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CITY CLERK

September 24, 2015

Ms. Catherine Moore
City Clerk
Seattle City Hall
600 4th Avenue, 3rd Floor
Seattle, WA 98124

Re: Swedish Cherry Hill MIMP Appeal, No. CF 311936

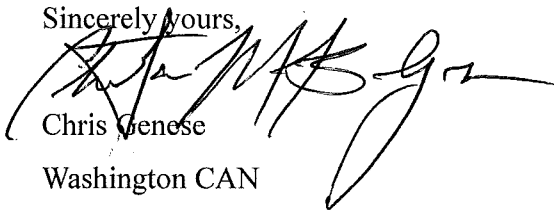
Dear Ms. Moore:

On behalf of Washington CAN, we are submitting the executed original of Washington CAN's Appeal of the Examiner's Recommendation dated September 10, 2015.

Please distribute this in accordance with the Council's rules for appeals made pursuant to SMC 23.76.054.

Thank you for your consideration.

Sincerely yours,



Chris Genese
Washington CAN

1 The hospital at Cherry Hill currently operates with 196 beds set up and staffed, though Swedish holds a
2 license from the state Department of Health that allows it to operate up to 385 inpatient beds on the Cherry Hill
3 campus. Swedish Cherry Hill is part of Swedish Health Services, a nonprofit health care system comprised of
4 five hospitals, two ambulatory care centers, and 108 medical clinics serving patients throughout Western
5 Washington. Swedish Health Services is part of Providence Health and Services, a nonprofit health care system
6 headquartered in Renton, Washington, that operates 34 hospitals and other facilities at locations across Alaska,
7 California, Montana, Oregon, and Washington.

8 Swedish and Sabey Corporation propose to more than double the size of the existing facility on the Cherry
9 Hill campus based on a claim that they need to construct an additional 1.9 million new square feet on top of the
10 existing 1.2 million square feet. As we will describe in detail below, the evidence that Swedish provides to
11 demonstrate both the need and the appropriate square footage to house the services that address the need is
12 insufficient, overstated and based on suspect methodology. The fact that over a third of Swedish's forecasted bed
13 "need" is intended to increase market share (Final MIMP, App. G, p. 134) and that 40% of the property on the
14 Cherry Hill campus is under the control of a private developer cast further doubt on Swedish's narrative that the
15 proposed expansion is purely in response to demographic growth and epidemiological trends.

16 This discussion of the extent of the needs of the Swedish Cherry Hill campus and how they are determined
17 becomes highly relevant because the proposal will significantly and adversely impact the livability and vitality of
18 adjacent neighborhoods. The height, bulk, and scale of the proposed development on the campus is
19 disproportionate to the lower heights and density of the surrounding residential neighborhoods. The FEIS
20 repeatedly concludes that the Swedish Cherry Hill proposal's height, bulk and scale is inconsistent with goals
21 and policies in the Comprehensive Plan and would cause significant adverse impacts on the neighborhood. It
22 also concluded that the increase in traffic volumes for the proposal and the resulting impacts on traffic operations
23 would create significant adverse impacts in the area. The Swedish Cherry Hill MIMP Citizen's Advisory
24 Committee (CAC) majority report and one of the two minority reports also concluded the proposal in the Final
25 MIMP would adversely impact the livability and vitality of adjacent neighborhoods. SMC 23.69.025 requires
26 that MIMP *must balance* the need of a major institution to develop its facilities with the need to minimize the
27 impact of major institution development on surrounding neighborhoods. To adequately apply this balancing test,
28 the assessment of the institution's need for space and the methodology for quantifying that space need must be

1 concise, concrete and detailed. Since that is not the case, it is impossible to balance the institution's need against
2 the project's impact.

3 The Final MIMP does not include any specific and concrete public benefits that would be offered as part of
4 the expansion – rather, it counts the ordinary course of business by the hospital as MIMP public benefits. This is
5 akin to a shoe factory claiming that the production of shoes that the factory's residential neighbors may purchase
6 at a nearby retail outlet constitutes a public benefit. The issues of human development and community benefits
7 require special scrutiny because, in recent years, the new ownership, Providence, has not demonstrated a
8 willingness to commit to truly pursuing its public benefit mission. The Examiner dismisses concerns about
9 charity care and staffing as addressing “business practices rather than the requirements of the MIMP,”
10 (Conclusion 9) yet finds that business practices can be counted as public benefits that favor the applicant's
11 proposal. (Conclusion 8). This reasoning is inconsistent – if the medical services provided on the Swedish
12 Cherry Hill campus are on the table as public benefits are determined, then the deficiencies as well as the merits
13 of the services provided by Swedish Cherry Hill must be considered.

14 **II. SPECIFIC OBJECTIONS TO EXAMINER'S FINDINGS AND RECOMMENDATION**

15 *Objection to Hearing Examiner Conclusions 4 and 5. :*

16 Swedish has not provided enough information to assess the credibility of its requested space needs.
17 Swedish lists a series of factors that may or may not drive increased need for its services, but then makes wholly
18 unsupported claims for the capacity needed to meet those needs. No formula describes the increments by which
19 the number of beds are related to demographic trends – unless Swedish provides a formula that x population
20 increase results in y beds needed and accompanies that with a credible justification for the formula, their forecast
21 of average daily census (ADC) cannot be evaluated.

22 Beyond the bed count, Swedish has also provided no mechanism to evaluate their claim that they need
23 3,500 building gross square feet (BGSF) per bed, just a statement that they evaluated several benchmarks and
24 that's the one they picked. (MIMP App. G pg. 135) Health care expert Jack Hanson testified at the MIMP
25 hearings that 2,500 BGSF per bed is used often enough to be considered as an industry standard and cited a study
26 that explains why. (Comments of Jack Hanson delivered at June 12, 2014 MIMP public hearing) Swedish has
27 also failed to provide supporting evidence for claims that 2,200 BGSF are required for clinical and research use,
28 other than to say that different types of research require different types of space. (Final MIMP App G. pg.137)

1 Somehow, the different types averaged out to 2,200 BGSF per bed, but there is no way of knowing how Swedish
2 arrived at that figure. Swedish follows this pattern throughout their application. They make reasonable-sounding
3 arguments for *why* some increased space might be needed in the future, but they never provide any justification
4 at all for *how much* space is needed. Without such justification, they might as well be plucking their numerical
5 space requirements out of the air. The following test could be applied to determine whether enough information
6 has been provided to determine whether the institutional need is set at an appropriate level: has enough
7 information been provided so that someone reading the MIMP document could replicate the bed and space
8 forecast and arrive at the same figures? If this cannot be done based on the information provided, than the
9 balancing test required by SMC 23.69.025 cannot be logically applied because the extent of institutional need
10 cannot be evaluated if it is never articulated in the first place. In such a case, the only fair and just recourse is for
11 the applicant to resubmit their application for reconsideration with the appropriate level of methodological detail
12 included.

13 In addition to lingering questions regarding the computation of the need for space, there are legitimate
14 questions about what all this additional space will be used *for* and why it's needed in the first place. In
15 Appendix G of the MIMP, there is a bed need table (pg. 134) that details the categories of drivers of growth and
16 how many average daily beds in use (average daily census "ADC") that Swedish is forecasting will be "caused"
17 by those drivers. Swedish establishes a 2012 base of 107 total ADC and projects a need of 266 ADC in 2040 – a
18 difference of 159 beds. Of this 159 bed increase, Swedish attributes 58 beds to "Mkt Share Incr for specialty
19 svcs." This figure represents 36% of the total bed need that Swedish is projecting. This means that over a third
20 of the growth that Swedish is asking the neighborhood to accommodate is attributable not to demographic shifts,
21 but a strategic plan to capture business from other area providers. While a business plan to woo patients from
22 Virginia Mason and other providers might be exciting for Swedish, it hardly constitutes a "need." Even the
23 broadest list of activities that serve the public interest would not include "increasing market share." There is no
24 reason why the neighborhood should be expected to accommodate such a "need."

25 Finally, we object to this conclusion because, to the extent there is any real shortage of space to
26 accommodate future growth, it was artificially created by Swedish by selling 40% of the land on the Cherry Hill
27 campus to the Sabey Corporation in 2002. (Sabey's 40% ownership of the Cherry Hill campus is the figure
28 reported by Dr. Rayburn Lewis at a CAC meeting on June 20, 2013. Dr. Lewis was COO of Swedish Cherry

1 Hill at the time; he is currently Chief Executive of Swedish Issaquah. Also MIMP at pp. 60-61) Were this
2 property not tied up, Swedish would have options to expand that did not include increasing the height, bulk and
3 scale of buildings on the Cherry Hill campus. Swedish's miscalculation in 2002 of its future interest in
4 expanding is hardly the neighborhood's fault, yet the neighborhood may pay the price through adverse impacts.

5 *Objection to Hearing Examiner Conclusions 6 and 7* Swedish has never made a convincing case that all of
6 the services on the Cherry Hill campus are geographically or functionally inseparable. No specific examples of
7 services that could not be located elsewhere are given. In fact, Swedish touts just the opposite – that it is proud
8 of its far-flung network of cardiovascular and neuroscience primary care services. MIMP at pg. 68. The Code
9 requires that the application for a master plan include a “description of alternative proposals for physical
10 development and decentralization options . . .” SMC 23.69.032. The Code, therefore, requires that the MIMP
11 application include a discussion of other potential sites, not on the Cherry Hill campus, where some of the
12 planned services and research facilities might be located. In fact, the CAC requested this very information early
13 in the process. They requested a description of decentralization options in its first written comments on the
14 proposed MIMP in April 2013. Neither Swedish nor the FEIS provided this information.

15 It is already questionable whether all of the current and future tenants of the Cherry Hill campus, as
16 required by SMC 23.69.008.A, are functionally-integrated with Swedish Cherry Hill, substantially-related to the
17 central mission of Swedish Cherry Hill or directly serve the users of Swedish Cherry Hill. It is doubtful that the
18 requirement was intended to encompass any and all activities related to the practice of medicine or that might
19 have a reason to interact with the hospital on rare occasions. A list of criteria appears in SMC 23.69.008.B:

- 20 1. Functional contractual association;
- 21 2. Programmatic integration;
- 22 3. Direct physical circulation/access connections;
- 23 4. Shared facilities or staff;
- 24 5. Degree of interdependence;
- 25 6. Similar or common functions, services, or products.

26 Criteria 1 through 5 are each evidence of substantive interaction between entities – a real relationship.
27 Criteria 6 is admittedly broad, but was certainly not meant to be a catch-all category. One of the Sabey tenants is
28 the NeuVation Group, a medical device venture capital and incubator firm that invests in and supports

1 entrepreneurial medical device startups. While it is conceivable that one or more of these companies may want to
2 test new medical devices on Swedish Cherry Hill patients, it is a stretch to claim that investing in startup medical
3 device companies is a similar or common function, service, or product of the Swedish Cherry Hill Medical
4 Center. The involvement of the Sabey Corporation in the MIMP is a legitimate concern. Sabey is a for-profit
5 developer and landlord that has no obligation to serve the public interest of the neighborhood. Absent stronger
6 language in the MIMP that restricts the uses to truly integrated medical care, what is stopping the Sabey
7 Corporation from leasing its Cherry Hill space for server farms (Sabey's initial and still core business)? The
8 issue isn't whether the Major Institutions Code limits development to non-profits, but whether the development
9 that occurs is in the public interest and furthers the mission of the institution for which the MIMP was created.
10 The Code wisely allows for private firms to provide goods and services to the core institution. It was not
11 intended to be a revenue stream for private developers.

12 *Objections to Hearing Examiner Conclusions 8 and 9:* There is not sufficient information provided to show
13 what specific public benefits will result from the plan's new facilities and services as is required by SMC
14 23.69.032.E.2.a. Just as neighborhood impacts are supposed to be balanced against institutional need, so too are
15 the public benefits of the development. SMC 23.69.032.E.2

16 In a section of the MIMP entitled "Applicable Goals, Policies, and Public Benefits of the Institution,"
17 Swedish describes volunteer work performed by its employees, the provision of meeting space to the
18 neighborhood, an annual neighborhood barbeque, as well as services provided by the Swedish system as a whole
19 that are not specific to the Cherry Hill campus. Swedish provides no information about public benefits that will
20 specifically result from the new facilities it wants to develop and only mentions that Swedish will provide a few
21 future neighborhood amenities – a daycare, a gym and some courtyard space in the middle of the campus. These
22 are surely inadequate benefits to mitigate the substantial impacts of the proposed development on the
23 neighborhood.

24 For the most part, Swedish discusses the general public benefits it provides by being a healthcare system.
25 Noticeably absent from the MIMP are specifics on precisely what public benefits will be offered with this
26 particular proposal to this particular community above and beyond the current public benefits that the Swedish
27 Medical Center offers generally. The assessment that is required by SMC 23.69.032.E.3 must assess *future*
28 concrete, specific actions that will accompany the expansion for *future* consistency with these policies and goals.

1 The Final MIMP does not address this requirement adequately. It does not propose meaningful, concrete
2 actions that it will take associated with its expansion. Swedish could make concrete and specific promises to
3 forgive medical debt and increase charity care access in the community. They could offer specific programs to
4 support neighbors of Swedish Cherry Hill who are struggling with or facing foreclosure from huge medical bills
5 that should be forgiven as charity care. They could make access to charity care and other financial assistance
6 easier and more transparent. A public benefit package could include specific items that make sure patients get
7 the care they need by meeting good staffing standards and respecting the recommendations of bedside nurses.
8 They could also include in the package some give back to the local schools. They could give generously to
9 Bailey Gatzert Elementary and other local schools in need, supporting the next generation of potential Swedish-
10 Providence staff. They could improve public transit by giving money to Metro in a way that both enriches the
11 quality of life in the neighborhood and partially mitigates the traffic impact of the expansion. These are just a
12 few examples of the potential areas in which Swedish could provide a specific and concrete public benefit
13 package in conjunction with its obligation for expansion. In order to adequately address the public benefit
14 requirements of the MIMP, Swedish needs to put together a package that contains concrete and specific promises
15 for public benefits such as those listed above for the community to mitigate the impacts of the development.

16 It is ironic that the Examiner accepts the Swedish account of benefits that it provides as part of the day-to-
17 day healthcare services that it is in the business of providing, yet rejects concerns about charity care and staffing
18 because the Examiner claims these issues “address the medical center's business practices rather than the
19 requirements for the MIMP.” If Swedish can have its medical services considered as public benefits in the
20 context of the MIMP, then a critique of the equity of those same medical services is not only appropriate, but a
21 necessary balance.

22 Medical debt and the trouble that eligible patients have receiving charity care at Swedish hospitals is a
23 serious problem for many Squire Park residents, several of whom testified about their experiences during the
24 MIMP review process. The problems listed below have been recurring issues:

- 25 • Charity care is not well-advertised or offered during admission. Patients have to ask for information
26 about it. Allegedly, posters are no longer clearly posted in the lobby areas.

- 1 • The application process is too complicated, requiring paperwork and documentation that the average
2 person does not have readily available. This discourages people from seeking care at Swedish – some
3 of them go to Harborview instead because the application is simpler.
- 4 • The length of time a patient is covered by charity care is too limited. Patients tell stories of years past
5 where one complex application and approval would last for 6 months, but now it is only valid for one
6 month, then people have to update/re-apply. This further discourages people from seeking charity
7 care at Swedish.
- 8 • Charity care provided by Swedish does not cover services provided by contractors, even though the
9 services are rendered on the campus.
- 10 • The amount of time patients are given to fill out charity care applications is too short, especially given
11 the amount of documentation required and the fact that people are often not in good health during this
12 process.
- 13 • Patients' applications have been lost, with no communication from Swedish before finding out that their
14 bills have been sent to collections agencies. Swedish has even sent its own employees to collections
15 over unpaid medical bills

16 Swedish needs to address these problems with providing compassionate care to those in need. It needs to
17 do so *before* pursuing construction projects and biotech research partnerships.

18 *Objection to Hearing Examiner Conclusion 10*

19 It is astonishing that the Examiner concluded that the FEIS established that the MIMP is generally
20 consistent with the Comprehensive Plan. Contrary to the Examiner's conclusion, the FEIS, in fact, concludes
21 that the Final MIMP is inconsistent with multiple goals and policies in the Comprehensive Plan. See FEIS at
22 3.3-32 through 3.3-42. The FEIS repeatedly concludes that the Swedish Cherry proposal's height, bulk and scale
23 is inconsistent with many of the goals and policies in the Comprehensive Plan. See FEIS at 3.3-32-33; 37-38; 40,
24 and 42. Specifically, the FEIS concludes that the Final MIMP is inconsistent with the following policies:

25 UV-38: Permit limited amounts of development consistent with the desire to maintain the general intensity
26 of development that presently characterizes the multi-family, commercial, and industrial areas outside of urban
27 centers and villages and direct the greatest share of growth to the urban centers and villages.

1 UVG-36: Allow limited amounts of development in areas of the city outside urban centers and villages to
2 maintain the general intensity of development that already characterizes these areas and to promote the targeted
3 level of growth in village and center locations.

4 LU-6: In order to focus future growth, consistent with the urban village strategy, limit higher intensity
5 zoning designations to urban centers, urban villages, and manufacturing/industrial centers. Limit zoning with
6 height limits that are significantly higher than those found within single family areas to urban centers, urban
7 villages, and manufacturing/industrial centers and to those areas outside of urban villages where higher height
8 limits would be consistent with an adopted neighborhood plan, a major institution's adopted master plan, or with
9 the existing built character of the area.

10 LUG-8: Preserve and protect low density, single family neighborhoods that provide opportunities for home
11 ownership, that are attractive to households with children and other residents, that provide residents with privacy
12 and open spaces immediately accessible to residents, and where the amount of impervious surface can be
13 limited.

14 LUG-9: Preserve the character of single family residential areas and discourage the demolition of single
15 family residences and displacement of residents, in a way that encourages rehabilitation and provides housing
16 opportunities throughout the city. The character of single family areas includes use, development, and density
17 characteristics.

18 LU-179: Permit the establishment of zoning overlay districts, which may modify the regulations of the
19 underlying land use zone categories to address special circumstances and issues of significant public interest in a
20 subarea of the city, subject to the limitations on establishing greater density in single-family areas. Overlays
21 may be established through neighborhood planning.

22 LUG-35: Promote the integration of institutional development with the function and character of
23 surrounding communities and the overall planning for urban centers.

24 *Objection to Hearing Examiner Conclusions 11 through 15: Height, Bulk and Scale*

25 The height, bulk and scale of the development proposed by Swedish in the MIMP is far out of balance with
26 the height, bulk and scale of existing and allowed uses in the surrounding neighborhood. The Examiner's
27 conclusions fail to recognize this and accept the scale of the proposed development as an inevitability, based on
28 Swedish's "established need," which we have already indicated is a matter of dispute. Minor landscaping

1 improvements, as suggested in Conclusion 12, will do little to mitigate the impacts of the outsized scale of these
2 massive development plans. Neither will the concentration of buildings toward the center of campus. What
3 would mitigate a lot of impacts is a substantial reduction in requested space.

4 The Examiner disregarded overwhelming evidence that showed that the height, bulk and scale of the
5 proposal will cause significant adverse impacts to the neighborhood, was out of scale with the neighborhood, and
6 would threaten the livability and vitality of the neighborhood. The Examiner completely ignored the CAC
7 majority and minority report and testimony. The Examiner disregarded the conclusions in the FEIS that the
8 height, bulk, and scale of the project would cause significant adverse impacts and was inconsistent with the
9 Comprehensive Plan.

10 The Examiner disregarded the fact that the proposal is inconsistent with the City of Seattle's policies to
11 protect the single family neighborhoods surrounding the Swedish facility. The MIMP proposal is inconsistent
12 with the 20 year vision for land use in the City of Seattle. The FEIS concludes, repeatedly – over and over again
13 – that the proposal is inconsistent with goals and policies set forth in Seattle's Comprehensive Plan. The
14 enormity of this proposal in a predominantly single-family neighborhood that is not meant to accept this level of
15 growth – flies directly in the face of the City of Seattle land use policies. Inconsistency with the urban village
16 strategy is directly relevant to major institution planning.

17 Chapter 23.69 SMC limits growth within a Major Institution Overlay district. Over and over again, the
18 regulations therein assert and support a policy of minimizing adverse impacts to the surrounding area associated
19 with development and expansion and protecting the livability and vitality of adjacent neighborhoods. Thus, in
20 considering whether to approve or deny a request for expansion of a major institution, the Hearing Examiner and
21 the City Council must consider the extent to which the growth and change will or will not significantly harm the
22 livability and vitality of the surrounding neighborhood. A major institution does not have unfettered ability to
23 grow as large as it wants to be – it must be limited so that it does not adversely affect the neighborhood.

24 The goals and policies of the City's Comp Plan are directly relevant to the question of impacts on the
25 neighborhood. When you have a fundamental goal of steering the majority of estimated growth and housing
26 units and jobs toward urban centers and urban villages for the purpose of "preserving the character of Seattle's
27 predominantly single-family neighborhoods," you cannot and should not ignore that goal when considering how
28 large this major institution in a single-family neighborhood should be. That this proposal is repeatedly

1 inconsistent with the goal of preserving the character of the predominantly single-family neighborhoods is
2 directly relevant to the MIMP decision.

3 *Objection to Hearing Examiner Conclusion 16,*

4 The Seattle Municipal Code states that the most appropriate zone designation shall be that for which the
5 provisions of designation of the zone type and the locational criteria for the specific zone match the
6 characteristics of the area to be rezoned better than any other zone designation. SMC 23.34.008. The Code
7 requires that the impact of more intensive zones on less intensive zones shall be minimized by the use of
8 transitions or buffers, if possible. SMC 23.34.008.E.1. A gradual transition between zoning categories,
9 including height limits, is preferred. *Id.* The evaluation of a proposed rezone shall consider the possible negative
10 and positive impacts on the area proposed for rezone and its surroundings. SMC 23.34.008.

11 Among other things, the Code requires that the height limits be consistent with the type and scale of
12 development intended for each zone classification and that they reinforce the natural topography of the area and
13 its surroundings. SMC 23.34.009. The height limits established by current zoning shall be given consideration
14 and any permitted height limits shall be compatible with the predominant height and scale of existing
15 development. SMC 23.34.009.C. Height limits for an area shall be compatible with actual and zoned heights in
16 surrounding areas.¹

17 The section specifically concerning MIO districts requires that in addition to the general rezone criteria, the
18 comments of the Citizen Advisory Committee shall be considered. SMC 23.34.124.

19 The Code also requires that the applicant submit a statement which documents the reasons the rezone is
20 being requested, including a discussion of the public benefits *resulting from* the proposed expansion, the way in
21 which the proposed expansion will serve the public purpose mission of the major institution, and the extent to
22 which the proposed expansion may affect the livability of the surrounding neighborhood. SMC 23.34.124.A.

23 The height limits proposed in the Final MIMP do not match the characteristics of the area to be rezoned. As
24 mentioned above, the FEIS concluded that the height limits proposed in the Final MIMP will have significant
25 adverse impacts on the surrounding area. With respect to service capacities, the FEIS concluded that the proposal
26 would have significant adverse impacts on traffic and transportation in the area. With this project, the impact of

27
28 ¹ This section excludes buildings developed under major institution height limits, but it excludes them
from being considered as the “actual and zoned heights” in relationship to the requested zone heights. In other
words, the compatibility assessment does not include existing MIMP heights. SMC 23.34.009.D.1.

1 the more intensive height of MIO 160 is not adequately minimized by the use of transitions or buffers. The
2 majority CAC has recommended, generally, heights lower than 105 feet for the facility, with one small exception
3 of 140 feet. With respect to public benefit, as was explained above, the applicant has not adequately
4 demonstrated what public benefits will *result specifically from* the proposed expansion.

5 *Objection to Hearing Examiner Conclusion 21*

6 The Examiner concludes that since the MIMP is a long-term plan and that traffic conditions change over a
7 period of time, it is not appropriate to address traffic impacts in the MIMP by reducing the allowed development
8 size, but rather make those decisions on a project-by-project basis. Washington CAN disagrees. The MIMP is
9 the ideal mechanism for managing transportation planning and traffic conditions over time. It is evident from
10 the Final MIMP and the FEIS that the traffic and transportation generated by the Swedish Cherry Hill expansion
11 will cause significant adverse impacts to the surrounding community. Full build-out will cause the current traffic
12 numbers to nearly double. The livability and vitality of adjacent neighborhoods will be severely compromised
13 by this enormous increase in traffic in the area.

14 The FEIS provides further evidence that the livability and vitality of adjacent neighborhoods will be
15 severely compromised by the increase in traffic in the area caused by the proposal. The FEIS states: [The]
16 added congestion [from the proposal] would contribute to measurably poor performance of the transportation
17 network, in terms of increased delays along several of the corridors and at some specific intersections. The
18 increase in traffic and pedestrian and bicycle activity due to development would result in more conflict points
19 and increased hazards to safety. The increase in traffic volumes for Alternatives 8, 11, or 12, and the resultant
20 impacts on traffic operations are considered significant unavoidable adverse impacts. FEIS at 3.7-58. The FEIS
21 characterization of these impacts as “unavoidable,” suggests that the proposal should be denied outright under
22 the MIMP regulations because it will adversely affect the livability and vitality of the neighborhood. In the
23 alternative, the SEPA policies do authorize mitigation measures that would include a reduction in the size and/or
24 scale of the proposal to mitigate traffic and transportation impacts.

25 *Objection to Hearing Examiner Conclusion No. 23*

26 For the reasons stated above (incorporated herein), the Examiner’s conclusions in Conclusion No. 23 are
27 made in error.

1
2 *Objection to the MIMP Hearing process*

3 The Hearing Examiner's process at the MIMP hearing was unfair and constituted a violation of Washington
4 CAN's due process rights. Appellants were at a significant disadvantage at the hearing. The applicant was
5 allowed to introduce significant amount of new evidence that wasn't part of the original record and was allowed
6 to make last minute changes to the project after the majority of public testimony had been heard. There was no
7 limit placed on the expert testimony for the Applicant and the experts who testified on behalf of the public were
8 limited to five minutes. Appellants were not provided with a reasonable opportunity for meaningful cross
9 examination of the applicant's experts: the applicant was allowed to submit new witnesses and new documents
10 on direct with no notice of who would be testifying, the subjects they would cover, and no opportunity to review
11 the new materials and or new evidence prior to conducting cross examination. Furthermore, the Examiner erred
12 when she refused to allow Washington CAN to submit the written comments of its experts, Ross Tilghman and
13 Dr. Sharon Sutton, into the record on the MIMP. That constituted serious procedural error and a clear violation
14 of Washington CAN's due process rights. The Examiner also erred by refusing to allow the evidence in the
15 MIMP hearing to overlap and be referred to in the SEPA hearing and vice versa.

16 **III. RELIEF SOUGHT**

17 Washington CAN requests that the City Council deny the proposed MIMP for Swedish Cherry Hill.

18 In the alternative, as provided by SMC 23.69.032.I.2, Washington CAN requests that the City Council
19 determine that the issue of need and public interest were not adequately addressed by the proposed master plan
20 and, on that basis, remand the master plan for submission of additional information and/or a new proposal to the
21 Citizens Advisory Committee, to the parties of record, and to the Director with an order to follow the process set
22 forth in SMC 23.69.032.I.2.

23 In the alternative, if the City Council decides to approve the proposed MIMP without a remand,
24 Washington CAN requests that the Council condition the MIMP as proposed by the Majority CAC
25 recommendation. In addition, Washington CAN requests that the City Council include the following conditions:
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28

