40' HEIGHT LIMIT
5. THE BUILDING APPEARS TO BE IN VIOLATION OF THE STANDARDS FOR PROTECTING BIRDS AND REDUCING LIGHT POLLUTION AS DESIGNATED IN THE 2012 WEST BERKELEY PLAN

## #1 LIGHT POLLUTION HARMS HUMANS

"Artificial Light At Night" = ALAN

Light pollution is bad for people.

*"Scientists have known for years that such light pollution is growing and can harm both humans and wildlife. In people, increased exposure to light at night disrupts sleep cycles and has been linked to cancer and cardiovascular disease, according to a 2016 report by the American Medical Association. Meanwhile, the ecological impacts of light pollution span the globe. It can*



*affect the reproduction patterns of male crickets, causing them to chirp during the daytime instead of at night, when they typically call mates. Baby sea turtles, which have evolved to evade predators by rushing to the ocean upon hatching, can be disoriented by lights near the shore. Owls lose their stealthy advantage over prey. Even trees can struggle, holding onto leaves longer and budding earlier than they should because the brightness of their surroundings gives them incorrect information on the time of year." (MIT)*

Exposure to ALAN causes cancer and other serious diseases in humans:

*"Science shows links between artificial light and eye injury, sleeplessness, obesity and in some cases, even depression. A US study on shift workers from 2007 even makes a connection with breast cancer. It is all related to melatonin, a hormone that is released when it gets dark." (EcoWatch)*

Also, Breast cancer (Science Daily-1), Thyroid cancer (NIH), and Diabetes (Science Daily-2)

## #2 LIGHT POLLUTION HARMS WILDLIFE

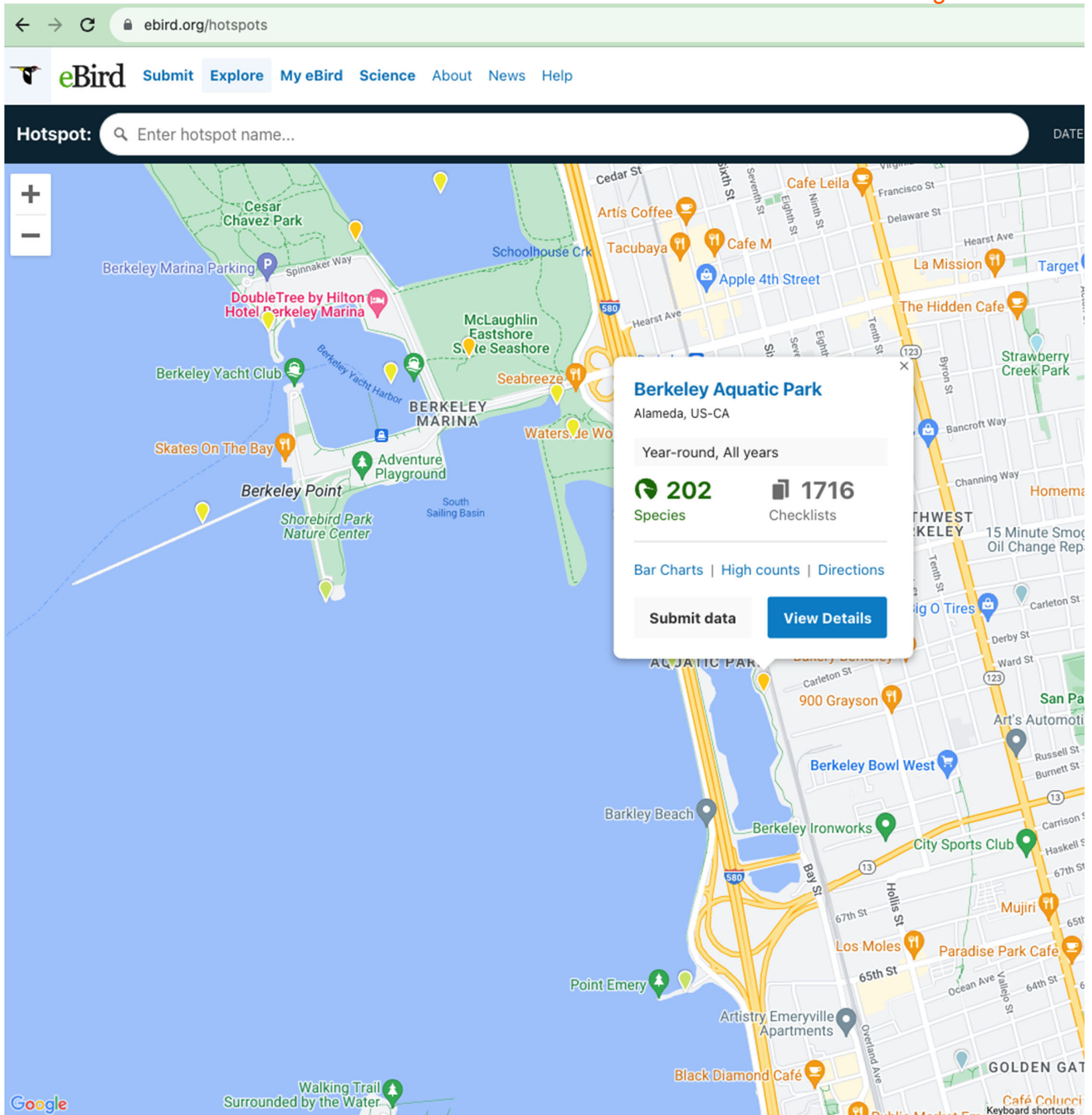
Light Pollution is also a major disruptor of wildlife. It's impacts are far-reaching, extending way beyond the areas directly lit. (Nature) It impacts wildlife above and below the water. It interferes with the natural circadian rhythms of plants and animals who have evolved for tens of thousands of years to dark night and dark skies.

*"We know that many species depend on darkness...Many species are active at night – some only do certain things when it is dark... Moths, for example, feed less if it is lighter at night, and female moths produce fewer pheromones, attracting fewer males and mating less... And artificial light affects birds in a number of ways." (Financial Times)*

- Bird Populations have declined 29% in the last 50 years and light pollution is a major contributor.
  - It disrupts bird migration and birds making their journey for the first time are the most vulnerable. They are pulled in by the night light and then get trapped in cities where they face multiple threats (window glass, cats, etc.)(United Nations)
- Insect Populations have declines up to 75% worldwide and light pollution is a major contributor.
  - "Light Pollution is a major contributor to the global collapse of insects" (Biological Conservation; The Guardian)
  - It even disrupts Aquatic Insects (The Revelator)
- 

Aquatic park is an important stop on the Pacific Flyway. 202 species of birds have been documented at this site. These birds should be protected and not exposed to unnecessary light pollution.

<https://ebird.org/hotspots>



Please see the problematic light pollution being proposed for this building, from windows and signage, that reflects on our park. From page 12 (of 36) in DRC's packet on August 17, 2023:  
[https://berkeleyca.gov/sites/default/files/documents/2023-08-17\\_DRC\\_Item%20IV.1\\_600%20Addison\\_Combined%20Staff%20Report%20and%20Attachments.pdf](https://berkeleyca.gov/sites/default/files/documents/2023-08-17_DRC_Item%20IV.1_600%20Addison_Combined%20Staff%20Report%20and%20Attachments.pdf)

**Look at all that unnecessary light pollution shining down into the park and especially into the lagoon!**



COORDINATED SIGN PROGRAM  
Revised: August 4, 2023

TENANT SKYLINE SIGNAGE GEN

### #3 THE SIGNAGE VIOLATES BMC 20.32.050

BMC 20.32.050 prohibits illuminated signage within 100' of the exterior edge of a public park

<https://berkeley.municipal.codes/BMC/20.32.050>

Bolivar Drive is within Aquatic Park, therefore, the building and proposed illuminated commercial signage is within 100' and disallowed by the BMC.

People go to the park to destress and escape the relentless commercialism of our modern society. Please do not allow the project applicant to negatively impact the park experience by installing illuminated signage.

### #4 THE SIGNAGE APPEARS TO EXCEED THE HEIGHT LIMIT of 40'

The BMC says that signs should not exceed 40' in height. The DRC Agenda packet from August 17, 2023, shows the illuminated signs at approximately 50' elevation.

**#5 THE PROJECT DOES NOT HONOR THE REQUIREMENTS from the 2012 WEST BERKELEY PLAN for PROTECTING BIOLOGICAL RESOURCES (SEIR BIO-1)**

BIO-1 of the SEIR states that at least 90% coverage of glass within 300 feet of Aquatic Park ("suitable bird habitat") to include bird-safe glass on the first 60 feet. Sadly this project as designed and built includes bird-safe glass on only the west-facing side & corners, and mews, leaving birds approaching from the North, South, and East side vulnerable to unnecessary window collisions and death.

The SEIR also says that light pollution shall be reduced by projecting light downward. The signs proposed for the buildings are not shielded.

Biological Resources		
<p><b>Impact SEIR BIO-1: Increased Potential for Birds Using Aquatic Park to Collide with Structures.</b> New construction of buildings in the vicinity of Aquatic Park, regardless of height, could have a <b>potentially significant</b> impact on bird populations within the area.</p>	<p><b>Mitigation SEIR BIO-1: Develop and Implement Bird-Safe Building Guidelines.</b> To ensure that new MUP structures would not lead to a significant increase in the frequency of bird collisions in the area, new MUP structures shall adhere to the following design measures:</p> <ul style="list-style-type: none"> <li>• Create visual markers and mute reflections in the glass features of buildings. Glass treatment (e.g., modifications in transparency, reflectivity, patterns and colors) shall be on at least the first 12 meters, or to the anticipated height of the majority of vegetation at maturity, whichever is higher. Applying these solutions to the entire building is preferred.</li> <li>• Reduce light pollution which disorients migrating birds by choosing exterior light fixtures that project light downward rather than toward the sky, by turning off interior lights at night, especially during spring and fall migration periods, and by locating interior plantings away from glass areas that are lit at night.</li> <li>• For buildings located inside of, or within a clear flight path of less than 300 feet from, suitable bird habitat, require bird-safe glass treatment on building facades such that the first 60 feet of the building is no more than 10 percent untreated glass. Treatments include fritting, netting, <del>perimeter</del> <u>permanent</u> stencils, frosted glass, grids, or UV patterns visible to birds. Vertical</li> </ul>	<p><b>Less than Significant</b></p>

	<p>elements of patterns must be at least ¼ inch wide at a minimum spacing of 4 inches; or have horizontal elements at least 1/8 inch wide at a <del>minimum</del> <u>maximum</u> spacing of 2 inches. Require minimal shielded lighting, and no uplighting or event searchlights. Prohibit the construction of horizontal-axis windmills or vertical-axis windmills that do not appear solid.</p> <ul style="list-style-type: none"> <li>• For structures such as greenhouses, skyways, free-standing glass walls and some balconies, require that 100 percent of glass be treated.</li> </ul>	
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**CONCLUSION**

Please lead on protecting our community, climate and the rich biodiversity at Aquatic Park.  
Please enforce our City's Municipal Code.  
Support the Appeal, reject the illuminated signage proposed for 600 Addison St.

Thank you for your consideration.

Respectfully,  
Erin Diehm

## REFERENCES

- (MIT) "Bright LEDs could spell the end of dark skies"
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- (EcoWatch) "Light Pollution: The Dangers of Bright Skies at Night"
  - <https://www.ecowatch.com/light-pollution-dangers-2649940234.html>
- (Science Daily-1) "Association between outdoor light at night and breast cancer risk among postmenopausal woman"
  - <https://www.sciencedaily.com/releases/2020/06/200603100432.htm>
- (NIH) "Associations between artificial light at night and risk for thyroid cancer: A large US cohort study"
  - <https://pubmed.ncbi.nlm.nih.gov/33554351/>
- (Nature) "Artificial light at night can modify ecosystem functioning beyond the lit area"
  - <https://www.nature.com/articles/s41598-020-68667-y>
- (Science Daily-2) "New study reveals that exposure to outdoor artificial light at night is associated with an increased risk of diabetes"
  - <https://www.sciencedaily.com/releases/2022/11/221114190650.htm>
- (Biological Conservation) "Light pollution is a driver of insect declines"
  - <https://www.sciencedirect.com/science/article/abs/pii/S0006320719307797?via%3Dihub>
- (The Guardian) "Light pollution is a key 'bringer of insect apocalypse'"
  - <https://www.theguardian.com/environment/2019/nov/22/light-pollution-insect-apocalypse>
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- (Financial Times) "How light pollution affects the lives of garden creatures"
  - <https://www.ft.com/content/9953e818-2024-11ea-b8a1-584213ee7b2b>
- (United Nations) "The Growing Effects of Light Pollution on Migratory Birds"
  - <https://www.un.org/en/un-chronicle/growing-effects-light-pollution-migratory-birds>

