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**RE: Draft Supplemental Environmental Impact Report for the Museum Place Project, File No. H16-024**

The Santa Clara Valley Audubon Society (SCVAS) appreciates the opportunity to submit the following comments on the Draft Supplemental Environmental Impact Report (SEIR) for the Museum Place project (Project) in the City of San Jose. SCVAS was founded in 1926 and is one of the largest Audubon chapters in California with over 3,000 members in Santa Clara County. SCVAS members share a passion for the protection of birds and their habitats, and are especially concerned with risks to local and migratory birds in our region.

We are concerned with the Project for the following reasons:

**1. The potential for birds to collide with glass façades of the building**

Recent studies estimate that between 365 and 988 million birds are killed annually from colliding with glass windows and facades in the United States, leading to local, regional, and national declines in bird populations.<sup>1</sup> The SEIR prepared for the Project does not provide discussion, evaluation, or mitigation of potential bird collision.

As demonstrated by architectural renderings (*see* Figures 2.3-2, 2.3-3, 2.3-4, and 2.3-5, SEIR), the proposed Project incorporates a large amount of glass material into the design of the building and vegetated balconies surrounded by transparent glass railings (“steel guardrails with front-mounted clear glass panels”). These types of designs (see through, free-standing walls) are extremely hazardous to birds.<sup>2,3</sup> While most of the bird species observed in the vicinity of the project are common urban landscape birds, some are not as common. A colony of Acorn Woodpeckers has been breeding in Plaza de Cesar Chavez Park for many years. Flocks of Cedar Waxwings (Figure 1) have been observed in the park, as well as Cooper’s Hawks<sup>4</sup>. These species are highly susceptible to bird collision; 75% of the reports of bird strikes received at SCVAS are of Cooper’s Hawks that collide with glass surfaces as they chase their avian prey, and of Cedar Waxwing flocks that fly into windows.<sup>5</sup>

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<sup>1</sup> Loss, Scott R., Tom Will, Sara S. Loss, and Peter P. Marra. Bird-building collision in the United States: Estimates of annual mortality and species vulnerability. *The Condor*. American Ornithological Society. 116(1): 8-23. 2014.

<sup>2</sup> Sheppard, C. 2011. Bird-Friendly Building Design. American Bird Conservancy, The Plains, VA

<sup>3</sup> San Jose guidelines for Bird Safe design, City of San Jose 2014

<sup>4</sup> <http://ebird.org/ebird/hotspot/L2361944>

<sup>5</sup> Shani Kleinhaus, Ph.D, personal knowledge

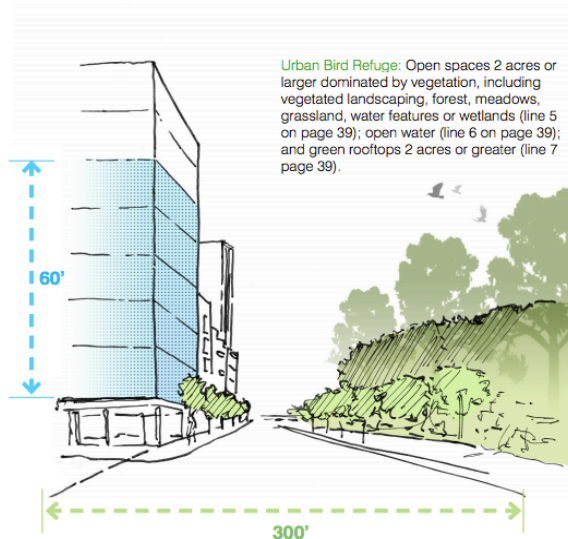


**Figure 1:** Cedar Waxwing

The City of San Francisco requires Bird-Friendly Building design for any new construction within 300-ft of a park or other “Urban Bird Refuge” of 2 acres or larger (Figure 2). Plaza de Cesar Chavez Park, at 2.3 acres (and a known breeding site for Acorn Woodpeckers), should be considered an “Urban Bird Refuge”.

The Final SEIR should discuss and mitigate the hazards of bird collision for Cedar Waxwings, Cooper’s Hawks, and Acorn Woodpeckers.

Mitigation measures may include a reduction in the amount of glass material used in the buildings design, avoidance of materials that reflect the sky and surrounding vegetation, and incorporation of visual cues to alert birds of the structure. See-through, freestanding glass walls and transparent glass railing should be avoided. Additional mitigations may be achieved by following San Jose’s Bird-Friendly Building design guidelines (*see attached*).



**Figure 2:** Urban Bird Refuge. Source: San Francisco Bird Friendly Design<sup>6</sup>

<sup>6</sup> [http://www.sfplanning.org/ftp/files/publications\\_reports/bird\\_safe\\_bldgs/Standards\\_for\\_Bird\\_Safe\\_Buildings\\_7-5-11.pdf](http://www.sfplanning.org/ftp/files/publications_reports/bird_safe_bldgs/Standards_for_Bird_Safe_Buildings_7-5-11.pdf)  
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## 2. Impact to a breeding colony of Acorn Woodpeckers

Plaza de Cesar Chavez Park is a well-known home to a breeding family of Acorn Woodpeckers (Figure 3, 4).

**Figure 3:** snapshot from eBird Hotspot database, shows the park as a hotspot for this species.



**Figure 4:** Acorn Woodpecker

In California, Acorn Woodpeckers breed from April to June. An Acorn Woodpecker group may consist of 1-7 male breeders that compete to mate with 1-3 females. Woodpeckers excavate their nests in a snag or large tree, which may also be a granary tree. Granary trees are riddled with holes that have been drilled by woodpeckers and are used to store acorns in. Woodpeckers may reuse the same nest for many years. Females typically lay 5 eggs that are incubated for 11 days. Both male and females incubate the eggs and tend to their young. Non-breeding helpers (young from previous years) often help with incubation and other parental duties. The young leave the nest and take their first flight at approximately 30-32 days after hatching and return to the nest to be fed for several weeks<sup>7</sup>.

In addition to the potential of striking glass facades, **shading and associated change in vegetation could directly or indirectly cause the eviction of the Acorn Woodpecker colony from Plaza de Cesar Chavez park.**

<sup>7</sup> Koenig, Walter D., Peter B. Stacey, Mark T. Stanback and Ronald L. Mumme. 1995. Acorn Woodpecker (*Melanerpes formicivorus*), *The Birds of North America Online*. Vol 194 (A. Poole, Ed.). Ithaca: Cornell Lab of Ornithology

Mitigation Measure LU-1.1 proposes a contribution to the Parks and Community Facilities Development Capital Improvement Program to "replace vegetated areas affected by the shade with less sensitive and more permanent material".

This mitigation measure in and of itself will have significant and unavoidable impacts to trees and habitat for the avian species of Plaza de Cesar Chavez park as well as the aesthetics of the park. Given that mitigation cannot reduce the Landuse and Cumulative impacts to less than significant level, we suggest that this mitigation be dropped and replaced with sincere efforts to save the park trees and habitat value. **Specifically, the palm trees must be preserved considering Acorn Woodpeckers are known to nest in these trees.** Additionally, building design could be modified to allow sunlight into the park to preserve the trees.

To compensate for the potential loss of granary sites in Plaza de Cesar Chavez park, the SEIR should include a mitigation measure to provide funding for the installation of artificial granary structures that may be used by Acorn Woodpeckers to store acorns.

The Downtown Strategy 2000 EIR proposes surveys for breeding birds 30 days prior to grading, within 100-ft of construction activities. The 30-day window is too wide to protect the Acorn Woodpeckers considering the entire nesting period is 2 months, with an 11-14 day incubation period. The birds are habituated to urban life, but since the Acorn Woodpeckers are sure to return to breed in the park, a biologist must be onsite to monitor their behavior and protect them from disturbance.

Thank you for your attention, and please do not hesitate to contact me if you have questions,



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