



## Seattle City Council

### Central Staff – Memorandum

**Date:** February 16, 2016  
**To:** Planning, Land Use and Zoning Committee  
**From:** Ketil Freeman, Council Central Staff  
**Subject:** C.F. 311936 – Application of Swedish Health Services to prepare a new Major Institution Master Plan for the Swedish Cherry Hill Campus, located at 500 17<sup>th</sup> Avenue (DPD project No. 3012953, Type IV)

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Swedish Health Services has applied for a new Major Institution Master Plan (MIMP) for its Cherry Hill Campus and a rezone to increase the height limits allowed under the current Major Institution Overlay (MIO). On September 10, 2015, the Hearing Examiner recommended conditional approval of the new MIMP and rezone. The Council has received seven appeals from the Hearing Examiner's recommendation.

This memorandum:

- Describes how major institutions are regulated.
- Sets out a chronology for the Swedish Cherry Hill MIMP renewal.
- Briefly describes the proposed final MIMP.
- Summarizes issues on appeal.
- And sets out procedural standards, such as the type of action, standard of review and burden of proof.

On March 1, 2016, the Planning, Land Use and Zoning Committee will hear oral argument from the appellants and applicants. On March 15, 2016, the Committee will continue discussion of the proposed MIMP and may make a recommendation to the Full Council.

The Council may adopt, adopt with conditions, or deny the proposed MIMP. Additionally, if the Council determines that a component of the MIMP is not adequately addressed, the Council may remand the MIMP to the Hearing Examiner for additional information or a new proposal.

### Background

#### Regulation of Major Institutions

Hospitals and post-secondary educational institutions exceeding specified size thresholds are regulated as major institutions. Major institutions are subject to a zoning overlay whereby an institution can deviate from the development standards in underlying zoning, if the institution prepares a MIMP. The purpose of a MIMP is to “balance the needs of the Major Institutions to develop facilities for the provision of health care or educational services with the need to minimize the impact of Major Institution development on surrounding neighborhoods.”<sup>1</sup>

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<sup>1</sup> Seattle Municipal Code (SMC) 23.69.025.

A MIMP is required to contain three components: (1) a development standards component, which establishes physical development standards to govern future development; (2) a development program component, which sets out the types of uses and magnitude of future development; and (3) a transportation management component, which is used to address traffic generated by the institution.

A MIMP is prepared with the review and participation of a Citizens Advisory Committee (CAC). CAC members are drawn from “community groups, residents, property owners, and business groups; consumer groups using the services of the institution; and any other person or organization directly affected by the actions of the institution.”<sup>2</sup> The CAC also includes voting non-management representatives of the institution and four or more non-voting representatives of the institution and City departments.

A CAC is created by resolution and staffed by the Department of Neighborhoods (DON). Among other things, the CAC convenes public meetings about the proposed MIMP, provides comment on environmental documents, reviews and comments on the draft recommendation for the MIMP by the Seattle Department of Construction and Inspections (SDCI), and issues its own report and recommendation to the City Hearing Examiner.

After the CAC and SDCI have issued their recommendations, the Hearing Examiner convenes an open-record public hearing on the MIMP and decides any State Environmental Policy Act (SEPA) appeals. Finally, the Hearing Examiner makes a recommendation to the Council.

#### Swedish Cherry Hill MIMP Chronology

- 1994 – Current MIMP for Swedish Cherry Hill is approved.
- November 2011 - Swedish Medical Center at Cherry Hill applies for approval of a new MIMP and a rezone to increase the height limits allowed under the current Major Institution Overlay (MIO).
- September 2012 – Composition of CAC is approved by Resolution 31384.
- December 2012 to April 2015 – CAC convenes 36 meetings.
- March 2015 – SDCI publishes recommendation to conditionally approve the MIMP.
- May 2015 – CAC publishes final report and recommendation. Majority concludes that the proposed MIMP does not meet the intent of the Major Institutions Code. There are three minority reports.
- July 2015 – Hearing Examiner holds open record hearing on the proposed MIMP and SEPA appeals.
- September 2015 – Hearing Examiner recommends conditional approval of the MIMP. Her recommendation incorporates some of the recommendations from the CAC.
- September 24, 2015 – The Council receives seven appeals from the Hearing Examiner’s recommendation.

#### Proposed Final MIMP – Brief Summary

The Swedish Cherry Hill campus is located east of the Seattle University Campus in the Squire Park neighborhood. Single family zoning extends to the south and east of the site. Lowrise 3 multifamily zoning is located north of the site on the opposite side of Cherry Street, and an MIO overlay with a 65 foot height limit associated with Seattle University is located west of the site on the opposite side of 15<sup>th</sup> Avenue. The campus is not located within an urban center or village. See attachment A.

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<sup>2</sup> SMC 23.69.062.B.3.

Sixty percent of the 13.3 acre site is owned by Swedish Health Services. The remainder is owned by the Sabey Corporation, a developer and property manager, and leased back to Swedish. The site also contains complementary facilities operated by other entities, such as LabCorp and the NW Kidney Center.

Existing facilities currently contain approximately 1.2 million gross square feet of hospital, clinic/research, education, hotel, long term care, and other support space. The proposed MIMP would increase this square footage by approximately 1.5 million gross square feet to approximately 2.7 million gross square feet. This expansion would be accomplished within the existing MIO boundaries primarily by increasing allowable height. The most significant height increases would occur on the interior block of the campus, where maximum heights would increase from 105 feet to 160 feet, and the western block, where heights would increase from 65 feet to 150 feet. See attachments B-D.

The increased height, bulk, and scale of future development are proposed to be mitigated by ground level and upper level setbacks, façade modulation requirements, and application of design guidelines, among other things.

Existing development is governed by a Transportation Management Plan (TMP) with a Single Occupancy Vehicle (SOV) commute goal of 50%. The current SOV rate is 57%. The proposed MIMP would establish a new SOV goal of 44% at buildout. SDCI recommends 38% at buildout decreasing from one percent every two years from an initial rate of 50%, which would need to be achieved prior to issuance of the first construction or demolition permit issued pursuant to the proposed MIMP.

### **Issues on Appeal**

The Council received seven appeals from the Hearing Examiner's recommendation. Appellants include: (1) a majority of the CAC; (2) Dean Paton, a CAC member; (3) Nicholas Richter, a former CAC member; (4) the Washington Community Action Network; (5) the Squire Park Community Council; (6) the 19<sup>th</sup> Avenue Blockwatch/Squire Park Neighbors; and (7) and the Cherry Hill Community Council. The Washington Community Action Network has since withdrawn its appeal.

Issues on appeal are briefly summarized below. This summary is not intended to be exhaustive. Full copies of the appeals, responses to the appeals by Swedish and Sabey, and replies to the responses are contained in the [Clerk File 311936](#).<sup>3</sup> Issues on appeal relate to, but are not limited:

- Proposed heights for the central and western blocks.
- The SOV goal for the TMP.
- Consistency with the Comprehensive Plan.
- Mitigation of parking impacts in the neighborhood.
- Justification for the expansion.
- And the functional relationship between Swedish and Sabey.

Relief sought by the appellants range from denying the MIMP to further conditioning the MIMP.

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<sup>3</sup> <https://seattle.legistar.com/LegislationDetail.aspx?ID=2571551&GUID=9F4A3FDF-5F6B-4E08-9A5B-2B7FB4F73CE7&Options=Advanced&Search=>

## Procedural Matters

### Type of Action and Materials in the Record

Action on the MIMP application by the Council is quasi-judicial. A quasi-judicial action is, “an action of the City Council that determines the legal rights, duties, or privileges of specific parties in a hearing or other contested case proceeding.”<sup>4</sup> Quasi-judicial actions are subject to the state Appearance of Fairness Doctrine prohibiting ex-parte communication. Council decisions must be made on the record established by the Hearing Examiner. The Hearing Examiner establishes the record at an open-record hearing. The record may be supplemented through a timely request meeting the standards for supplementation. The record contains the substance of the testimony provided at the Hearing Examiner’s open-record hearing and the exhibits entered into the record at that hearing.

The entire record including an audio recording of the Hearing Examiner’s hearing is in my office and available for review at Councilmembers’ convenience. Many exhibits from the hearing as well as the Hearing Examiner’s exhibit list, minutes of the public hearing, and the Hearing Examiner’s recommendation are publicly available through CF 311936. Because of the large volume of the record, the entire record is not contained in CF 311936. Records available online include:

- The proposed final Swedish Cherry Hill MIMP, December 11, 2014 (Exhibit 1).
- The Final Report and Recommendation of the Citizen’s Advisory Committee, May 28, 2015 (Exhibit 6).
- Public written comment submitted to the Hearing Examiner (Exhibit 8).
- And, the SDCI Director’s Recommendation, March 19, 2015 (Exhibit 26).

### Standard of Review and Burden of Proof

In making its decision on a quasi-judicial rezone application, the Council applies the *substantial evidence standard of review*. This means that the Council’s decision to approve, approve with conditions, or deny the recommendation must be supported by substantial evidence in the record. The applicant bears the burden of proving that the Hearing Examiner’s recommendation should be rejected or modified.<sup>5</sup>

### Request to Supplement

The record established by the Hearing Examiner may be supplemented if a timely request is filed that meets the standards for supplementation. When a Hearing Examiner recommendation is appealed the deadline for filing a request to supplement the record is the day reply briefs by appellants must be filed with the City Clerk. The Council may supplement the record if, “the new evidence or information was not available or could not reasonably have been produced at the time of the open record hearing before the Hearing Examiner.”<sup>6</sup>

The Council has received two timely requests to supplement the record, one by Swedish and another by the 19<sup>th</sup> Avenue Block Watch / Squire Park Neighbors. Both parties have the opportunity to respond and reply to the other’s request to supplement.

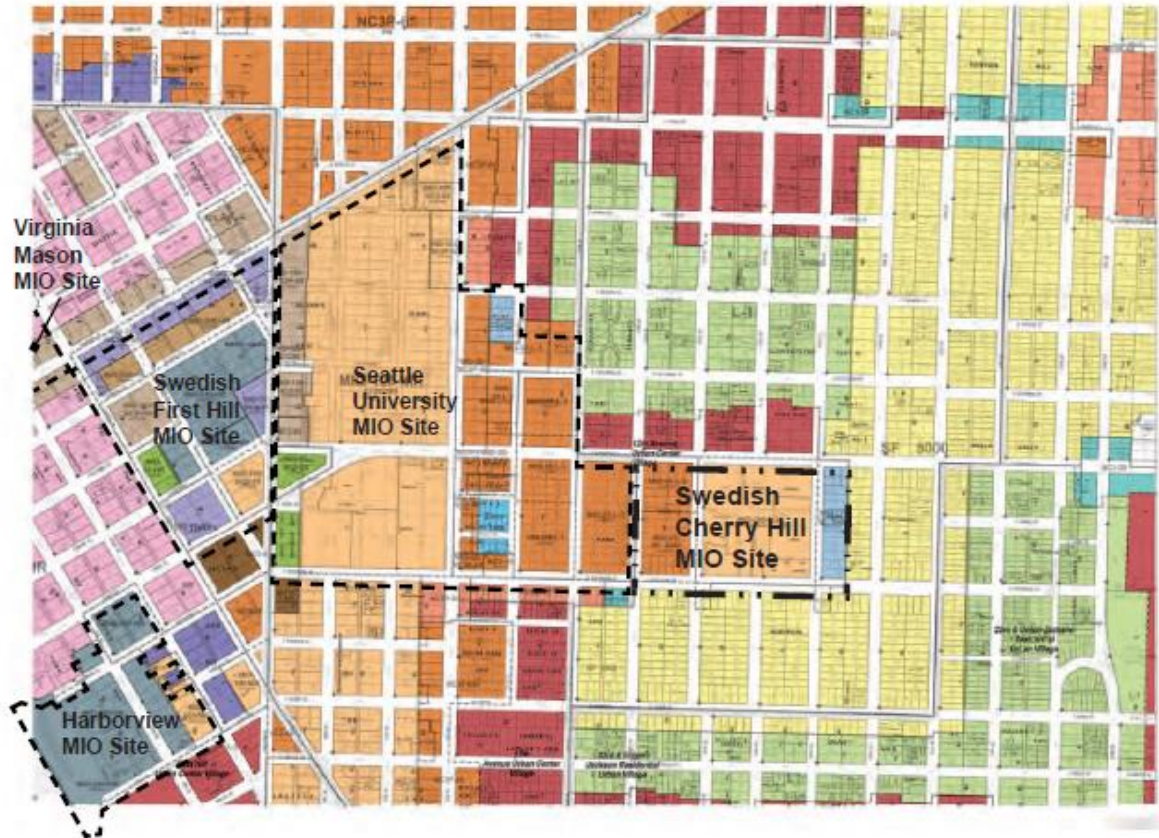
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<sup>4</sup> Council Quasi-judicial Rules II.I.

<sup>5</sup> SMC 23.76.056.A.

<sup>6</sup> SMC 23.76.054.E.

Introduction: Figure A-2 Zoning Map



Legend of Major Institution Overlays

MIO-240	
MIO-200	
MIO-160	
MIO -105	
MIO-90	
MIO-70	
MIO-65	
MIO-50	
MIO-37	

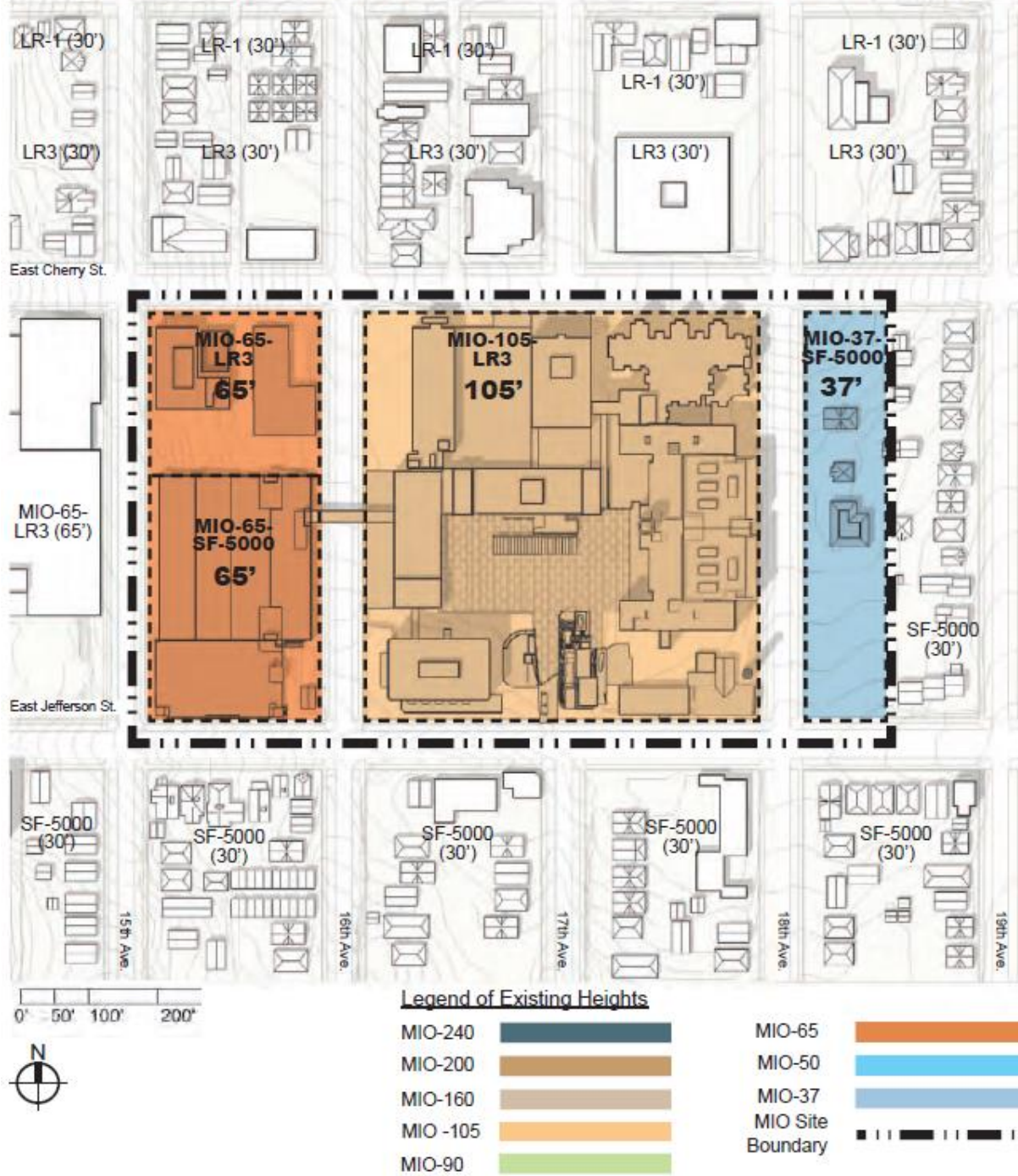
Zoning Legend

HR	
NC3-85	
LR3	
LR-1	
SF-5000	
NC1-30	
NC3P-40	
MIO Site Boundary	
Other MIO Site Boundaries	

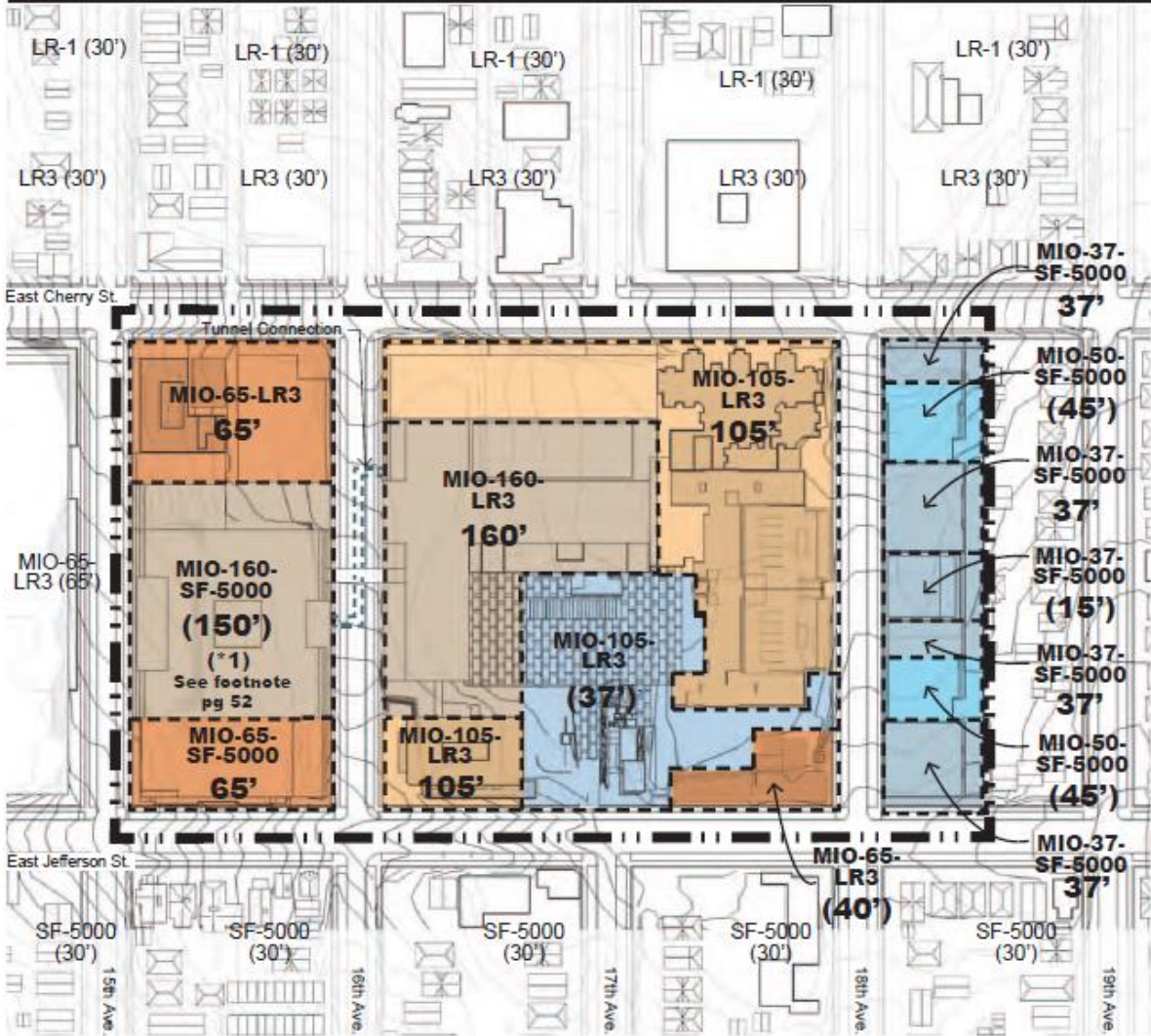


**Development Program: Figure C-2**

**Existing MIO Condition Heights**

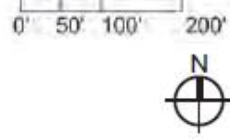


**Development Program: Figure C-4** **Alternative 12: Heights**



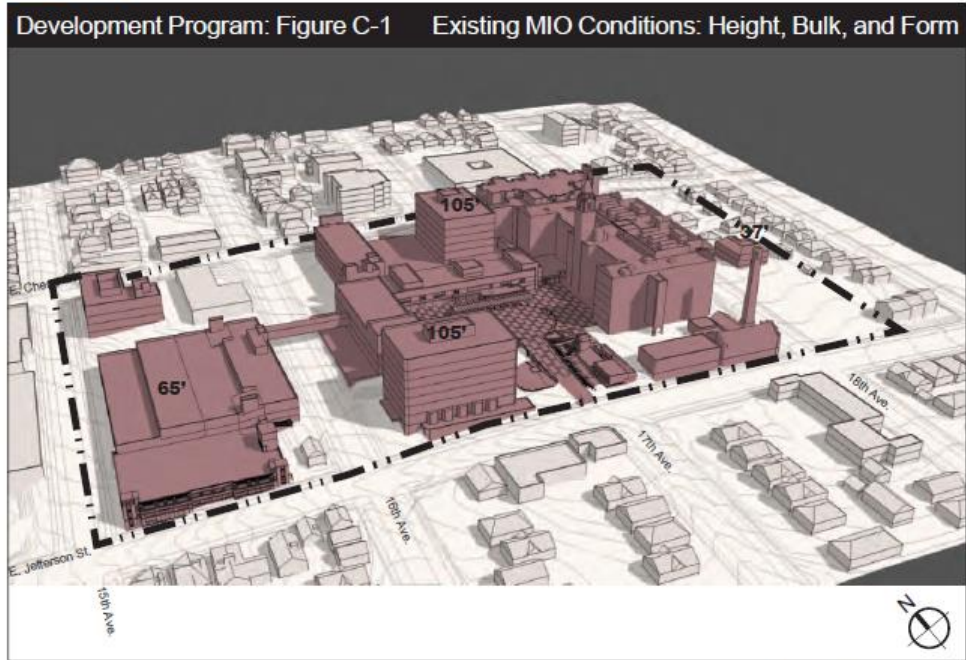
**Legend of Planned Future Heights**

MIO-240		MIO-65	
MIO-200		MIO-50	
MIO-160		MIO-37	
MIO-105		LR3	
MIO-90		SF-5000	
		MIO Site Boundary	



**Attachment D – MIO boundaries and Zoning**  
 Swedish Final MIMP, December 11, 2014 at p.50 and 52 (Exhibit 1)

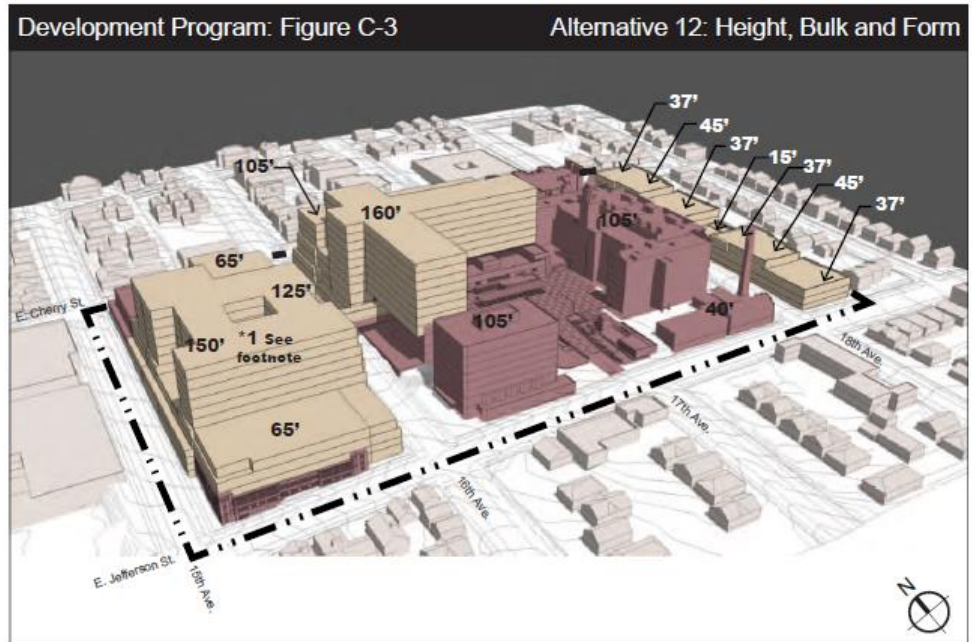
**Existing MIO**



Legend of Existing Height, Bulk and Form

Existing Height, Bulk and Form

**Alternative 12**



Legend of Planned Future Height, Bulk and Form

Existing Height, Bulk and Form to Remain

Planned Future Height, Bulk and Form