

**CORRECTED  
FINDINGS AND RECOMMENDATION  
OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE**

In the Matter of the Application of

**CF 314346**

**UNIVERSITY OF WASHINGTON**

for approval of a Major Institution Master Plan

**Introduction**

The University of Washington, a publicly funded state institution of higher education, seeks City Council approval of a new Major Institution Master Plan (“Master Plan”) and rezones to increase allowable building heights within the West, South, and East Campus sectors. A public hearing on the application was held before the Hearing Examiner (“Examiner”) on December 8, 11, and 12, 2017.

At the hearing, the University of Washington (“University”) was represented by Amit D. Ranade and Abigail Pearl DeWeese, attorneys-at-law; and the Director of the Department of Construction and Inspections (“Director” or “Department”) was represented by Roger D. Wynne, Assistant City Attorney. Although the hearing was completed three days earlier than anticipated, the parties agreed to retain the previously established schedule for the parties’ briefing and the Examiner’s recommendation. Therefore, the record was held open through January 2, 2018 for the Examiner’s site visits and the parties’ submission of post-hearing memoranda and proposed findings and conclusions.

For purposes of this recommendation, all section numbers refer to the Seattle Municipal Code (“SMC” or “Code”) unless otherwise indicated. Having considered the evidence in the record and reviewed the site, the Examiner enters the following findings of fact, conclusions, and recommendation on the application.

**Findings of Fact**

**BACKGROUND**

**Legal Framework for Master Plan**

1. Because the parties have raised several issues concerning the legal relationship between the University and the City in the master planning process, the legal framework for the Master Plan is set forth here at length. The parties’ legal issues are addressed in the conclusions below.
2. Code. The Code defines a "Major Institution" as “an institution providing medical or educational services to the community. A Major Institution, by nature of its function and size,

dominates and has the potential to change the character of the surrounding area and/or create significant negative impacts on the area.”<sup>1</sup>

3. The Code requires that each major institution have a Major Institution Master Plan approved by the City Council, as provided in Chapter 23.69 SMC. SMC 23.69.002 states that the purpose of the chapter is to regulate major educational and medical institutions in order to:

- A. Permit appropriate institutional growth within boundaries while minimizing the adverse impacts associated with development and geographic expansion;
- B. Balance a Major Institution's ability to change and the public benefit derived from change with the need to protect the livability and vitality of adjacent neighborhoods;
- C. Encourage the concentration of Major Institution development on existing campuses, or alternatively, the decentralization of such uses to locations more than two thousand five hundred (2,500) feet from campus boundaries;
- D. Provide for the coordinated growth of major institutions through major institution conceptual master plans and the establishment of major institution overlay zones;
- E. Discourage the expansion of established major institution boundaries;
- F. Encourage significant community involvement in the development, monitoring, implementation and amendment of major institution master plans, including the establishment of citizen's advisory committees containing community and major institution representatives;
- G. Locate new institutions in areas where such activities are compatible with the surrounding land uses and where the impacts associated with existing and future development can be appropriately mitigated;
- H. Accommodate the changing needs of major institutions, provide flexibility for development and encourage a high quality environment through modifications of use restrictions and parking requirements of the underlying zoning;
- I. Make the need for appropriate transition primary considerations in determining setbacks. Also setbacks may be appropriate to achieve proper scale, building modulation, or view corridors;
- J. Allow an increase to the number of permitted parking spaces only when it is 1) necessary to reduce parking demand on streets in surrounding areas, and 2) compatible with goals to minimize traffic congestion in the area;
- K. Use the TMP to reduce the number of vehicle trips to the major institution, minimize the adverse impacts of traffic on the streets surrounding the institution, minimize demand for parking on nearby streets, especially residential streets, and minimize the adverse impacts of institution-related parking on nearby streets. To meet these objectives, seek to reduce the number of SOVs used by employees and students at peak time and destined for the campus;
- L. Through the master plan: 1) give clear guidelines and development standards on which the major institutions can rely for long-term planning and development; 2) provide the neighborhood advance notice of the development plans of the major

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<sup>1</sup> SMC 23.84A.025”M”.

institution; 3) allow the city to anticipate and plan for public capital or programmatic actions that will be needed to accommodate development; and 4) provide the basis for determining appropriate mitigating actions to avoid or reduce adverse impacts from major institution growth; and  
M. Encourage the preservation, restoration and reuse of designated historic buildings.<sup>2</sup>

4. The Code establishes a Major Institution Overlay (“MIO”) District to overlay each major institution and creates nine MIO designations and corresponding height limits to be used within an MIO District.<sup>3</sup>

5. SMC 23.69.006.A applies the major institution chapter’s regulations to “all land located within the Major Institution Overlay District “unless specifically modified by this chapter or an adopted master plan.” However, for the University of Washington, the first sentence of SMC 23.69.006.B states that “notwithstanding subsection A of this section above, the 1998 agreement between The City of Seattle and the University of Washington, or its successor, shall govern” the following matters:

- relations between the City and the University of Washington,
- the master plan process (formulation, approval and amendment),
- uses on campus,
- uses outside the campus boundaries,
- off-campus land acquisition and leasing,
- membership responsibilities of CUCAC,
- transportation policies,
- coordinated traffic planning for special events,
- permit acquisition and conditioning,
- relationship of current and future master plans to the agreement,
- zoning and environmental review authority,
- resolution of disputes, and
- amendment or termination of the agreement itself.<sup>4</sup>

The second sentence of SMC 23.69.006.B states that “[w]ithin the Major Institution Overlay (MIO) Boundaries for the University of Washington, development standards of the underlying zoning may be modified by an adopted master plan, or by an amendment or replacement of the 1998 agreement between the City of Seattle and University of Washington.”<sup>5</sup>

6. City-University Agreement. The 1998 Agreement between the City and the University (“City-University Agreement” or “Agreement”), as amended in 2003 and 2004 and adopted by Ordinance 121688, recites, in part, that both parties “recognize that the University is a major resource of the City, state, region and nation,” that its “continued development impacts the environment of the University and its surrounding neighborhoods and the city services which

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<sup>2</sup> Emphasis added.

<sup>3</sup> SMC 23.09.004.

<sup>4</sup> Reformatted for clarity; emphasis added.

<sup>5</sup> Emphasis added.

support the entire community,” and that there is a “need for coordinated, comprehensive planning of University development in order to allow the University to pursue its goals of instruction, research and service to Seattle and the broader society and, at the same time, to foresee, assess, and mitigate the direct, indirect and cumulative impacts of long-term development on the physical and human environment and on City services.”<sup>6</sup>

7. Section II.A of the Agreement addresses “Formulation of the Master Plan,” and states that the University will prepare:

a 10-year conceptual Master Plan and Environmental Impact Statement (“EIS”) which will include the following elements:

- a. Boundaries of the University of Washington as marked on the [City’s] Land Use Maps ... and any proposed changes.
- b. Proposed non-institutional zoning designations for all areas within the boundaries.
- c. A site plan which will provide:
  - (1) the height and location of existing facilities;
  - (2) the location of existing and proposed open space, landscaping, and screening; and
  - (3) the general use and location of any proposed development and proposed alternatives.
- d. The institutional zone and development standards to be used by the University.
- e. A general description of existing and proposed parking facilities and bicycle, pedestrian, and traffic circulation systems within the University boundaries and their relationship to the external street system.
- f. A transportation plan which will include specific University programs to reduce traffic impacts and to encourage the use of public transit, carpools, vanpools, and other alternatives to single occupancy vehicles. The traffic and transportation programs included herein will be incorporated into the Master Plan, unless program revisions have been made in accordance with the provisions of this Agreement.
- g. A general description of future energy and utility needs, potential energy system and capacity improvements, and proposed means of increasing energy efficiency.

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<sup>6</sup> Exhibit D5 at 2.

- h. A description of alternative proposals for physical development, including explanation of the reasons for considering each alternative.
- i. Proposed development phases, including development priorities, estimated timetable for proposed developments, and proposed interim uses of property awaiting development.
- j. A description of any proposed street or alley vacation.
- k. Information required by Section II.E.2.<sup>7, 8</sup>

8. Section II.A.2 of the Agreement provides that the Master Plan and EIS “will include information on its proposed developments” and a “proposed development schedule in sufficient detail to permit analysis of impacts on adjacent neighborhoods and City facilities and services. The Master Plan and EIS will include boundaries surrounding the University identified as Primary and Secondary Impact Zones” as defined in the map attached to the Agreement.<sup>9</sup> “The Primary and Secondary Impact Zones will be used to assess and monitor the direct, indirect, and cumulative impacts resulting from all proposed University developments.”<sup>10</sup>

9. Section II.B of the Agreement provides the procedures for review and approval of the Master Plan, which supersede those set forth in Chapter 23.69 SMC. The procedures provide for the formation of the City-University-Community Advisory Committee (“CUCAC”), which holds public hearings on, reviews, and provides comments and recommendations on both the Master Plan and EIS.<sup>11</sup> The Agreement also states that the Director of the Department of DPD (now SDCI) is to submit to the Hearing Examiner the Master Plan, EIS, and report of CUCAC, and a written report of findings and recommendations relating to:

- (1) Consistency of the proposed final Master Plan with the objectives of the City’s Major Institutions Policy, SEPA, and other adopted land use policies and regulations of the City;
- (2) Comments received from affected City departments and other governmental agencies;
- (3) Proposed conditions for mitigating adverse environmental impacts;
- (4) Reasons for differences, if any, between the findings of the Director and CUCAC;
- (5) Recommendations on whether the proposed final Master Plan should be approved as proposed, conditioned, or denied.<sup>12</sup>

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<sup>7</sup> Emphasis added.

<sup>8</sup> Section II.E.2 of the Agreement concerns the conduct of University academic and research activities in leased facilities.

<sup>9</sup> See Exhibit D5, Exhibit A.

<sup>10</sup> *Id.* at 4.

<sup>11</sup> The composition of the CUCAC is addressed in Section G of the Agreement, Exhibit D5 at 13.

<sup>12</sup> Exhibit D5 at 4-5 (emphasis added).

10. Section II.B.8.d of the Agreement states that the Director’s “review and recommendation shall be based on the provisions of this Agreement, neighborhood plans and policies adopted by ordinance, SEPA, [and] other applicable land use policies and regulations of the City,” and “shall also consider ... whether the proposed development and changes represent a reasonable balance of the public benefits of development and change with the need to maintain the livability and vitality of adjacent neighborhoods.”<sup>13</sup>

11. Section II.B.9 of the Agreement provides that following the Examiner’s hearing on the Master Plan, the Examiner is to submit “recommendations to the City Council based on the provisions of this Agreement, neighborhood plans and policies adopted by ordinance, SEPA, [and] other applicable land-use policies and regulations of the City”.<sup>14</sup>

12. Prior Litigation. In responding to a challenge to the City’s adoption of the University’s existing (2003) master plan, the City and University argued to the Central Growth Management Hearings Board (“GMA Board”), and the GMA Board concluded, that the master plan constitutes a request for approval of a development plan that, although programmatic in nature, is a land use decision that establishes development requirements for specific pieces of property under one ownership. The Board used the analogy of a site plan approval, observing that the master plan “generally establishes the location, dimension, and function of major structures on the University campus.”<sup>15</sup>

13. In a subsequent challenge to a City ordinance that amended the City-University Agreement, the GMA Board rejected the City’s and University’s argument that the Agreement was not a development regulation and thus, was not subject to the goals and policies of the GMA. The GMA Board concluded that the Agreement “has the effect of being a local land use regulation”. Consequently, the Agreement met the GMA’s definition of “‘development regulations’ or ‘regulation’” (defined as “the controls placed on development or land use activities by a county or city”).<sup>16</sup> The challenge to it was therefore within the GMA Board’s subject matter jurisdiction.<sup>17</sup>

14. In a 2017 decision on the University’s challenge to the City’s authority to apply its Landmarks Preservation Ordinance to the Seattle campus, the Washington State Supreme Court determined that as a state agency, the University is included in the GMA’s requirement that state agencies “shall comply with the local comprehensive plans and development regulations ... adopted pursuant to” the GMA, but that a local development regulation could not be used to preclude the siting of an essential public facility, including state education facilities.<sup>18</sup>

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<sup>13</sup> *Id.* at 6 (emphasis added).

<sup>14</sup> *Id.*

<sup>15</sup> *Laurelhurst Cmty. Club v. City of Seattle*, Central Puget Sound Growth Mgmt. Hrngs. Bd., Case No. 03-3-008, 2003 WL 22896421, (*Laurelhurst I*) at 5-8 (June 18, 2003).

<sup>16</sup> RCW 36.70A.030(7).

<sup>17</sup> *Laurelhurst Cmty. Club v. City of Seattle*, Central Puget Sound Growth Mgmt. Hrngs. Bd., Case No.03-3-0016, 2004 WL 3275206, (*Laurelhurst II*) at 11-12.

<sup>18</sup> *University of Washington v. City of Seattle*, 188 Wn. 2d 823, 837-839, 399 P.3d 519 (2017).

## Existing Conditions

15. The University's Seattle campus is generally bounded on the west by the University Bridge (with the exception of several buildings west of the bridge on the north side of the water); on the north by NE 41<sup>st</sup> Street between Roosevelt Way NE and 15<sup>th</sup> Avenue NE, and then by NE 45<sup>th</sup> Street; on the east by Union Place NE; and on the south by Lake Washington's Union Bay, the Lake Washington Ship Canal, and Portage Bay.<sup>19</sup>

16. "Campus land uses are organized in a traditional pattern for a large and complex university. Academic, administrative, and student support activities are generally clustered in an elongated core on the Central Campus, which extends into the eastern portions of the West Campus. Instruction and research facilities are largely located to the north and south of this core, with liberal arts and social sciences predominating on the north, and physical and life sciences and engineering predominating on the south. Health Sciences, Oceanography, and Fisheries are located separately in the South Campus, with extensions into West Campus."<sup>20</sup> Recreation and athletic facilities, as well as the Center for Urban Horticulture and the Union Bay Natural Area, are located on the East Campus, east of Montlake Boulevard.

17. "Physical plant support activities are generally located in peripheral campus areas, although a few activities occupy key central locations. Except for parking garages and scattered small parking lots, parking is also located peripherally. Parking is a major land use in both the South and East Campus sectors. Student housing is concentrated primarily in ... the West Campus and the northeast portion of the Central Campus."<sup>21</sup>

18. The University owns approximately 639 acres within the campus boundary, which includes approximately 12,000 linear feet of shoreline. Approximately 60 acres within the boundary are owned by the City (park land and street rights-of-way) and private entities (Jensen Motorboat Company, the Church of Jesus Christ of Latter Day Saints, and the College Inn.). Much of the East Campus (east of Montlake Boulevard) is constructed on a methane-producing former landfill and seismic liquefaction zone, and the area includes submerged land and unstable peat islands.

19. The campus includes approximately 307 permanent and temporary buildings that, together, equal approximately 17 million gross square feet of development and encompass a broad spectrum of sizes and vintages. The campus also includes both private and public roads and streets,<sup>22</sup> paved and unpaved walkways, parking areas, landscaping, natural open space, and bulkhead and natural shoreline.

20. Existing MIO height districts vary from 37 feet to a small area of 240 feet and are shown in the proposed Master Plan at page 73.

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<sup>19</sup> See, e.g., Exhibit D2, 2018 Seattle Campus Master Plan, at 7 (Figure 2).

<sup>20</sup> Exhibit D1, SDCI Director's Analysis and Recommendations ("Director's Report") at 5.

<sup>21</sup> *Id.*

<sup>22</sup> See Exhibit D2 at 67.

21. A detailed discussion and illustrations of existing conditions is contained in Chapter 4 of the Master Plan, at pages 38 through 146.

**PROPOSED MASTER PLAN**

22. During the term of the Master Plan, the Seattle campus is forecast to add 15,676 students, faculty and staff.<sup>23</sup>

**Potential New Development**

23. Within the Master Plan, the University campus has been divided into four sectors: Central Campus, West Campus, South Campus, and East Campus. The plan identifies 86 potential development sites throughout the campus to accommodate future growth of six million net new gross square feet (the “Growth Allowance”). New construction located below grade, areas associated with buildings that would be demolished in conjunction with new construction, and structured parking are not included in the net new gross square footage calculation.<sup>24</sup> Each potential development site is defined in terms of maximum height and total maximum gross square feet. However, not all sites will be developed. Over the lifetime of the Plan, the University will select the actual development sites through its annual capital planning and budgeting process.

24. Although a 10-year planning horizon was used to formulate the Master Plan, it will remain in effect until development of the Growth Allowance is complete or a new master plan is approved.<sup>25</sup>

25. In addition to accommodating projected enrollment increases, the Growth Allowance would help reduce existing space deficits and accommodate continued growth in the areas of research and service on the Seattle campus, thereby supporting the University’s innovation and industry partnerships.<sup>26</sup>

26. The following table (Table 13) is found at p. 232 of the Master Plan:

	POTENTIAL NET NEW DEVELOPMENT (GROSS SQ. FT.)	NET NEW MAXIMUM DEVELOPMENT (GROSS SQ. FT.)	MAXIMUM DEVELOPMENT LIMIT (%)
CENTRAL	1,631,941	900,000	15%
WEST	3,762,199	3,000,000	50%
SOUTH	2,208,735	1,350,000	23%
EAST	4,293,885	750,000	12%
<b>TOTAL</b>	<b>11,896,760</b>	<b>6,000,000</b>	<b>100%</b>

<sup>23</sup> Exhibit A19 (FEIS), Appendix D at 2-6 (Table 2.2). This number is slightly higher than the number included in the Master Plan at page 30. The EIS analysis translates campus growth, as reflected in increased building square footage, to trips related to the three components of the campus population. *Id.* 2-5.

<sup>24</sup> Exhibit D2 at 124 and 255.

<sup>25</sup>Exhibit D2 at 86.

<sup>26</sup> *Id.* at 34-35; Exhibit A19 at 1-2.

27. Central Campus. Approximately 15 percent of the Growth Allowance, or 900,000 net new gross square feet of development, is allocated to Central Campus, for which there are 18 identified development sites, with a total net new development capacity of 1,631,941 gross square feet.<sup>27</sup> Potential uses could include academic, mixed-use, transportation, and housing.<sup>28</sup> Just over 1.1 million gross square feet would be demolished to accommodate full development within this sector.<sup>29</sup>

28. West Campus. Approximately 50 percent of the Growth Allowance, or 3 million net new gross square feet of development, is allocated to West Campus, for which there are 19 identified development sites, with a total net new development capacity of 3,762,199 gross square feet.<sup>30</sup> Potential uses could include academic, mixed-use, transportation, and industry partnership/manufacturing.<sup>31</sup> Approximately 800,000 gross square feet would be demolished to accommodate full development within this sector.<sup>32</sup>

29. South Campus. Approximately 23 percent of the Growth Allowance, or 1.35 million net new gross square feet of development, is allocated to South Campus, for which there are 20 identified development sites, with the total net new development capacity of 2,208,735 gross square feet.<sup>33</sup> Potential uses could include academic, mixed-use, and transportation.<sup>34</sup> Approximately 2.8 million gross square feet would be demolished to accommodate full development within this sector.<sup>35</sup>

30. East Campus. Approximately 12 percent of the Growth Allowance, or 750,000 net new gross square feet of development, is allocated to East Campus, for which there are 29 identified development sites, with a total net new development capacity of 4,293,885 gross square feet.<sup>36</sup> Potential uses could include academic, mixed-use, industry partnership/manufacturing, academic conference center, and transportation.<sup>37</sup> Approximately 360,000 gross square feet would be demolished to accommodate full development within this sector.<sup>38</sup>

### **Proposed MIO Height District Changes**

31. Master Plan Figure 111, at page 123, illustrates the building heights requested within the MIO Height Districts.<sup>39</sup> The existing Central Campus sector height of 105 feet would be maintained. Within the West Campus sector, current mapped height limits of 37 – 105 feet would change to 37 – 240 feet, and heights would increase throughout most of the sector. Within the

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<sup>27</sup> *Id.* at 162-163.

<sup>28</sup> *Id.* at 164.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.* at 186-188.

<sup>31</sup> *Id.* at 188.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at 203-204.

<sup>34</sup> *Id.* at 204.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.* at 217-218

<sup>37</sup> *Id.* at 218.

<sup>38</sup> *Id.*

<sup>39</sup> Figure 59, on page 73 of the Master Plan, illustrates the existing MIO Height Districts on campus.

South Campus sector, current mapped height limits of 37 - 240 feet would be maintained, and heights would increase throughout most of the sector. Within the East Campus sector, current mapped height limits of 37 – 160 feet would be maintained, but the mapped height at the E1 parking lot would increase from 37 feet to a range of 65 – 160 feet.

32. The proposals for increased height limits include self-imposed conditions reducing maximum building heights for some specific development sites. All sites within the Shoreline District would be limited to 30 feet in height to comply with the City’s Shoreline Master Program.

33. The Master Plan and EIS point out that the increased height would reduce the number of potential development sites needed for building space, thereby allowing for the development of new open space areas.<sup>40</sup>

34. The University’s requests for changes to MIO Height Districts were processed as rezones per Code requirements. The Director’s Report includes an evaluation of the rezone requests pursuant to the rezone criteria found in SMC 23.23.008, and the criteria found in SMC 23.34.124, “Designation of Major Institution Overlay Districts.”<sup>41</sup> The analysis is complete and accurate, and is therefore adopted by reference.

35. The Master Plan also identifies “Development Areas,” which indicate responsibility for development of landscape and the public realm improvements connected with development of individual sites. Figure 113, at page 127, shows the general development area associated with each identified development site for purposes of project design and planning.

## Open Space

36. The Master Plan proposes new and enhanced open spaces within the West, South, and East Campus sectors, including a continuous waterfront trail. An approximately four-acre park, called the “West Campus Green,” and the West Campus section of the waterfront trail, would be constructed within the West Campus.<sup>42</sup> Within the South Campus, a four-acre open space, called the “Upper South Campus Green,” and the “South Campus Green,” as well as the South Campus section of the waterfront trail, would be constructed.<sup>43</sup> A section of the waterfront trail also would be constructed within the East Campus.

37. The Master Plan identifies a schedule for completion of the proposed open spaces, but the Department recommended conditions that would impose a more accelerated schedule. The University and the Department have since agreed on an alternative schedule for completion of the open space commitments, which is included within the recommended conditions at the end of this document.

## Design Guidelines and Development Standards

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<sup>40</sup> See, e.g., Exhibit A19 at 3.6-54 to 3.6-56.

<sup>41</sup> Exhibit D1 at 39-59. The EIS includes a related discussion. Exhibit A19 at 3.6-49 to 3.6-72.

<sup>42</sup> See Exhibit D2 at 98-102.

<sup>43</sup> See *id.* at 102.

38. Both design guidelines, which are discretionary, and development standards, which are mandatory, are identified in the Master Plan. Some design guidelines apply campus-wide, and others are specific to each campus sector.<sup>44</sup> Design standards apply campus-wide<sup>45</sup> and address requirements for such features as podium heights, ground and upper-level setbacks, and tower separations.

### **Transportation Management Plan**

39. The Master Plan proposes to maintain parts of the University's existing Transportation Management Plan ("TMP") and modify others.

40. Trip Caps. Under the City-University Agreement, the maximum allowable number of University-generated weekday AM peak period (7AM-9AM) vehicle trips to campus, and weekday PM peak period (3 PM-6 PM) trips from campus, were capped at 1990 levels unless revised in a new master plan. The Master Plan retains the trip caps at 7,900 during the AM peak period and 8,500 during the PM peak period.<sup>46</sup>

41. Parking Cap. The TMP retains the cap on on-campus parking at 12,300 spaces, as established in 1990.<sup>47</sup>

42. Single Occupancy Vehicle ("SOV") Rate. The TMP states that its primary goal is to reach an overall 15 percent SOV rate by 2028. In 2015, the overall University SOV rate was 20 percent. However, the mode split was surveyed again in 2016, and the SOV rate was shown to have dropped to 17 percent.<sup>48</sup> Testimony at the hearing ascribed the change to a very low student SOV rate (approximately 8 percent)<sup>49</sup> that is generally attributable to the University's "U-Pass" program, which is heavily subsidized for students.<sup>50</sup> The program adds a transit pass to a University member's Husky card.

### **Vacations and Skybridges**

43. The Master Plan does not propose any new skybridges. It discusses a potential future vacation of NE Northlake Place, east of 8<sup>th</sup> Avenue NE, for disclosure purposes only. The University has not filed a street vacation petition for it.

### **Draft Shoreline Public Access Plan**

44. The University has included a proposed Shoreline Public Access Plan in the Master Plan, which is intended to reflect a coordinated approach to public access for the University's 12,000+

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<sup>44</sup> Exhibit D2. at 156-227.

<sup>45</sup> *Id.* at 232-253.

<sup>46</sup> These are addressed in Exhibit A19, Appendix D at 1-1.

<sup>47</sup> Exhibit D2 at 260.

<sup>48</sup> Exhibit A19, Appendix D at 2-11; Exhibit D2 at 265, Figures 194 and 195.

<sup>49</sup> See Exhibit A19, Appendix D at 3-3, Table 3.2.

<sup>50</sup> See Exhibit D2 at 264, Table 21; Exhibit A19, Appendix D at 1-2.

linear feet of shoreline.<sup>51</sup> It is not required as part of the Master Plan and would take effect if adopted pursuant to the City's Shoreline Master Program Regulations.

### REVIEW AND PUBLIC PROCESS

45. As the SEPA lead agency for its Master Plan,<sup>52</sup> the University was responsible for preparation of the EIS that evaluated the Plan's environmental impacts.<sup>53</sup> The EIS studied the "no action" alternative and five "action" alternatives that were each designed to meet the Master Plan's objective of six million net new gross square feet. Alternative 1 in the EIS is the preferred alternative.

46. SMC 25.05.660 authorizes the City to require mitigation of adverse environmental impacts identified in an environmental document. The mitigation must be based on the City's policies, plans and regulations designated in SMC 25.05.665 through SMC 25.05.675 (SEPA Overview Policy, SEPA Cumulative Effects Policy, and topic-specific SEPA Policies).

47. The Director analyzed the Master Plan's short-term and long-term adverse impacts, as disclosed in the EIS and related technical support documents, as well as any proposed mitigation measures.<sup>54</sup> The Director's SEPA analysis is accurate and complete and is therefore adopted by reference. The Director recommended numerous conditions to mitigate disclosed adverse environmental impacts. The University has agreed to most of the recommended SEPA conditions. Those that are disputed are discussed below.

48. The Master Plan includes a public participation plan, which describes the various aspects of the University's multi-year, public engagement process for the Plan.<sup>55</sup>

49. The University published the Draft Master Plan and draft EIS on October 5, 2016. A public meeting on the draft EIS was held on October 26, 2016, and the public comment period on the draft EIS ran from October 5, 2016 through November 21, 2016. The final Master Plan and final EIS were published on July 5, 2017.

50. The CUCAC held nine meetings, open to the public, to discuss the draft and final Master Plan and submitted comments on the draft Master Plan and draft EIS. The Department's public comment period began on December 5, 2016. The CUCAC provided its final report on the Master Plan on August 30, 2017.<sup>56</sup> The University responded to the CUCAC's recommendations on September 14, 2017.<sup>57</sup>

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<sup>51</sup> Exhibit D2 at 108-111.

<sup>52</sup> WAC 197-11-926; WAC 197-11-050. In addition, the City-University Agreement required the University to prepare an EIS for the Master Plan, including alternative proposals. Exhibit D5, §II.A.1.

<sup>53</sup> Exhibit A19.

<sup>54</sup> Exhibit D1 at 68-95.

<sup>55</sup> Exhibit D2 at 280-285.

<sup>56</sup> Exhibit D3.

<sup>57</sup> Exhibit A20.

51. At the Examiner's hearing, two representatives of the CUCAC presented testimony on the CUCAC's work and recommendations. Eleven members of the public also testified at the hearing, and the Examiner allocated an extended period of time for testimony from representatives of the U-District Alliance for Equity and Livability, a coalition of many organizations with an interest in the University and the University District. The Examiner also received numerous written public comments, including the written statements of some of those who testified, and these were combined into one exhibit, Exhibit P1.

52. The CUCAC's report included 33 recommendations for changes to the Master Plan, all of which are addressed in the Director's Report.<sup>58</sup> Some of the CUCAC recommendations are incorporated within the Director's recommended conditions. Others were determined to be inconsistent with the City-University Agreement,<sup>59</sup> or beyond the scope of the review associated with the Master Plan application,<sup>60</sup> or were rejected by the Director for other reasons explained in the Director's Report.

53. At the Examiner's hearing, the CUCAC representatives reiterated the CUCAC's recommendation that the TMP be revised to require a reduction in the University's overall SOV rate to 12% over the lifetime of the Master Plan in light of the expected increase in the availability of light rail during that time period.

54. The CUCAC representatives also focused on concerns about increased heights in two specific locations on the campus. Site W22, which is west of Condon Hall, is considered by residents to be part of the gateway to the neighborhood. The proposed MIO height at that location is 240 feet, but a newer multifamily residential building across the street is 65 feet high. The CUCAC recommends that site W22 be conditioned to 165 feet in height. Site W37 is directly west of the University Bridge, where the proposed MIO height is 160 feet conditioned to 130 feet. The CUCAC states that the proposed height for W37 is inconsistent with adjacent zoning and recommends that the height be reduced to protect views from the north end of the University Bridge.

55. A consistent theme in public comments is that the TMP should be revised to reduce the University's overall SOV goal from 15 percent to 12 percent to mitigate the 6,195 new SOV trips forecast under the Master Plan. As noted, the Master Plan proposed achieving a 15 percent SOV rate by 2028 even though the present SOV rate is 17%. Based on SOV rates achieved by other Major Institutions, the Director supports the 15% SOV goal but recommends a condition that would require it to be achieved by January 1, 2024, approximately one year after the scheduled opening of Link light rail service to Lynnwood.

56. After reviewing the proposed modifications to MIO height districts in the West, South, and East Campus in accordance with the applicable rezone criteria, the Director recommended conditional approval of them, with the exception of sites W19, and W20, which are located along

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<sup>58</sup> Exhibit D1 at 10-17.

<sup>59</sup> *E.g.*, requirements that the University create a plan to integrate small businesses into the footprint of the physical expansion area, and requirements relating to increasing childcare.

<sup>60</sup> *E.g.*, a requirement that the City partner with the University to address the need for affordable housing.

University Way north of Campus Parkway. The Director determined that because of their adjacency at the MIO boundary to NC3-65 zoning, those two sites should maintain the existing MIO 105 height. The Director recommended conditional approval of the Master Plan.<sup>61</sup>

#### AREAS OF DISPUTE

57. As noted above, the Director and the University have reached agreement on numerous conditions that would modify the proposed Master Plan. The areas listed below, and the related recommended conditions, are still in dispute and are addressed at greater length in the Conclusions which follow.

#### **Authority for Master Plan to Modify City Development Regulations**

58. The Director and the University disagree on the extent to which applicable law allows the Master Plan to modify or supersede City development regulations. (Recommended Conditions 29, 30, 34, 35, and 39)

#### **Public Realm Allowance**

59. The Master Plan includes a “public realm allowance” that would provide space for “rights-of-way, streetscapes, sidewalks, street lighting, street furniture, bioswales, pedestrian paths, trails, courtyards, plazas, parks, landscapes, skybridges and pedestrian bridges, and accessible open spaces.”<sup>62</sup> The Plan states that the “public realm allowances proposed are based upon and maintain the current street widths which the University understands to be sufficient.”<sup>63</sup> The Director recommends that this sentence be deleted and replaced with the following: “City of Seattle right-of-way widths are determined by SMC 23.53, and the Street Improvement Manual, or functional successor. Where required, improvements to the public realm allowance shall be completed in accordance with adopted Green Street Concept Plan.” (Recommended Condition 12) The University objects to this revision.

#### **Plan Amendment Process/Portability of Development Capacity**

60. The Master Plan’s chapter on Development Standards includes language stating that a proposal for a new development site constitutes an exempt plan change in most circumstances, and other language addressing the University’s movement of gross square footage between campus sectors.<sup>64</sup> The Director recommends that most of the language be removed and replaced with the following sentence: “A new development site: A proposal for a development site not previously approved under the Master Plan is considered a proposed change to the Master Plan and will comply with the City-University Agreement Section II.C.1-5, Changes to University Master Plan.” (Recommended Conditions 17 and 18) The University objects to this revision.

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<sup>61</sup> Exhibit D1 at 96.

<sup>62</sup> Exhibit D2 at 242.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.* at 232-233.

## Housing

61. The Master Plan's housing chapter<sup>65</sup> restates the University's "Student Housing Statement of Principles," originally adopted in 1978, which provides direction for University decision-making related to providing student housing: "the primary source for student housing continues to be the off-campus private housing market."<sup>66</sup> As of 2015, approximately 80% of students lived off campus.

62. The University currently has capacity to house approximately 9,517 students on campus.<sup>67</sup> With the completion of a student housing project on the North Campus, the University expects to increase that number to 10,870 students and has a goal of housing an additional 1,000 students during the life of the Master Plan.<sup>68</sup> In addition, the University recently completed a housing project with Seattle Children's Hospital, for faculty and staff, that includes 184 apartments, with 37 units priced to be affordable to those making 65% to 85% of area median income. The project, called "Bridges@11th," is fully rented.<sup>69</sup> The University also has announced a partnership with the Seattle Housing Authority to develop at least 150 units of income-restricted housing on property owned by the University outside the MIO District, but within the City's University District. The housing would be available to University faculty and staff earning less than 60% of the area median income.<sup>70</sup>

63. The Master Plan does not propose demolition of any existing off-campus housing.<sup>71</sup>

64. In the Fall of 2014, the University's campus population was approximately 67,155 students, faculty and staff.<sup>72</sup> Based on historic trends, the Master Plan anticipates an increase in the University's population of 20% between 2014 and 2018.<sup>73</sup> By 2018, the University forecasts a student population of approximately 52,399 (an increase of 8,675 FTE students), a faculty population of approximately 8,517, (an increase of 1,410 FTE faculty), and a staff population of approximately 19,563 (an increase of 3,239 FTE staff). "In total, the on-campus population under the 2018 ... Master Plan would increase to approximately 80,479 people (an increase of 13,324 over 2015 conditions.)"<sup>74</sup> The EIS acknowledges that the increase in campus population would lead to an increase in the demand for housing and various public services.<sup>75</sup>

65. Generally, increased housing demand has the potential to displace low-income households, which find it difficult to compete in an increasingly competitive housing market. The EIS concludes that student, faculty, and staff housing demand impacts on off-campus housing can be

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<sup>65</sup> Exhibit D2 at 272-277. *See, also*, Exhibit A19, Chap. 3.8.

<sup>66</sup> Exhibit D2. at 272.

<sup>67</sup> *Id.* at 272-274.

<sup>68</sup> *Id.* at 274.

<sup>69</sup> *Id.* at 276.

<sup>70</sup> Exhibit D14.

<sup>71</sup> Exhibit A19 at 3.8-35.

<sup>72</sup> Exhibit A19 at 3.7-1

<sup>73</sup> Exhibit D2 at 30.

<sup>74</sup> Exhibit A19 at 3.7-9.

<sup>75</sup> *Id.* at 3.7-10.

accommodated by zoned capacity within the University District, as well as overall housing supply in the Primary and Secondary Impacts Zones, and that additional housing supply is available beyond those zones.<sup>76</sup> The EIS also analyzed housing impacts based on the impacts of recent and anticipated investments in transit that are expected to provide increased commuting choices from areas with currently lower cost housing options. Finally, the EIS concluded that City initiatives, such as the Mandatory Housing Affordability program, have accounted for the impact of increased housing demand on housing affordability.<sup>77</sup> However, City planning documents conclude that current and anticipated City regulations will not fully mitigate the affordable housing impacts of anticipated growth.<sup>78</sup>

66. The Director analyzed the Master Plan’s “[c]onsistency ... with the objectives of the City’s Major Institutions Policy, SEPA, and other adopted land use policies and regulations.”<sup>79</sup> The City’s SEPA policies on housing are limited to minimizing impacts on the demolition, rehabilitation or conversion of existing low-rent housing units and minimizing the direct impacts of new commercial development.<sup>80</sup> The Director found no SEPA authority to impose conditions to mitigate the housing impacts of new institutional development.<sup>81</sup> However, the Director identified Comprehensive Plan policy H5.19, which reads as follows: “Consider requiring provisions for housing, including rent/income-restricted housing, as part of major institution master plans and development agreements when such plans would lead to housing demolition or employment growth.”

67. The Director concluded that the Master Plan was not consistent with Policy H5.19, in that the Master Plan anticipates an increase of approximately 4,649, faculty and staff over its 10-year life, but does not provide for housing, including rent- or income-restricted housing, to accommodate that employment growth. The Director therefore recommends that the Master Plan be amended to require that the University construct 150 affordable housing units within the MIO boundary, Primary Impact Zone, or Secondary Impact Zone, for faculty and staff earning less than 60% AMI.<sup>82</sup> (Recommended Conditions 1 and 2) Although the University has publicly committed to such a project in partnership with the Seattle Housing Authority, it opposes this requirement.

## Transportation

68. The transportation analysis in the EIS reviewed the Master Plan’s transportation impacts assuming full buildout of six million net new gross square feet, a 20% SOV mode split, existing and future background traffic volumes, and planned and funded transportation improvements.<sup>83</sup>

69. The Director determined from the EIS that campus growth is expected to result in 17,541 new daily trips to and from the campus. Approximately 10,000 of the trips would be expected to

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<sup>76</sup> Exhibit A19 at 3.8-26 - 3.8-36.

<sup>77</sup> *Id.* at 3.8-35 – 3.8-36.

<sup>78</sup> Exhibit 25 §3.1.4; Exhibit 26 at 3.1-20; and Exhibit 27 §3.6.3 and § 3.6.4.

<sup>79</sup> Exhibit D5 at 5.

<sup>80</sup> SMC 25.05.675.I.

<sup>81</sup> Exhibit D1 at 76.

<sup>82</sup> Exhibit D1 at 24.

<sup>83</sup> See Exhibit A19, chapter 3.16 and Appendix D.

use transit.<sup>84</sup> A key aspect of transit performance is the carrying capacity of buses relative to demand.<sup>85</sup> The EIS evaluated transit loads (the number of passengers in all buses passing a specific location, or “screenline”) across 11 screenlines in the University District. With additional transit ridership resulting from University growth, bus transit demand is expected to increase by 26 percent, and overall bus loads would increase from 41 percent to 51 percent.

70. The set of transfer routes serving Campus Parkway east of Brooklyn Avenue is forecast to have an overall demand to capacity ratio of 96%, compared to 82% in the no action alternative, as a result of 164 additional riders. The Director determined that because overall transit load is just slightly under 100 percent, reflecting both seated and standing passengers, it is reasonable to assume that the increased demand would cause some of the routes on the screenline to exceed capacity. The 164 additional riders were determined to be approximately equivalent to the capacity of three articulated Metro bus coaches. Therefore, the Director recommends that the University pay King County-Metro the operating costs for three additional bus transit coaches in both the AM and PM peak hours to provide additional capacity on routes serving Campus Parkway near Brooklyn Avenue NE.<sup>86</sup> (Recommended Condition 51) The University opposes this requirement.

71. The EIS documents travel speeds on 11 corridors used by transit vehicles. Existing transit speeds range from 20 MPH on northbound Montlake Boulevard to 2.7 MPH on westbound Stevens Way NE. Transit speeds would decrease on almost all corridors under nearly all alternatives, which the Director determined would likely reduce transit reliability and thus, its desirability and the likely success of the University’s TMP.<sup>87</sup>

72. SDOT anticipates that planned RapidRide investments will improve transit speed and reliability through a combination of dedicated bus-only lanes, enhanced stations, improved fare collection technology, specialized vehicles, and enhanced traffic signals. Three Rapid Ride corridors are planned in the University District: 11<sup>th</sup> Avenue NE/Roosevelt Way NE; NE 45<sup>th</sup> Street/15<sup>th</sup> Avenue NE/NE Pacific Street; and Montlake Blvd NE. In the Primary Impact Zone, the EIS projects that UW growth from the Campus Master Plan would result in an 11% reduction in transit travel speeds on the 11<sup>th</sup> Avenue NE/Roosevelt Way corridor, a 30% reduction on the NE 45<sup>th</sup> Street/15<sup>th</sup> Avenue NE/NE Pacific Street corridor, and a 25% reduction on the Montlake Boulevard NE corridor. The EIS analyzed traffic volumes in the Secondary Impact Zone.<sup>88</sup> It did not analyze transit speed impacts in that zone, but does identify substantial adverse impacts to intersection operations there. The Director determined that this indicates that congestion-related impacts to transit speeds would also occur in that zone. The EIS does not identify mitigation to reduce the Master Plan’s impacts on transit travel speed.<sup>89</sup>

73. Based on the reductions in transit travel speeds attributable to the University’s growth, the Director recommends that the University fund SDOT capital improvements to facilitate transit performance within the Primary and Secondary Impact Zones at the time the respective Rapid Ride

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<sup>84</sup> Exhibit A19 at 3.16-38, Table 3.16-11.

<sup>85</sup> Testimony of John Shaw, SDCI Senior Transportation Planner.

<sup>86</sup> Exhibit D1 at 85-86; Testimony of John Shaw. *See also*, Exhibit D17.

<sup>87</sup> Testimony of John Shaw.

<sup>88</sup> Exhibit A19 at 5-23 – 5-24.

<sup>89</sup> Exhibit D1 at 87.

projects are implemented for the 11<sup>th</sup> Avenue NE/Roosevelt Way NE; NE 45<sup>th</sup> Street/15<sup>th</sup> Avenue NE/NE Pacific Street; and Montlake Blvd NE corridors. Within the Primary Impact Zone, the University's contribution to each project would be equal to the percentage reduction in transit travel speed attributable to the growth under the Master Plan. Although impacts on transit speeds within the Secondary Impact Zone were not analyzed in the EIS, the Director determined that they would likely be less than those in the Primary Impact Zone and recommends reducing the required contributions there to half of the percentages required in the Primary Impact Zone.<sup>90</sup> (Recommended Condition 52) The University opposes these requirements.

74. Noting that the University expects that transit will need to accommodate the majority of new trips generated by the Master Plan, the Director recommends that the University "dedicate space at new development adjacent to existing and future Link light rail stations and RapidRide stops to better accommodate higher volumes of transit riders, provide better connections between modes, accommodate shared mobility services, and provide transportation information related to travel and transfer options."<sup>91</sup> (Recommended Condition 53) The University opposes this requirement.

75. Concerning pedestrian operations, the EIS evaluated capacities for transit riders at bus stops. With some exceptions, space available for pedestrians at transit stops is projected to remain adequate to meet both background growth and that attributable to the Master Plan. However, the transit stop at 15<sup>th</sup> Avenue NE/NE 42<sup>nd</sup> Street is forecast to operate at LOS D (characterized by severely restricted circulation and long-term waiting discomfort), and the stop at NE Pacific Street/15<sup>th</sup> Avenue NE is forecast to operate at LOS F (indicating extremely discomfoting density and no possible movement). The Director therefore recommends that the University expand transit stops, or pay SDOT for transit stop expansion, at these two stops as part of the NE 45<sup>th</sup> Street/15<sup>th</sup> Avenue NE/NE Pacific Street RapidRide implementation.<sup>92</sup> (Recommended Condition 54) The University opposes this requirement.

### Conclusions

1. The Hearing Examiner has jurisdiction over this matter pursuant to Chapters 23.69 and 23.76 SMC and as reflected in the City-University Agreement.
2. The review process for development of the Master Plan met the process requirements in Section II.B of the City-University Agreement.

### Areas of Dispute

3. Authority for Master Plan to Modify City Development Regulations. The University maintains that the City-University Agreement is "*the* development regulation governing the

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<sup>90</sup> Exhibit D1 at 87-88; testimony of John Shaw.

<sup>91</sup> Exhibit D1 at 89.

<sup>92</sup> *Id.* at 90.

University's land use activities on campus,"<sup>93</sup> and that the Agreement allows the Master Plan to modify all City development regulations, not just the development standards of the underlying zoning. This position fails to take into account the entirety of the legal framework for the Master Plan.

4. The statutory framework for the Master Plan begins with SMC 23.69.006, which includes two sentences that must be read together and harmonized.<sup>94</sup> The first sentence authorizes the Agreement to govern such things as the uses on campus and outside the campus boundary, permit acquisition and conditioning, and zoning and environmental review authority. The second sentence then states that within the MIO Boundaries, "development standards of the underlying zoning may be modified by an adopted master plan" or an amendment to the Agreement.<sup>95</sup>

5. The "development standards of the underlying zoning" are the limitations on physical development applied within each zone, such as height, floor area ratios, and setbacks, that ensure compatibility of development patterns within the zone.<sup>96</sup> The language in the first sentence of SMC 23.69.006.B, authorizing the City-University Agreement to govern "zoning ... authority," does not authorize the Agreement to supersede development regulations other than zoning. Zoning is a mapping exercise subject to Chapters 23.30 through 23.34 SMC, which establish zone designations, adopt a map depicting underlying zoning, and govern mapping amendments. It does not include other development regulations, such as the uses allowed within the zone; development standards for height, bulk, and scale; subdivision regulations; critical area regulations; historic preservation ordinances; etc. If zoning encompassed all development regulations, there would be no need for the same sentence to expressly authorize the Agreement to govern "uses" within and outside campus boundaries, or "permit acquisition and conditioning," or for the second sentence of SMC 23.69.006.B to authorize the Agreement to "modify development standards of the underlying zoning".<sup>97</sup>

6. The University's reading of the Agreement conflicts with SMC 23.69.006.B. The University argues that the Agreement's requirement that the Master Plan include the "institutional zone and development standards" to be used by the University" means that the Master Plan may designate the institutional zone and supersede all City "development regulations." However if, as the GMA Board held, the Agreement is itself a land use regulation, codified as part of SMC 23.69.006.B, it must be read together with that Code section. Reading the two together, and harmonizing them, the Agreement requires that the Master Plan include the institutional zone and any modified development standards of the underlying zoning. It does not authorize the Master Plan to modify any other City development regulations.

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<sup>93</sup> The University cites the GMA Board's decision in *Laurelhurst II* as support for its position, but the Board's conclusion in that case was that the Agreement "has the effect of being a local land use regulation" and thus, qualified as a development regulation as that term is defined in the GMA. *Laurelhurst II* at 11.

<sup>94</sup> A statute or code must be construed to give effect to all the language used, *Danley v. Cooper*, 62 Wn.2d 179, 381 P.2d 747 (1963), and to give effect to each word if possible. *Chelan Cy. V. Fellers*, 65 Wn.2d 943, 400 P.2d 609 (1965).

<sup>95</sup> Emphasis added.

<sup>96</sup> The Master Plan depicts the zoning underlying the University's MIO at 290-91 The development standards for that zoning are found in SMC Chapters 23.43 through 21.51B, SMC 23.54.016.B, and SMC 23.54.030.

<sup>97</sup> See also SMC 23.69.002.H.

7. Finally, the University's reading of the Agreement's requirement for the Master Plan to include "the institutional zone and development standards" to be used by the University, would create a conflict within the Agreement itself. The Agreement requires that the Department and the Examiner each base their recommendations on the Master Plan, in part, on "other applicable land use policies and regulations."<sup>98</sup> But under the University's reading of the Agreement, there would be no "other applicable land use ... regulations" for the Department and Examiner to assess. Again, reading the Agreement as a whole and giving effect to all of its provisions, and reading it together with SMC 23.69.006.B, the Master Plan must include the institutional zone and any modified development standards of the underlying zoning.

8. As proposed, the Master Plan would control all development regulations, including those not tailored to a zone. The Examiner recommends adoption of the Director's recommended conditions, 29, 30, 34, 35, and 39. Those recommended conditions better align the Master Plan with the Code but also include language that is consistent with the Washington Supreme Court's recent ruling, which bars local jurisdictions from using development regulations to preclude the siting of state education facilities. Recommended condition 39 would add a common-sense rule to address potential conflicts between definitions in the Master Plan and those in the Code. Terms undefined in the Master Plan would default to definitions found in the Code.

9. Public Realm Allowance. The Master Plan cannot control future City decisions regarding City rights-of-way. The University is concerned that recommended Conditions 12, which would acknowledge that the City is authorized to widen its rights-of-way, could impact the potential development capacity of the Master Plan. Although the concern is understandable, the City cannot, in the Master Plan process, appear to abdicate its authority to manage and, where necessary, expand City rights-of-way. If an expansion that reduced the University's development capacity were proposed, the University and City could explore a Master Plan amendment to adjust public realm allowance requirements to the University's needs.

10. The University also argues that the following sentence in recommended Condition 12 should be removed as unnecessary: "Where required, improvements to the public realm allowance shall be completed in accordance with adopted [the] Greenstreet Concept Plan." The Master Plan includes a statement of intent that the University "shall strive to follow the guidance provided" in the University District Green Street's Concept Plan,<sup>99</sup> but recommended Conditions 12 would mandate what is now written as discretionary.

11. The Examiner recommends adoption of the Director's recommended Condition 12.

12. Plan Amendment Process/ Portability of Development Capacity. Under SMC 23.69.006.B, the Agreement is to govern "the Master Plan process (formulation, approval and amendment)." Subsection II.C of the Agreement addresses changes to the Master Plan, with provisions defining exempt changes and addressing procedures for amendments that are not exempt. As noted above, language in the Master Plan's chapter on Development Standards includes procedures that conflict

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<sup>98</sup> Exhibit D5 at 6.

<sup>99</sup> Exhibit D2 at 182.

with those spelled out in the Agreement. The University states that the City Council which approved the existing master plan added the provisions that the University included in the proposed Master Plan. Nonetheless, nothing in the record explains the reason such provisions would have been added, and the Master Plan should be consistent with the Code and Agreement. The Examiner recommends adoption of recommended Conditions 17 and 18.

13. Housing. As noted above, the Director concluded that the Master Plan was not consistent with Comprehensive Plan Policy H5.19 because it would lead to an increase of approximately 4,649 faculty and staff over its 10-year life without providing for housing, including rent- or income-restricted housing, to accommodate that employment growth. The University argues that the Master Plan is a specific development proposal and thus, need not be consistent with the Comprehensive Plan, but the City asserts that because the Master Plan is a nonproject action for purposes of SEPA, it is regulatory in nature and must comply with the Comprehensive Plan. As noted above, in *Laurelhurst I*, the City and University argued, and the GMA Board agreed, that a University master plan is properly characterized as a land use decision that establishes development requirements for specific pieces of property. It is not a land use regulation that must be consistent with, and implement the Comprehensive Plan except to the extent required by Chapter 23.69 SMC and the Agreement.

14. The Agreement requires both the Director and the Examiner to assess the Master Plan based, in part, on “SEPA [and] other applicable land use policies and regulations of the City,” and the Director’s report is to include findings and recommendations on the Master Plan’s “[c]onsistency with “other adopted land use policies and regulations of the City”.<sup>100</sup> Contrary to the University’s position, nothing in the Agreement indicates that “land use policies” are limited to the policies found in the Land Use Element of the Comprehensive Plan. If the drafters of the Agreement had intended to so limit the Director’s and the Examiner’s consideration of “land use policies,” the limitation would be spelled out in the Agreement. The Examiner recommends adoption of the Director’s recommended Conditions 1 and 2.

15. Transportation. Subsection III.C.6 of the Agreement provides that the City and University “will continue to act in partnership with King County Metro and Community Transit to provide a high level of transit service to the campus, University area, and nearby neighborhood business districts.”

16. Recommended Conditions 51, 52, and 53 are consistent with SMC 25.05.675.R.1, the City’s Traffic and Transportation “Policy Background,” which states, in part, that “[e]xcessive traffic can adversely affect the stability, safety and character of Seattle’s communities,” and that the “University District is an area of the City which is subject to particularly severe traffic congestion problems ... and therefore deserves special attention in the environmental review of project proposals”. As noted above, the EIS documents that traffic generated by the Master Plan will cause substantial additional delay at intersections and reduce arterial speed for transit and general-purpose traffic. These impacts can reasonably be considered “excessive” within the meaning of SMC 25.05.675.R.1.a. The Master Plan anticipates major projects with substantial

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<sup>100</sup> Exhibit D5 at 5-6.

traffic volumes that will adversely impact surrounding areas,<sup>101</sup> and some individual projects anticipated by the Master Plan will create adverse impacts on transportation facilities serving those projects.<sup>102</sup> Further, the recommended conditions, which mitigate the Master Plan's anticipated growth impacts on transit facilities, would increase the use of alternative transportation modes.<sup>103</sup>

17. The recommended conditions are also justified by the applicable SEPA transportation policies in SMC 25.05.675.R.2. Policy "a" is "to minimize or prevent adverse traffic impacts which would undermine the stability, safety and/or character of a neighborhood or surrounding areas."

18. Recommended Condition 51 would increase capacities on likely overcrowded transit lines, thereby enhancing the University's ability to meet its TMP goal by providing sufficient space on buses for prospective riders, thereby minimizing destabilizing and unsafe traffic impacts. However, although it is reasonable to assume that the increased demand resulting from additional University riders would exceed capacity on some routes on the screenline, it is not clear how that increased demand would be allocated across the routes in question. Thus, while it is reasonably likely that the additional 164 riders would result in the need for at least two additional bus transit coaches during the AM and PM peak hours, it is not clear that three additional coaches would be needed to maintain capacity across all routes within the screenline. The Examiner recommends that the condition be revised to provide that the University pay King County Metro's operating costs for two additional bus transit coaches in both the AM and PM peak hours to provide additional capacity on routes serving Campus Parkway near Brooklyn Avenue NE.

19. Recommended Condition 52 would help fund proposed RapidRide lines in the University District, thereby increasing transit speed and reliability, increasing the attractiveness of transit, and minimizing destabilizing and unsafe traffic impacts. Maintaining and improving transit performance is a necessary part of supporting an increase in transit service and meeting the University's TMP goals.

20. Recommended Condition 53 would provide on-campus opportunities to accommodate high volumes of transit riders and shared mobility services, better connections between modes, and information related to travel and transfer options that would encourage the use of alternative modes, supporting the University's TMP and minimizing destabilizing and unsafe traffic impacts.

21. Recommended Condition 55 would increase the size of waiting areas at two highly congested bus stops, which would encourage use of transit, supporting the University's TMP, and thereby minimizing destabilizing and unsafe traffic impacts, by decreasing discomfort from waiting in highly congested conditions. Such conditions at transit stops could also degrade the character of a neighborhood by causing congestion and blockages for pedestrians on sidewalks.

22. The EIS documents the availability of public transit, existing vehicular and pedestrian traffic conditions, and other specific policy elements. The results of, and the impacts identified in,

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<sup>101</sup> See SMC 25.05.675.R.1.b.

<sup>102</sup> See SMC 25.05.675.R.1.c.

<sup>103</sup> See SMC 25.05.675.R.1.d.

the EIS transportation analysis shaped the Director's recommended conditions.<sup>104</sup> And the Director's recommended conditions, with the exception noted for Recommended Condition 51, are attributable to the impacts identified in the EIS and generally based on a pro rata share of vehicle or transit trips generated by the growth anticipated under the Master Plan.

23. The Director's recommended conditions are reasonable and capable of being accomplished.<sup>105</sup> Like the uncertainty for the University and the surrounding community that is inherent in a Master Plan, the recommended transportation conditions are expressed in terms of percentages of future costs that cannot be defined with certainty at this time. The costs will be made certain in advance of the time payment is required, however, and the University may then negotiate and challenge costs it deems inconsistent with the conditions.

24. The Examiner recommends adoption of the Director's recommended Condition 51 as amended, and the Director's recommended Conditions 52, 53, and 55.

### **Other Conclusions**

24. As conditioned, the Master Plan includes all elements required by Section II.A of the City-University Agreement.

25. As conditioned, the Master Plan is consistent with Section II.C of the Agreement concerning changes to the University master plan.

26. As conditioned, the Master Plan is consistent with relevant Comprehensive Plan policies.

27. As conditioned, the Master Plan appropriately mitigates short- and long-term environmental impacts identified in the EIS.

28. As conditioned, the draft Shoreline public access plan is appropriate for SDCI's consideration. If the City Council approves the Master Plan, the University may submit a final Shoreline public access plan to the Director for consideration through the review and approval process in SMC 23.60A.164.K.

29. The CUCAC's requested height reduction for Site W22 is not recommended. Although some may consider it a gateway to the neighborhood, the site is not on the campus boundary and is proximate to the Seattle Mixed-University 75-240 zone that would allow structures up to 240 feet in height.

30. The CUCAC's requested height reduction for Site W37 is not recommended. The University has identified a view corridor at this location, and because the topography rises to the north of the site, most of the square footage allocated to the site will be outside the view corridor.

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<sup>104</sup> See SMC 25.05.675.R.2.b; SMC 25.05.060.A.2.

<sup>105</sup> See SMC 25.05.060.A.3.

31. The suggestion that the Master Plan be amended to reduce the University’s SOV rate to 12 percent by 2024 has some merit, particularly in light of the facts that the SOV rate is presently 17%, the University proposes to replace parking lost in demolition under the Master Plan rather than reducing the parking cap, and the University commits only to consider revising its payment system for parking to reduce demand. However, under current circumstances, the SOV reduction rates recommended by the Director are reasonable and capable of being accomplished and are recommended by the Examiner.<sup>106</sup>

32. The Examiner adopts the Director’s recommendations on the proposed MIO height designations.<sup>107</sup>

### **Recommendation**

The Examiner recommends approval of the Master Plan and the proposed modifications to MIO height districts in West, South, and East Campus, as shown on page 123 of the Master Plan, subject to the following conditions:

1. Amend page 276 of the Housing section to include the statement, “The University shall construct 150 affordable housing units for faculty and staff earning less than 60% AMI.”

2. A condition of the Master Plan shall state: Construction of 150 affordable housing units for faculty and staff earning less than 60% AMI shall be constructed within the MIO boundary, Primary Impact Zone, or Secondary Impact Zone prior to the development of 6 million net gross square feet or the life of the Master Plan, whichever occurs first.

3. Page 98: Amend the first paragraph under “Open Space Commitment”:

...A design and implementation plan for the West Campus Green and the West Campus section of the continuous waterfront trail shall be completed by the earlier of: the time 1.5 million square feet of net new development in the West Campus sector is completed; or the time the University submits its first permit application for development of Site W27, W29, W33, W34, or W35.

4. Page 102: Amend the second paragraph under “Open Space Commitment”:

A design and implementation plan for the South Campus Greens, as well as the South Campus section of the continuous waterfront trail shall occur ~~when construction on the first~~

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<sup>106</sup> History shows that the U-Pass system and its subsidies have been the primary incentives for changes in student travel modes, and increased subsidies for the employee and faculty U-Pass would significantly increase their access to affordable transportation options and reduce the University’s SOV rate. The University has committed to going to the state legislature to seek inclusion of the state’s higher education employees in the existing program that grants all other state employees living in King County a fully subsidized transit pass. A successful outcome in that forum would do more to reduce the University’s SOV rate than mandating in the Master Plan that it achieve a 12% SOV rate by 2024.

<sup>107</sup> Exhibit D1 at 45.

~~adjacent development site is completed (by the time the University submits the first permit application for development of Sites S50, S51, S52, S41, S42, S45, or S46).~~

5. Page 104: Amend the second bullet under “Open Space Commitment”:

~~Construction~~ Completion of the East Campus section of the continuous waterfront trail shall align with the earlier of: completion of construction of the 750,000 gross square feet of net new development allowed in East campus under the CMP; or exhaustion of the 6 million square foot growth allowance.

6. Page 240: Amend the last three sentences of the first paragraph under “West Campus Green and Plaza”:

A design and implementation plan for West Campus Green and West Campus section of the continuous waterfront trail shall be completed by the earlier of: the time 1.5 million square feet of net new development in West Campus sector is completed; or the time the University submits its first permit application for development of Site W27, W29, W33, W34, or W35. A concept plan for all three sections of the continuous waterfront trail-West, South, and East-shall also be completed ~~at this~~ by that time. The concept plan for the continuous waterfront trail shall be reviewed by SDCI for compliance with the City’s Shoreline Management Master Program and the University’s Shoreline Public Access Plan. The continuous waterfront trail design and implementation plan for the South and East campus sectors shall include convenient pickup and drop off facilities and signage throughout the length of the trail that reflects local Native American history. ~~At the latest,~~ e Construction of the West Campus Green and the West Campus section of the continuous waterfront trail shall occur when by the earlier of: completion of 3.0 million gross square feet of net new development in the West Campus Sector; at the completion of adjacent development sites W29, W33, and W34; or the exhaustion of the 6 million gross square foot growth allowance. In addition, as the University completes development of Site W29, it shall complete the “Plaza,” and as the University completes development of Site W27, it shall complete the “Belvedere,” both identified on page 98.

7. Amend the second paragraph under “South Campus Green”:

A design and implementation plan for the Greens, as well as the South Campus section of the continuous waterfront trail shall occur ~~when construction on the first adjacent development site is completed (by the time the University submits the first permit application for development of Site S50, S51, S52, S41, S42, S45, or S46).~~

8. Amend the third paragraph under “Continuous Waterfront Trail”:

- Construction Completion of the East Campus section of the continuous waterfront trail shall align with the earlier of: completion of construction of the 750,000 gross square feet of net new development allowed in East campus under the CMP; or exhaustion of the 6 million square foot growth allowance.

9. The University shall include updates about the progress of the planning and completion of the West Campus Green, the South Campus Green, and the continuous waterfront trail in the annual reports to the City.

10. Page 239: Add a new section to the beginning of the page:

ACTIVE STREET-LEVEL USE AND TRANSPARENCY

Active street-level uses shall be located within buildings adjacent to City of Seattle right-of-way in the West Campus sector, mid-block corridors in all sectors, West Campus Green Plaza and Belvedere, South Campus Green, and the continuous waterfront trail. Active street-level uses include commercial uses, child-care facilities, multi-use lobbies, lounges, study spaces, and active academic uses like classrooms, labs, libraries and hands-on collaboration spaces. All buildings with required active street-level use and transparency shall provide active uses and transparency within 2-8 feet above sidewalk level along 60% of the building façade. Where active street level uses are required, street-level parking within structures, excluding driveway access and garage doors or openings, shall not be allowed unless separated from street-level street-facing facades by active street level uses complying with the use and transparency requirements in this paragraph.

11. Page 241: Under “Parking,” amend the paragraph in the middle of the page:

Parking access is preferred from streets owned by the University. Where necessary, parking access from streets that are not owned by the University shall be allowed based on the following hierarchy of preference (from most preferred to least preferred). A determination on the final access location shall be made by SDCI, in consultation with SDOT, based on this hierarchy. The final access location shall balance the need to minimize safety hazards and the feasibility of the access location based on topography, transit operations, bike infrastructure, vehicle movement, and other considerations ...

12. Page 242: Under “Public Realm Allowance,” amend the second paragraph:

The public realm allowance refers to a minimum zone between the street curb and the edge of building facade, and is intended to provide space for a comfortable and desirable pedestrian experience. ~~The public realm allowance proposed are based upon and maintain the current street widths which the University understands to be sufficient.~~ City of Seattle right-of-way widths are determined by SMC Chapter 23.53 and the Street Improvement Manual, or functional successor. Where required, improvements to the public realm allowance shall be completed in accordance with the adopted Green Street Concept Plan. The existing curb-to-curb width, plus the linear square feet associated with the public realm allowance defines the extent of impact on development sites.

13. Page 251: Under “Upper Level Setbacks,” amend the first paragraph under “First Upper Level Setback”:

Sites with building footprints that exceed 30,000 square feet shall maintain a minimum upper-level setback of 20’ along sides of the building where the height exceeds the 45’

podium. Sites with building footprints smaller than 30,000 square feet and whose building height exceeds the 45' podium height shall maintain a minimum upper level setback of 20' along at least two edges of the podium. The required upper-level setback shall be provided along the street or major public open space façade if one exists. If necessary to allow flexibility and modulation of the building form, a maximum of 50 percent of the building perimeter may extend up to 90' without a setback.

**14.** Page 251: Under “Second Upper Level Setback,” amend the first paragraph as follows:

To create a more gradual transition between University and non-University property, an additional upper level setback shall be required ~~on building edges identified within the Development Standards and Design Guidance maps, pages 174, 189, 298, and 226.~~ as follows: sSites with building footprints that exceed 20,000 square feet and whose building height exceeds 160' that are located along University Way and Campus Parkway, shall be required to step back an additional 20' at 90' in height along a minimum of one façade, generally the facade facing the more prominent street edge. Sites with building footprints that exceed 20,000 square feet and whose building height exceeds 160' that are located along Pacific Street, shall be required to step back an additional 20' at 120' in height along a minimum of one façade, generally the façade facing the more prominent street edge. The required second upper-level setback shall be provided along the street or major public open space façade if one exists.

**15.** Page 239: Under “Ground Level Setbacks,” amend the third paragraph:

~~Setbacks may be averaged horizontally or vertically.~~ University structures across a City street or alley from commercial, mixed use, manufacturing, or industrial zones outside the MIO boundary shall have no required setbacks. Pedestrian bridges, retaining walls, raised plazas, sculpture and other site elements shall have no setback requirements.

**16.** Page 156: Amend the paragraph under “Gateways”:

The University’s Seattle campus is embedded within the larger urban fabric of the city and has multiple points of access. Gateways, including NE 45th Street at 15th Avenue NE, the “landing” of the University Bridge at NE 40th Street, and NE 45th Street at 25th Avenue NE, serve as important access points for pedestrians, bikes, and vehicles, and may provide a welcoming and clear sense of arrival on campus. Gateways also form key points of connectivity between campus sectors. Gateways should include visual enhancements that signify entries into the community, such as landscaping, signage, artwork, or architectural features that will be installed at the discretion of the University. Gateways also form key points of connectivity between campus sectors.

**17.** Page 232: Amend the second bulleted paragraph:

A new development site: A proposal for a development site not previously approved under the Master Plan is considered a proposed change to the Master Plan and will comply with

~~the City-University Agreement Section II.C.1 – 5, Changes to University Master Plan, shall constitute an exempt Campus Master Plan change, unless the proposal requires a Plan amendment according to the provisions of the City University Agreement because the Director of SDCI (or its successor department) determines that the specific use proposed for a site, within the broad use categories permitted in tables 14 through 17, is inconsistent with the guiding principles or policies of this Campus Master Plan, or because of the use relationship to, or cumulative use impacts upon, area surrounding the University boundary.~~

18. Page 233: Remove the two bulleted paragraphs.

19. Page 261: Amend the first bulleted item and the first sentence of the third bulleted item:

“Convene a transportation agency stakeholder meeting, at least quarterly, to review progress and discuss unforeseen transportation challenges and opportunities. The group will not have oversight to set TMP priorities.”

“Conduct an annual survey and provide the results of its efforts to the City- University Citizen Advisory Committee (CUCAC), SDOT Director, SDCI Director, Seattle City Council members, transportation agency stakeholders, and transit agency partners.”

20. Page 261: Under “Monitoring and Reporting,” amend the text following the bulleted items:

The University’s TMP SOV rate goal is 20% as of the date of this Plan. The goal shall decrease to 17% one year after the opening of the Northgate Link Extension. The goal shall decrease further to 15% one year after the opening of the Lynnwood Link Extension.

If the University fails to timely achieve the applicable SOV rate goal, the University shall take steps to enhance the TMP to increase the likelihood that the goal shall be achieved. Additional measures will be set by the University and may include, but are not limited to:

- Providing a transit pass that covers all transit trips with a minimum University subsidy of 50% for faculty, staff, and students, pursuant to SDCI Director’s Rule 27-2015 and SMC 23.54.016
- Replicating the student U-Pass “opt-out” program with faculty and staff to encourage participation among campus populations less likely to use transit
- Expanding the U-Pass to integrate payment for other transportation options, such as car-share or bike-share
- Implementing performance-based parking strategies, including charging more for high-demand parking lots
- Replacing monthly parking permits with a pay-by-use parking payment model

~~In 2028, if the University has not failed to timely reached its SOV rate goal of 20%, 17%, or 15% for a period of 24 months, the Director of Seattle Department of Construction and Inspections (SDCI) or its successor agency shall not issue master use permits or building~~

~~permits shall not be issued for development (other than maintenance, emergency repair, or other minor projects) within the MIO, if the University exceeds the 15% SOV goal over two consecutive years beginning in 2029. The Director of Seattle Department of Construction and Inspections (SDCI)(Or its successor agency) The SDCI Director shall withhold permits until the University has it has been reasonably demonstrated to the satisfaction of the Director that it the University will implement additional mitigation measures shall be implemented that shall meet or restore the University student, faculty, and staff to the required SOV rate to 15%. This measure shall not be applied to maintenance, emergency repair, or other minor projects proposed by the University.~~

**21.** Maintain the existing MIO height limitation (105') for properties along University Way north of Campus Parkway (Sites W19 and W20). Amend Table 10: Maximum Building Ht. Limit and Figures 125, 150, 153 and 191 to show the MIO height limitation of 105 ft. for Sites W19 and W20.

**22.** Limit structure height on development sites W31 and W32 to 30 ft. and amend Table 10 "Conditioned Down Building Heights" accordingly.

**23.**

(a) Pages 208 – 209 (Figure 169): Change to a Secondary Access Corridor the Priority Pedestrian Connector that extends southward from the northern end of Portage Bay Vista. Also change to Secondary Access Corridors two of the three northeast-southwest-oriented Priority Pedestrian Connectors (the three that are perpendicular to NE Pacific St.). List the symbols used to identify the Secondary Access Corridors in Figure 169's key on page 209 under "Development Standards."

(b) Page 240: Under "South Campus Green," add the following to the end of the second paragraph:

The design and implementation plan for the Greens and South Campus section of the continuous waterfront trail shall include the final locations and dimensions of mid-block corridors, secondary access corridors and priority pedestrian connectors represented in Figure 169.

(c) Page 244: Add the following new development standard before "Shorelines":

#### Secondary Access Corridors

Secondary access corridors are required in the approximate locations identified in Figure 169. Secondary access corridors are to be welcoming pedestrian corridors that provide public access, and views where possible, from NE Pacific Street into the South Campus and South Campus section of the continuous waterfront trail. These corridors shall be a minimum width of 12' and, where possible, open to the sky.

**24.** Page 251: After the last paragraph under "View Corridors," add:

When proposing to develop sites adjacent to or within the 12 view corridors documented on Table 19 (pages 252 and 253), the University shall provide more detailed analysis of the existing or proposed views and demonstrate how the proposed development will maintain existing or proposed view corridors.

25. Page 252: Amend the View Corridor 8 description as follows:

The view is of Lake Union generally to the southwest, as taken from the west pedestrian walkway along the University Bridge, at the edge of the existing UW Northlake building.

26. Page 253: Replace the View Corridor 8 graphic with the new one the University submitted to SDCI that is consistent with other view corridor graphics in terms of formatting.

27. Page 6: Amend the third paragraph under “Purpose and Context”:  
Work on this CMP began in 2015 so that by 2018, the 2018 CMP would be in place to accommodate the Seattle campus’ growth demands. Between 2015 and 2018, the University of Washington developed this long-term vision for the Seattle campus as well as a 10-year conceptual plan for campus growth that balances provides for the preservation of historic campus assets with intensive investment.

28. Page 8: Amend the paragraph under “Guiding Principles”:

The CMP balances provides for the preservation of historic campus assets with increased density, and relies on the University’s strategic goals, academic, research, and service missions, and capital plan objectives, to inform the physical development of the campus. Five overarching principles guide the 2018 CMP:

29. Page 24: Amend paragraph Nos. 1, 3, and 5 under “Regulatory Authority and Planning Process”:

1. Pursuant to RCW 28B.20.130, ~~the University of Washington Board of Regents exercises full control of the University and its property has~~ “full control of the University and its property of various kinds, except as otherwise provided by State-law.” Pursuant to RCW 36.70A.103 and .200, “[s]tate agencies shall comply with the local . . . development regulations and amendments thereto adopted pursuant to this chapter,” but “[n]o local . . . development regulation may preclude the siting of essential public facilities,” including “state education facilities.” The Washington Supreme Court has ruled that the University is a state agency and the Regents’ “full control” under RCW 28B.20.130 is limited by RCW 36.70A.103.

3. The City-University Agreement governs preparation of the CMP. Consistent with the City-University Agreement and the City’s Major Institutions Code, ~~the CMP includes design guidance, development standards of the underlying zoning, and other elements unlike those applicable to other major institutions which differ from or are in addition to~~

~~those included in the City's Major Institutions Code, consistent with the City University Agreement. A Major Institution Overlay (MIO) district and boundaries are established through the CMP adoption and eCity ordinance.~~

~~5. The University shall comply with the provisions of the Seattle Shoreline Master Program and other applicable State or Federal laws. University development remains subject to City development regulations that do not constitute development standards of the underlying zoning and do not preclude the siting of an essential public facility within the meaning of RCW 36.70A.200.~~

**30.** Page 150: Amend the paragraph under "Introduction":

Chapter 6 contains detailed information on the 10-year conceptual plan for campus, including sector-by-sector descriptions of the design goals for each area. This Chapter further provides information on the University's Project Review Processes, and includes non-binding design guidance. Although non-binding, design guidance will be implemented through capital project design and environmental review carried out by the Architectural Commission, the University Landscape Advisory Committee, the Design Review Board (all as applicable), and project design teams. ~~In a few places, Several figures reference development standards are referenced;~~ these standards of the underlying zoning are set out and explained further as mandatory requirements in Chapter 7.

**31.** Page 151: Amend the paragraph under "Demolition":

~~Demolition is permitted prior to future development as long as sites are left in a safe condition and free of debris. Demolition may be permitted prior to future development where authorized by any required permit. Demolition permits are may be submitted in advance of a building site being selected for development and any grading work is reviewed under the Grading Code (SMC Chapter 22.170). Demolition of any structure, including any structure that is more than 25 years old or historic, is allowed if authorized by the UW Board of Regents.~~

**32.** Page 153: Amend the first four sentences of the first paragraph under "History of Stewardship by the Board of Regents":

Over the last century, the University of Washington Board of Regents has been the steward of the University of Washington campus. The Regents recognize the value of the campus setting to the University, the greater University area community, the City of Seattle, the State of Washington, and future generations. ~~The University is~~ As a state institution of higher education and a state agency. Pursuant to RCW 28B.20.130, the Regents "have full control and authority over the development of the campus of the university and its property of various kinds, except as otherwise provided by law." ~~The institution is encumbered with a public purpose that is essential to the future of the State, and this purpose requires that the campus continue to be developed to meet the growing and changing education needs of the State. Pursuant to RCW 36.70A.103 and .200, "[s]tate agencies shall comply with the local . . . development regulations and amendments thereto adopted pursuant to this chapter," but "[n]o local . . . development regulation may preclude the siting of essential~~

public facilities,” including “state education facilities.” The Washington Supreme Court has ruled that the University is a state agency and the Regents’ “full control” under RCW 28B.20.130 is limited by RCW 36.70A.103.

**33.** Page 155: Amend the paragraph preceding “The Historic Resource Addendum (HRA)”:

The review of historic resources on the campus utilizes the process stated above. In 2017, the Washington State Supreme Court concluded:

The plain language of the current statutes provide that the Regents’ authority is subject to limitation by applicable state statutes, including the GMA’s provision that state agencies must comply with local development regulations adopted pursuant to the GMA. UW property that is located in Seattle is thus potentially subject to the [the City’s Landmarks Preservation Ordinance] absent a specific, directly conflicting statute.

*University of Washington v. City of Seattle*, 188 Wn.2d 823, 845, 399 P.3d 519 (2017). ~~and does not include a review under the City of Seattle’s Landmark Preservation Ordinance. The University’s position is that it is not subject to the ordinance, as the University of Washington Board of Regents has full control and authority over all development on campus.~~<sup>†</sup>

~~<sup>†</sup>Arguments related to this topic have been heard by the Washington Supreme Court. A decision is pending.~~

**34.** Page 230: Amend the first paragraph under “Introduction”:

Consistent with SMC 23.69.006.B, Tthis chapter outlines the development standards of the underlying zoning that guide proposed development within the campus boundaries. The City-University Agreement requires that all University of Washington development within the Major Institution Overlay (MIO) boundary follow the standards outlined in this chapter. While Chapter 6 includes design guidance to be used to achieve the design intent for the campus, this chapter includes the required development standards of the underlying zoning for campus development.

**35.** Page 238: Delete all text in its entirety and replace it with the following:

Subject to a Major Institution Overlay (MIO), as shown on page 26, a variety of zoning designations make up the underlying zoning of the Campus. As of the date of this Master Plan, the development standards of the underlying zoning are found in the provisions of SMC Chapters 23.43 through 23.51B, SMC 23.54.016.B, and 23.54.030 relevant to those zones.

This Chapter contains the development standards that supplant the development standards of the underlying zoning within the MIO boundary as allowed by SMC 23.69.006.B and

the City-University Agreement. The development standards in this Chapter are tailored to the University and its local setting, and are intended to allow development flexibility and improve compatibility with surrounding uses.

Development standards of the underlying zoning not addressed in the Master Plan may be developed in the future by the University, provided they are consistent with and guided by the goals and policies of the City-University Agreement, the goals and policies of this Master Plan, and the process for any amendments to the Plan required by the City-University Agreement. Lack of specificity in the Master Plan development standards shall not result in application of provisions of underlying zoning.

University development remains subject to all other City development regulations that do not constitute development standards of the underlying zoning and do not preclude the siting of an essential public facility within the meaning of RCW 36.70A.200.

**36.** Page 241: Delete the fifth, one-sentence paragraph under “Parking”:

~~All new development shall consider opportunities for bike parking facilities.~~

**37.** Page 244: Amend the second paragraph under “Shorelines” (including the addition of a footnote) to recognize that any amendment to the Shoreline Master Program must be made by the City Council and approved by the Washington State Department of Ecology:

The Shoreline Management Act (SMA) regulates development, uses, and modifications of shorelines of the state in order to protect the ecological functions of shoreline areas, encourage water-dependent uses, provide for maximum public access, and preserve, enhance, and increase views of the water. The City of Seattle has adopted implementing regulations for the Shoreline Management Act for development and use of shorelines within the City limits. The City’s shoreline regulations, called its Shoreline Master Program (SMP), are currently found in SMC Chapter 23.60A. There are currently three shoreline environments within the MIO: the Conservancy Preservation environment, the Conservancy Management environment, and the Urban Commercial environment, as shown on pages 110 to 111. The University follows applicable SMP regulations for University development proposed within the shoreline. The applicable regulations ~~are~~ will be those in effect on the date of adoption of this Master Plan if: (1) the City amends the SMP to so provide; and (2) the Washington State Department of Ecology approves that amendment.<sup>13</sup> If those conditions are not met, the applicable regulations will be those applied pursuant to City and Washington vested rights law. For existing buildings within the shoreline environment, regular repair, maintenance and restoration is allowed, provided such activity is consistent with the SMP.

<sup>13</sup> As of the date the University submitted a final draft of this Master Plan to the City Department of Construction and Inspections, SMC 23.60A.016.D stated: “Nothing in this

Chapter 23.60A changes the legal effect of existing approved Major Institution Master Plans adopted pursuant to Chapter 23.69 or Ordinance 121041.”

**38.** Page 246: Amend the first sentence of the third paragraph under “Structure Height Limits”:

All development within the Shoreline District, ~~which is all development within 200 feet of the shoreline and associated wetlands,~~ is restricted to a maximum building height of 30 feet specified in SMC Chapter 23.60A.

**39.** Page 254: Insert a sentence after “Definitions” and before “Development”:

Where a conflict exists between the definitions in this Plan and those in SMC Chapter 23.84A or SMC Chapter 23.86, the definitions in this Plan shall apply.

**40.** Page 255: Amend the paragraph under “MIO” to accurately reflect legislative history:

The Major Institutional Overlay (MIO) boundary defines the extent of the campus that is governed by the City-University Agreement, and the development standards defined within this CMP. The MIO boundary was established by ~~o~~Ordinance 112317 and subsequently amended.

**41.** Page 104: clarify how waterfront trail relates to Shoreline Public Access Plan by revising the text in the last bullet point on the page to say:

“The University has proposed a Shoreline Public Access Plan as part of the CMP that incorporates and supports the continuous waterfront trail. The trail’s design will incorporate the Access Plan improvements that relate to the trail shown on pages 108-111. Refer to those pages for more information about the Shoreline Public Access Plan.”

**42.** Page 108: Delete the following paragraph, because commercial uses are not public access uses.

~~Commercial water dependent uses, including moorage for private boats and boat rentals, may be included in the Urban Commercial shoreline in West Campus where their requirements do not conflict with the water dependent uses of the College of Ocean and Fishery Sciences or limit public access to the waterfront. Potential uses could include a passenger ferry dock. Uses which would require additional single purpose public parking shall be discouraged.~~

**43.** Delete the following statement on page 108, at the end of the South Campus discussion:

~~The public dock in South Campus would be removed.~~

**44.** Page 108: Clarify the approval process for the Shoreline Public Access Plan in the introduction:

“This section provides the University’s Shoreline Access Plan. It is a combination of both existing and new elements. Please refer to pages 48 and 49 for information on existing shoreline access conditions. It shall be binding upon University development within the shoreline district when the City approves the Access Plan pursuant to SMC 23.60A.164.K. It is a combination of both existing and new elements. Any modifications to the Shoreline Access Plan will be evaluated against provisions of the City-University Agreement related to amendments to the CMP.”

**45.** Page 240: Add text to the end of the final paragraph under the heading “Continuous Waterfront Trail”:

The University has proposed a Public Access Plan as part of the CMP that supports the continuous waterfront trail. Refer to pages 108 to 111 for more information about the Public Access Plan. The continuous waterfront trail design and implementation plans will show the existing and proposed shoreline public access plan improvements documented on pages 108-111 that are part of the trail.

**46.** Page 109: Add the following after the recommended text regarding the continuous waterfront trail:

Boat Launch Access Points

The design and implementation plan will evaluate and consider the need for new hand-carry boat launch access points and will provide additional signage for all existing and proposed boat launch access points.

**47.** Prior to issuance of any demolition, excavation, shoring, or construction permit in West, South, or East Campus, provide a Construction Management Plan that has been approved by SDOT.

The submittal information and review process for Construction Management Plans are described on the SDOT website at: <http://www.seattle.gov/transportation/cmp.htm>

**48.** Pages 234-237: Amend Tables 14 – 17 to list the year of construction for all existing buildings on identified development sites.

**49.** If SDOT determines that new traffic signals are warranted at the following intersections while the Master Plan is in effect, the University will pay the indicated proportional share of the cost of the new signals: University Way NE/NE 41st Street, 24.5%; and 6th Avenue NE/NE Northlake Way, 15.1%. The University will have one year following delivery of an itemized accounting from SDOT of the new signal cost for an intersection to pay its indicated share for that intersection. The amount of new signal cost for which the University will be required to contribute a proportional share will not exceed

\$500,000 per intersection (adjusted upward by 3.5% annually from the date of final CMP approval to the date the University receives the accounting for the relevant intersection).

**50.** The University will contribute 9% of the costs of ITS improvements at the time of ITS implementation within the primary impact zone, and 3.3% of the costs of ITS improvements at the time of ITS implementation within the secondary impact zone. The University's contribution will be capped at \$1.6 million for ITS improvements in the primary impact zone, and \$293,000 for ITS improvements in the secondary impact zone. Both caps will be adjusted upward by 3.5% annually from the date of final CMP approval until the delivery to the University of an itemized accounting of improvement costs from SDOT. The University will have one year following delivery of an itemized accounting of improvement costs from SDOT to pay its contribution.

**51.** The University shall pay King County-Metro the operating costs for two additional bus transit coaches in both the AM and PM peak hours to provide additional capacity on routes serving Campus Pkwy near Brooklyn Ave NE.

**52.** The University shall fund SDOT capital improvements to facilitate transit performance within the primary and secondary impact zones at the time of implementation of the respective RapidRide project as follows:

- 11th Avenue NE/Roosevelt Avenue NE: 11% of the cost of the RapidRide project within the primary impact zone; 5.5% within the secondary impact zone.
- NE 45th Street/15th Avenue NE/Pacific Avenue NE: 30% of the cost of the RapidRide project and other planned transit improvements, including bus only and BAT lanes, within the primary impact zone; 15% within the secondary impact zone.
- Montlake Blvd NE: 25% of the cost of the RapidRide project and other planned transit improvements, including bus only lanes, within the primary impact zone; 12.5% within the secondary impact zone.

**53.** The University shall dedicate space at new developments adjacent to existing and future Link light rail stations and RapidRide stops to better accommodate higher volumes of transit riders, provide better connections between modes, accommodate shared mobility services, and provide transportation information related to travel and transfer options.

**54.** The University shall upgrade the campus gateway at 15th Ave NE/NE 43rd Street as adjacent sites redevelop to comply with the Americans with Disabilities Act, and, without undertaking an obligation to act, consult with SDOT to identify opportunities to implement the U District Urban Design Framework streetscape concept plan connection between this campus entrance and the new U District light rail station.

**55.** The University shall expand, or pay SDOT for transit stop expansion, at these locations as part of the NE 45th St/15th Ave NE/NE Pacific St RapidRide implementation.

**56.** The University shall complete separate pathways for bicyclists and pedestrians on the Burke-Gilman Trail between Brooklyn Avenue NE and 15th Avenue NE, and install

lighting following the University's Facilities Design Guidelines and Campus Illumination Study, or successor documents. This should be accomplished by the earlier of the first day of 2028 or when site W27 develops.

57. The University shall widen the Burke-Gilman Trail and separate users along the trail east of Rainier Vista as opportunities permit.

58. Both the existing trip caps and parking cap shall be maintained.

59. The University shall make the corrections for typographical errors in the Master Plan as listed in Appendix B to the University's Post-Hearing Brief, which is attached hereto.

Entered this 17<sup>th</sup> day of January, 2018.

  
Sue A. Tanner  
Hearing Examiner

#### Concerning Further Review

The 1998 City-University Agreement provides for the City Council to hold a public hearing to receive comments on the University's proposed Master Plan from representatives of the University, the CUCAC, and all other persons who, within 14 days of the Hearing Examiner's recommendation, filed a written petition for further consideration with the City Council. In making its preliminary decision on the Master Plan, the City Council will consider the record before the Hearing Examiner and the comments it receives at its public hearing.

Petitions for further consideration must be addressed to the following City Council Committee, which may also be consulted for further information on the City Council's review process:

Seattle City Council  
Planning, Land Use and Zoning Committee  
c/o Seattle City Clerk  
600 Fourth Avenue, Floor 3  
PO Box 94728  
Seattle, WA 98124-4728