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

APPEAL

In the matter of the application of
SWEDISH MEDICAL CENTER CHERRY HILL
CF 311936
for approval of a Major Institution Master Plan

Seattle City Hearing Examiner Sue Tanner issued Findings, Conclusions, and Recommendations in the above matter on September 10, 2015. Pursuant to SMC 23.76.054, 19th Avenue Blockwatch/Squire Park Neighbors provided both written and oral comment to the Hearing Examiner and now submit a timely written appeal of the recommendations issued on to the City Council.

This appeal identifies specific objections to the Hearing Examiner's findings of fact, conclusions, and recommendations and specifies the relief sought. The primary objections cover the following issues:

1. The Major Institution's failure to establish need to justify expansion and the appropriate level of public benefit purported to be provided.
2. Height, bulk, scale, density and intensity are not sufficiently mitigated and negatively impact the vitality and livability of this neighborhood.
3. Inequitable treatment by DON and historic inequitable treatment by DPD during the current and past MIMP process are ignored.
4. Errors concerning neighborhood transit access and viable mitigation of transportation solutions.
5. The MIMP's inconsistency with the Comp Plan as relevant and adequately considered.
6. Although the Hearing Examiner agreed with the neighbors concerning stormwater and drainage impacts, she was not consistent throughout her recommendations.
7. Only traffic impacts, not noise, are considered concerning the loading docks.

The primary remedies are summed up as follows:

1. Reduction of the allowed height on the Central block from 160 feet to 140 feet to be allowed only for the hospital wing (CAC recommendation).
2. Reduction from 150 feet to 105 feet for all portions of the block bounded by E. Jefferson Street, E. Cherry Street, 15th Avenue and 16th Avenue (CAC recommendation).

3. The conditioning of the 15 feet to 0 feet in the central section along 18th Avenue (CAC Minority Report by Dean Paton, et al recommendation).
4. Restrict uses on the Campus to those services that are directly relevant to cardiovascular and neuroscience services or (free) charity care exclusively.
5. Incorporate DPD's required compliance with the SOV rate prior to the issuance of a building permit even though it does duplicate DPD's existing authority under the Code to enforce the SOV rate (DPD, CAC, and CAC Minority Report by Dean Paton, et al recommendation).
6. Reconsider who will serve on the SAC.
7. Use one-quarter walk shed for standard measurement and ensure union and labor representation are part of the decision-making process for mitigating transportation impacts and solutions.
8. Condition the MIMP in accordance with the City's Comp Plan.
9. Ensure consistent language throughout the MIMP addressing low-impact development measures, including bio-retention cells or planters for stormwater/drainage management.
10. Address both noise and traffic impacts concerning loading docks.

FINDINGS OF FACT

Current Master Plan

Finding of Fact #7 (page 3) – The Hearing Examiner failed to identify all of the tenants on the Swedish Cherry Hill Campus, including but not limited to Swedish CyberKnife, Accium BioSciences, Seattle University College of Nursing Clinical Performance Laboratory, the Seattle Science Foundation, and The Polyclinic. Testimony during the Hearing established that the Major Institution has evolved from a general hospital to a specialized regional cardiovascular and neuroscience services medical center. However, no analysis was done to show how each of the services are related to either cardiovascular or neuroscience services.

Remedy – Only allow those services with direct links or associations with cardiovascular and neuroscience services or which provide charity care exclusively.

Finding of Fact #8 (page 3) – Correction to proposed MIMP: Cherry and Jefferson Streets both connect to Interstate 5. 23rd and 12th Avenues both connect to Interstate 90. With the installation of the First Hill Street car, 14th Avenue, the most direct connector to Interstate 90 is no longer accessible. 23rd Avenue and Madison Street (through the Arboretum) are the Interstate 520 connectors.

Remedy – Adopt and insert the above correction in MIMP.

Objectives/Need/Public Benefit

Finding of Fact #44 (pages 9 -10) – The Hearing Examiner notes that the CAC “neither endorsed nor rejected the level of need”. The record of the CAC meetings and emails was ignored. The CAC was instructed by City staff that the CAC could not discuss or incorporate its evaluation of whether the Major Institution demonstrated need.

Remedy – Only allow those services with direct links or associations with cardiovascular and neuroscience services or which provide charity care exclusively.

Finding of Fact #45 (page 10) - The Hearing Examiner ignored that the Major Institution used system-wide community benefits to offset specific, local impacts. Both the CAC and the neighborhood asked that the community benefits referenced in the MIMP solely reflect the Swedish Cherry Hill Campus. The Swedish network website shows the Swedish Cherry Hill Campus provides the least amount of community benefits to the surrounding neighborhood of the entire network locations throughout the Puget Sound area.

Remedy – Only allow for consideration in the MIMP those community benefits and charity care services actually provided at the Swedish Cherry Hill Campus.

Height

Finding of Facts #53, #54, #55, #56, and #57 – The CAC and DPD concur with the height along the eastside of the Campus along 18th Ave remain at 37 feet. We concur with the 37 feet maximum along 18th Ave, although we believe the 15 foot center section does not serve any cardiovascular or neuroscience purpose. With the cardiovascular services moving to the Swedish First Hill Campus and a number of services already on the Swedish Cherry Hill Campus that have no relevance with cardiovascular or neuroscience services, the Major Institution has failed to establish need. Therefore, the CAC specifications for height most realistically balance the interests of the Major Institution with the needs and vitality of the surrounding neighborhood.

Remedy – Adopt the CAC recommendations for height for the central and west portions of the Campus. Reduction of the allowed height on the Central block from 160 feet to 140 feet be allowed only for the hospital wing and reduction from 150 feet to 105 feet for all portions of the block bounded by E. Jefferson Street, E. Cherry Street, 15th Avenue and 16th Avenue. Adopt the central section along the east side of the Campus be conditioned from 15 feet to zero (0) feet as identified in the CAC Minority Report of Dean Paten, et al.

Landscaping and Open Space

Finding of Fact #71 (page 14) – Comparisons have been made between this proposed MIMP and the 2009 Children’s Hospital MIMP. What the referenced CAC Minority Report of David Letrondo and Linda Carrol failed to disclose is the surrounding neighbors informed Sabey Corporation that boundary expansion was possible for discussion provided that the surrounding neighbors receive comparable compensation from the Major Institution/Sabey as Children’s Hospital provided to its surrounding neighborhood. Sabey rejected the neighborhood proposal and then purported the neighborhood was opposed to major institution boundary expansion. The Major Institution/Sabey is opposed to boundary expansion if just compensation or mitigation is required.

We must call into question the veracity and perception of fairness of David Letrondo who expressed his pre-disposition to stand against the neighborhood from his very first CAC meeting, his routine references to the architectural design work he performed for Swedish Cherry Hill Campus and his vitriol and inflammatory Minority Report. In the case of Linda Carrol, a Swedish Cherry Hill Medical Center manager, we must protest the Major Institution's misrepresentation of her as a line staff person. We are further dismayed that the Department of Neighborhoods allowed Ms. Carrol to serve as a voting member even after neighbors complained that she represented management, which is contrary to the Code requirements for membership on the CAC. The Hearing Examiner should have dismissed this particular Minority Report.

Remedy – Disregard any reference or comments from the CAC Minority Report by David Letrondo and Linda Carrol and remove them from serving on the SAC.

Transit Access

Finding of Fact #76 (page 15) – The “walk shed” standard is one-quarter mile, not one-half mile.

Remedy – Transportation planning is based on the generally accepted walk shed of one-quarter mile. Further, in light of the fact that this Major Institution is a cardiovascular and neuroscience services medical center with patients who have catastrophic illnesses or diseases, a reasonable person would consider the one-quarter mile as extreme or unrealistic walk shed. However, since it is the standard, it should be the measurement within the MIMP.

Finding of Fact #86 (page 17) – Employee and SEIU union representation are not part of the Integrated Transportation Board (ITB). The ITB has recommended creating or changing processes to modify employee behavior, including punitive measures, which is subject to collective bargaining. Without engaging employees and SEIU union representatives, success will be limited or unlikely.

Remedy – Require Union and labor representation be part of the ITB to ensure solutions implemented have buy-in and will work. Due to this current fatal flaw, call out in the MIMP DPD being required to withhold building permits until the 50% SOV is attained.

CONCLUSION

Need and Public Benefit

Conclusion #6 (page 19) – The conclusion is flawed because it is based on the assumption that all the services located on the Swedish Cherry Hill Campus are related to cardiovascular or neuroscience services. The conclusion also ignores the vacancy at both the First Hill and Cherry Hill Campuses and whether the significant vacancy can accommodate the services with remodeling. And finally, the conclusion ignores that the cardiovascular services are in the process of being relocated to the First Hill Campus (staff have been given notice of the move). The eye clinic, the kidney center, orthopedic services, the Seattle Science Foundation, speech

therapy services, and sports medicine services are some of (but not limited to) the services located on the Campus that have nothing to do with cardiovascular or neuroscience services. The Major Institution claims it is no longer a general hospital; therefore, it has not made its case for need.

Remedy – All tenancies allowed under the MIMP have a functional relationship to the stated use of the Campus for cardiovascular and neuroscience services. If the cardiovascular services are being relocated to the First Hill Campus permanently rather than temporarily, reduce the expansion to solely accommodate neuroscience services.

Conclusion #7 (page 19) – Although for-profit entities are allowed to develop properties within the major institution boundaries under SMC at the MIO zoning, there are associated risks. The code does not allow for-profits to do whatever they want or to use the MIO overlay to circumvent the underlying zoning. The trade-off for the benefit of developing outside the underlying zoning without the more restrictive design review is the risk of tenant vacancies if or when the Major Institution chooses to relocate its uses elsewhere off the Campus. The SMC does not allow for-profits to fill tenant vacancies with services outside the stated major institution use. In this case, Sabey cannot develop a Biosciences Research Campus outside of cardiovascular or neuroscience services.

Remedy – All tenancies allowed under the MIMP have a functional relationship to the stated use of the Campus for cardiovascular and neuroscience services. If the cardiovascular services are being relocated to the First Hill Campus permanently rather than temporarily, reduce the expansion to solely accommodate neuroscience services.

Conclusion #10 (page 19) – Significant portions of the MIMP are inconsistent with the Comprehensive Plan. The Major Institution Code requires more. Further, this proposed MIMP is inconsistent with other MIMPs, including the Children’s Hospital MIMP. The Code allows major institutions to exist outside urban villages; however, it does not allow major institution expansion to undermine livability and vitality of a neighborhood or to undermine what is left of affordable housing transferring from the hands of residents into the hands of major institution developers.

A conclusion that the MIMP proposal will cause no significant land use impacts despite that it is inconsistent with the 20 year vision for land use in the City of Seattle does not make sense. When an FEIS concludes, repeatedly – over and over again – that a proposal is inconsistent with goals and policies set forth in Seattle’s Comprehensive Plan, the only reasonable conclusion is that the proposal will cause significant adverse land use impacts. The enormity of this proposal – its impact to transportation, its height, bulk, and scale (adding jobs and bulk and more) in a predominantly single-family neighborhood that is not meant to accept this level of growth – flies directly in the face of the City of Seattle land use policies.

The Applicants zero in on the urban village element of the Comp Plan and claim that inconsistencies with these goals and policies are “irrelevant” to major institution planning, either

as part of the MIMP or as a matter of substantive SEPA policy. They quote from a City Council decision indicating as such for the Children's Hospital proposal. There are two problems with this argument.

The City Council erred when it claimed that the urban village strategy in the Comp Plan is irrelevant to the substantive MIMP decision. Inconsistency with the urban village strategy is directly relevant to major institution planning. On a big picture scale, Chapter 23.69 SMC limits growth within a Major Institution Overlay district. Over and over again, the regulations assert and support a policy of minimizing adverse impacts to the surrounding area associated with development and expansion and protecting the livability and vitality of adjacent neighborhoods. Thus, in considering whether to approve or deny a request for expansion of a major institution, the City Council must consider the extent to which the growth and change will or will not significantly harm the livability and vitality of the surrounding neighborhood. A major institution does not have unfettered ability to grow as large as it wants to be – it must be limited so that it does not adversely affect the neighborhood.

The goals and policies of the City's Comp Plan are directly relevant to the question of impacts on the neighborhood. When you have a fundamental goal of steering the majority of estimated growth and housing units and jobs toward urban centers and urban villages for the purpose of "preserving the character of Seattle's predominantly single-family neighborhoods," you cannot and should not ignore that goal when considering how large this major institution in a single-family neighborhood should be. That this proposal is repeatedly inconsistent with the goal of preserving the character of this residential neighborhood is directly relevant to the MIMP decision. You can bet that if this site was within an urban village, Swedish and Sabey would be repeatedly emphasizing that growth was appropriate because it is within an urban village. But, because it is not within the urban village, they argue, incorrectly, that the proposal's inconsistency with Seattle's 20 year vision for limited growth outside of those areas is irrelevant.

The FEIS concluded that the MIMP proposal is inconsistent with the Comp Plan, evidence that the Council can rely on to make its MIMP decision. The FEIS informs the MIMP decision that the MIMP should be denied or conditioned.

Remedy – At a minimum, condition the MIMP in accordance with the City's Comp Plan.

Conclusion #11 (page 20) – The Applicants have repeatedly misstated the facts under oath as to neighborhood opposition to boundary expansion.

- The immediate neighbors along 19th Avenue approached the Applicants to offer expansion along 19th Avenue as an option provided the compensation was the same as what Children's Hospital provided as a condition of its expansion. The Applicants rejected further consideration of the 19th Avenue expansion option claiming the neighbors rejected it.
- The properties included in the proposed expansion of the boundaries included buildings owned by Sabey that have underlying zoning for single or multi-family use, which Sabey

was using for commercial purposes. The expansion of the boundaries in some cases would provide legitimacy to current uses (or misuses at the time).

- The neighborhood is opposed to a private developer using the Major Institution Code to justify buying up affordable housing stock to convert into commercial office properties. This is not to be confused with opposition to Major Institution expansion.

Remedy – Reduction of the allowed height on the Central block from 160 feet to 140 feet to be allowed only for the hospital wing; reduction from 150 feet to 105 feet for all portions of the block bounded by E. Jefferson Street, E. Cherry Street, 15th Avenue and 16th Avenue; condition from 15 feet to 0 feet the central section along the eastside of 18 Avenue.

Conclusion #19 (page 21) – DPD and the CAC purposely incorporated required compliance with the SOV rate prior to the issuance of a building permit even though it does duplicate DPD's existing authority under the Code to enforce the SOV rate. The CAC purposely incorporated the compliance due to DPD's historic complete lack of enforcement for the 1994 Providence MIMP, while enforcing the other MIMP outside the Central Area neighborhood. The CAC wanted to ensure that this neighborhood was no longer treated with indifference and differently than other neighborhoods. The DPD staff person with concurrence with the DPD Director also included this requirement to demonstrate to our neighborhood good faith that we can count on being treated equitably. In light of the Mayor dissolving DPD and creating a new department with oversight over MIMPs and with the past history of disparate treatment, we must insist that we receive assurances of "never again".

Remedy – Incorporate the recommended DPD and CAC language concerning purposely incorporating required compliance with the SOV rate prior to the issuance of a building permit even though it does duplicate DPD's existing authority under the Code to enforce the SOV rate.

Conclusion #21 (page 21) – The Hearing Examiner correctly concludes that the FEIS conclusion of unmitigated traffic will occur with the development of the MIMP as proposed. The Hearing Examiner also correctly concludes that with each building permit request, a new transportation must occur. However, the critical point missing with the conclusion of including a new analysis of traffic conditions and impacts is determining whether the proposed building also complies with the stipulated use identified in the MIMP.

Remedy – If the Major Institution cannot demonstrate the use for cardiovascular or neuroscience services as part of the building permit request, then the building permit must be denied other than for the underlying zone.

RECOMMENDATIONS

Recommendation #3: TMP Goal Prior to First Building Permit (page 22) – All Appellants, the CAC and DPD agreed that no permit be issued until the current SOV goal of 50% be achieved. The Applicants have been in non-compliance since 1994.

Remedy – Reinstate the CAC and DPD recommendation language to require the Applicants reach the SOV 50% goal before issuing the first permit under the new MIMP.

Recommendation #19: Garage and Loading Dock Access (page 26) – Noise from garage and loading dock access was not included as a condition to assess despite the DPD, the CAC and Appellants concerns. In particular, current loading dock configurations require the less safe truck back-ups into the docks with the accompanying noise rather than encourage circular dock ingress and egress.

Remedy – Incorporate consideration for loading dock design that maximizes safety with noise reduction.

Recommendations #78 and #79: During Construction for Future Development – Public Services (pages 35 - 36) – The Hearing Examiner agreed with 19th Ave Blockwatch/Squire Park Neighbors concerning the FEIS that the concerns about ongoing flooding, drainage and stormwater damage were adequately documented and known to the City since 1992 when first recorded in public testimony for the prior 1994 MIMP and CAC meetings. While Recommendation #64: During Construction for Future Development – Groundwater, mitigates the soil conditions throughout the Swedish Cherry Hill Campus (with over 200 borings) that are not ideal or suitable for low-impact development measures such as bio-retention cells or bio-retention planters, the same or similar language was not incorporated into Recommendation #78 or #79.

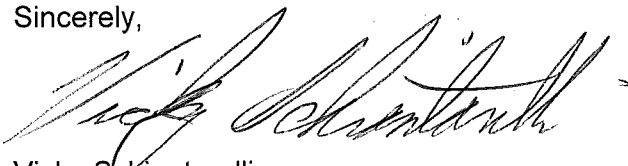
Remedy – Use the same conditions for Recommendation #64.

Recommendation #80: Natural Drainage and Green Roofs – (page 36) – See Recommendations #78 and #79 for similar objections.

Remedy – Use the same conditions for Recommendation #64, Recommendation #78, and Recommendation #79.

Thank you for your consideration.

Sincerely,



Vicky Schiantarelli
c/o 19th Avenue Blockwatch/Squire Park Neighbors
541 19th Ave
Seattle, WA 98122
206.369.6740
vickymatsui@hotmail.com