



Seattle City Council

Central Staff – Memorandum

Date: March 13, 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 17th Avenue (DPD project No. 3012953, Type IV)

Swedish Health Services (Swedish) 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 received seven appeals from the Hearing Examiner's recommendation. Appellants include: (1) a majority of the Citizens Advisory Committee (CAC); (2) Dean Paton, a CAC member; (3) Nicholas Richter, a former CAC member; (4) the Washington Community Action Network (CAN); (5) the Squire Park Community Council; (6) the 19th Avenue Blockwatch/Squire Park Neighbors; and (7) the Cherry Hill Community Council. Washington CAN has since withdrawn its appeal. The Council also received two requests to supplement the record: (1) a request by the 19th Avenue Blockwatch/Squire Park Neighbors and (2) a request by Swedish. On March 1, 2016, the Planning, Land Use and Zoning Committee heard oral argument from the appellants and applicants.

This memorandum (1) discusses the proposed requests to supplement the record, 2) compares recommendations from Swedish, the CAC, the Department of Planning and Development (DPD), and the Hearing Examiner, and (3) sets out information from the record related to issues highlighted in the written appeals, responses, replies and in oral argument.

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.

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."¹ 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

¹ Council Quasi-judicial Rules II.I.

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.

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 appellant bears the burden of proving that the Hearing Examiner's recommendation should be rejected or modified.²

Requests to Supplement the Record

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."³

The Council received two timely requests to supplement the record: (1) a request by the 19th Avenue Blockwatch/Squire Park Neighbors to supplement the record with information about flooding that occurred in December, 2015 and (2) a request by Swedish to supplement the record with January, 2015 communications between Swedish, Washington CAN, and a surgeon at Harborview about changes to Swedish's charity care policies.

The request by the 19th Avenue Blockwatch/Squire Park Neighbors is unopposed by Swedish. The 19th Avenue Blockwatch/Squire Park Neighbors and the Squire Park Community Council object to Swedish's motion to supplement on various grounds, including form and timeliness.

Issues on Appeal, Hearing Examiner Recommendation, and Information in the Record

Tables on the following pages compare recommendation on key issues on appeal and provide information from the record. Tables include:

- Table 1 – A comparison of height and SOV reduction recommendations;
- Table 2 – Information related to other issues on appeal;
- Table 3 – A diagram of massing under the existing and proposed MIMP;
- Table 4 – Illustrations of height recommendations proposed by Swedish and the CAC majority; and
- Table 5 – Height, bulk and scale studies from the MIMP EIS.

² SMC 23.76.056.A.

³ SMC 23.76.054.E.

Table 1 – Comparison of Height and SOV Recommendations	Swedish’s Proposed MIMP	CAC Majority Recommendation	Seattle Department of Planning and Development’s Recommendation	Hearing Examiner Recommendation
Heights				
Eastern Half-block	Alternating structure heights between 45’ and 37’ with a 15’ height at the center of the block. (<i>Final Major Institution Master Plan</i> , Exhibit 1 at p. 53)	Maximum height of 37’ with a 15’ height at the center of the block. (<i>Final Report and Recommendation of the CAC</i> , Exhibit 6 at p. 17) ¹	Same as CAC Majority recommendation. (<i>DPD Director’s Decision</i> , Exhibit 26 at p. 112)	Same as CAC Majority recommendation. (<i>Findings and Recommendation of the Hearing Examiner</i> at p. 29)
Central Block	Maximum height at the interior of the block and towards the western edge of 160’. (<i>Final Major Institution Master Plan</i> , Exhibit 1 at p. 53)	Maximum height at the interior of the block and towards the western edge of 140’. (<i>Final Report and Recommendation of the CAC</i> , Exhibit 6 at p. 17)	Same as Swedish’s proposed MIMP.	Same as Swedish’s proposed MIMP.
Western Block	Maximum height of 150’ for the middle of the block along 15 th Avenue and 125’ at the midpoint of 16 th Avenue. (<i>Final Major Institution Master Plan</i> , Exhibit 1 at p. 53)	Maximum height of 105; for the middle of block. (<i>Final Report and Recommendation of the CAC</i> , Exhibit 6 at p. 17)	Same as Swedish’s proposed MIMP.	Same as Swedish’s proposed MIMP.
Transportation Management Plan				
Single Occupancy Vehicle (SOV) Reduction Goal	Achieve 44% SOV rate at buildout.	Achieve 32% SOV rate at buildout with a 2% reduction every two years from an initial rate of 50%.	Achieve 38% SOV rate at buildout with a reduction of 1% every two years from an initial rate of 50%.	Same as DPD’s recommendation.
Conditioning and Enforcement	Achieve 50% SOV goal prior to issuance of the first building permit under the MIMP. Rely on DPD Director’s authority under Seattle Municipal Code (SMC) 23.54.016C.6 to further condition or deny a permit sought pursuant to a MIMP if there is not substantial progress towards meeting an SOV goal.	Achieve 50% SOV goal prior to issuance of the first building permit under the MIMP. Condition the MIMP to require achievement of the goal for a given year prior to issuance of any subsequent building permit.	Achieve 50% SOV goal prior to issuance of the first building permit under the MIMP. Rely on DPD Director’s authority under SMC 23.54.016C.6 to further condition or deny a permit sought pursuant to a MIMP if there is not substantial progress towards meeting an SOV goal.	Same as DPD’s recommendation.

Table 2 – Information Related to Other Issues				
	Relationship Between Swedish and Sabey	Access and Loading Noise	Stormwater Runoff and Draining	18 th Avenue Greenway
Issues	<ul style="list-style-type: none"> SMC 23.69.008.A extends the provisions of the Major Institution Overlay District Chapter to uses “that are functionally integrated with, or substantively related to, the central mission of a Major Institution or that primarily and directly serve the users of an 	<ul style="list-style-type: none"> Some appellants contend that the Hearing Examiner’s recommendation does not adequately address potential impacts related to noise and 	<ul style="list-style-type: none"> Some appellants contend that the Hearing Examiner’s Recommendation does not adequately address the potential for flooding, which is an ongoing problem, 	<ul style="list-style-type: none"> Some appellants contend that the Hearing Examiner did not adequately consider the impact of the proposed MIMP on the potential for a

¹ CAC minority reports differ on heights. The minority report by Dean Paton recommends a height of 0’ at the center of the eastern half-block for a ground-level open space.

Table 2 – Information Related to Other Issues

	Relationship Between Swedish and Sabey	Access and Loading Noise	Stormwater Runoff and Draining	18 th Avenue Greenway
	<p>institution...”</p> <ul style="list-style-type: none"> For the Children’s Hospital MIMP the Council included the following condition to address the issue of functional relationship: <ul style="list-style-type: none"> No portion of any building on Children’s extended campus shall be rented or leased to third parties except those who are providing pediatric medical care, or directly related supporting uses, within the entire rented or leased space. Exceptions may be allowed by the Director for commercial uses that are located at the pedestrian street level along Sand Point Way Northeast, or within campus buildings where commercial/retail services that serve the broader public are warranted. (CF 308884 - <i>Council’s Findings, Conclusion and Decision</i>, MIMP Condition 18.) 	<p>safety associated with access to loading docks and request that the Council incorporate additional conditions to mitigate noise and ensure safety.</p> <ul style="list-style-type: none"> Both DPD and the Hearing Examiner recommend development of a campus-wide loading plan to address access by, and hours of operation for, delivery vehicles. 	<p>and request that the Council modify some proposed conditions related to groundwater and Low Impact Development (LID). Specifically, 19th Avenue Blockwatch requests that the following sentence be added to some conditions, “[a]ny proposal for LID facilities must include a plan for operation and maintenance of the facilities.”</p>	<p>neighborhood greenway on 18th Avenue.</p>
Hearing Examiner’s Recommended Findings / Conditions	<p>The Hearing Examiner found:</p> <ul style="list-style-type: none"> [A] relationship between a hospital and a developer is a common business model today throughout the United States and allows the healthcare provider to dedicate its resources to equipment and staff, rather than facilities. (<i>Findings and Recommendation of the Hearing Examiner</i>, Finding of Fact 43) <p>The Hearing Examiner concluded:</p> <ul style="list-style-type: none"> The Major Institutions Code does not limit development under a MIMP to a non-profit entity. SMC 23.69.008.A, under “permitted uses” states that “[a]ll uses that are functionally integrated with, or substantively related to, the central mission of a Major Institution, or that primarily and directly serve the users of an institution shall be defined as Major Institution uses and shall be permitted in the major Institution Overlay (MIO) District...Permitted Major Institution uses shall not be limited to those uses which are owned or operated by the Major Institution. (<i>Findings and Recommendation of the Hearing Examiner</i>, Conclusion 7) 	<p>The Hearing Examiner recommended the following condition:</p> <ul style="list-style-type: none"> Develop a campus-wide dock management plan to coordinate all deliveries to loading berths along 15th, 16th, and 18th Avenues. This plan shall be developed and submitted to DPD and SDOT for review no later than submittal of the first Master Use Permit application for development under this Master Plan. Approval of this plan is required prior to issuance of the first building permit for development under this Master Plan...Review of future projects would include an evaluation of truck access and loading berths and an evaluation of means and methods to ensure relevant Seattle noise regulations are met. (<i>Findings and Recommendation of the Hearing Examiner</i>, Recommended Condition 16) 	<p>The Hearing Examiner recommends SEPA construction related conditions that include :</p> <ul style="list-style-type: none"> The requirement for submission of a geotechnical report for each future development under the MIMP (<i>Findings and Recommendation of the Hearing Examiner</i>, Recommended Condition 64); Use of LID to reduce demand on public stormwater infrastructure (Condition 78); Use of flow control and water-quality structures; (Condition 79); and Use of natural drainage and green roofs, where feasible (Condition 80). 	<p>The Hearing Examiner concluded:</p> <ul style="list-style-type: none"> Because the potential neighborhood greenway on 18th Avenue will not be planned until 2016, and there are other appropriate locations for a greenway in the neighborhood, it is neither desirable nor practical to address the greenway in conjunction with the MIMP. (<i>Findings and Recommendation of the Hearing Examiner</i>, Conclusion 20) <p>The Hearing Examiner recommended the following condition:</p> <ul style="list-style-type: none"> Prior to submittal of the first Master Use Permit for development of the 18th Avenue half-block, submit to SDOT for review and obtain SDOT’s approval of a concept streetscape design plan for both sides of 18th Avenue...The plan shall be prepared consistent with...Seattle Greenway standards if 18th Avenue is designated as a Seattle Greenway...If the street is designated as a Greenway, the design must follow SDOT standards for Greenways. (<i>Findings and Recommendation of the Hearing Examiner</i>, Recommended Condition 12)

Table 3 – Massing Under Existing and Proposed MIMP (Source: Swedish Final Major Institution Master Plan, Exhibit 1)

Existing MIO

Development Program: Figure C-1 Existing MIO Conditions: Height, Bulk, and Form



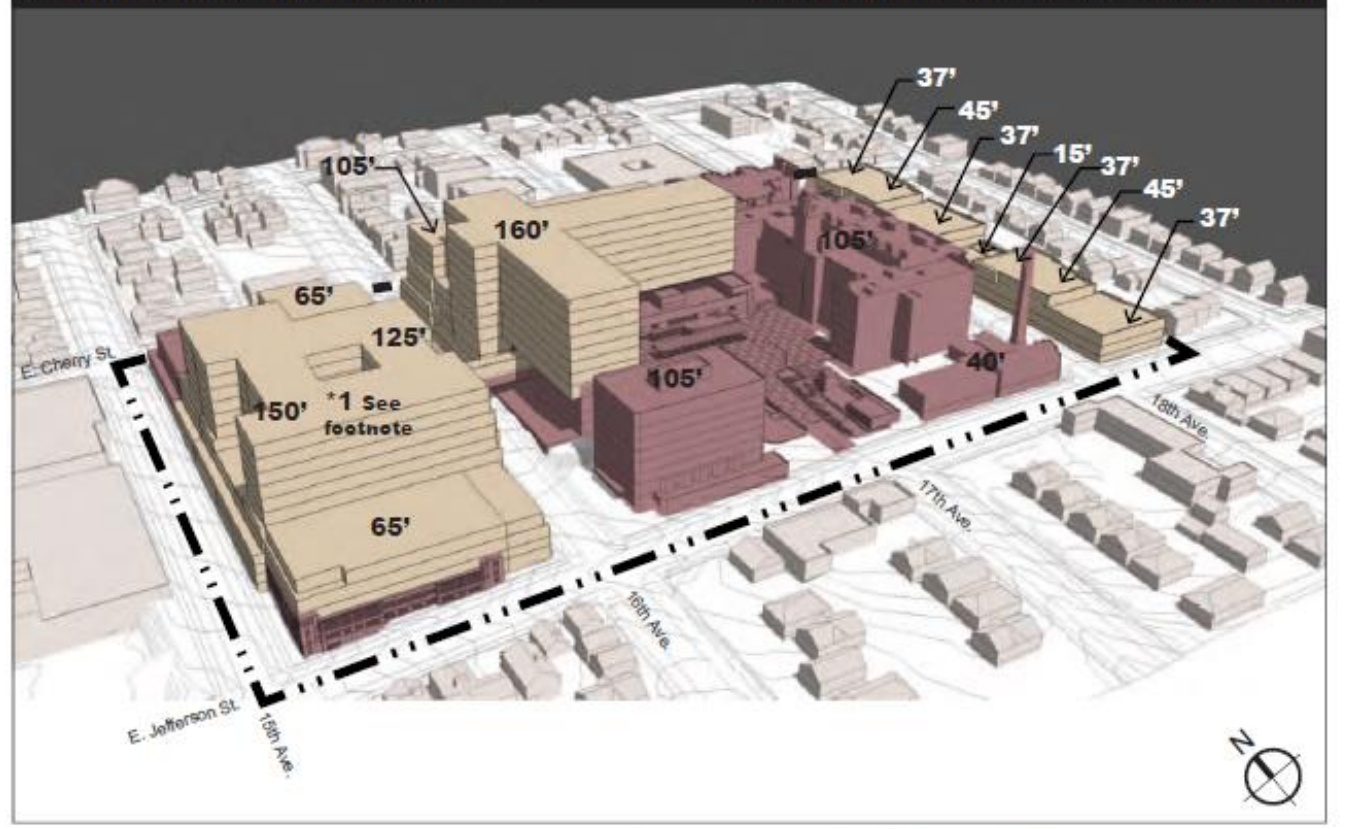
Legend of Existing Height, Bulk and Form

Existing Height, Bulk and Form

Alternative 12

Development Program: Figure C-3

Alternative 12: Height, Bulk and Form



Legend of Planned Future Height, Bulk and Form

Existing Height, Bulk and Form to Remain
Planned Future Height, Bulk and Form

Swedish's Proposed Heights (Source: Swedish Final Major Institution Master Plan, Exhibit 1)

CAC Majority's Recommended Heights (Source: Final Reports and Recommendation of the CAC, Exhibit 6)

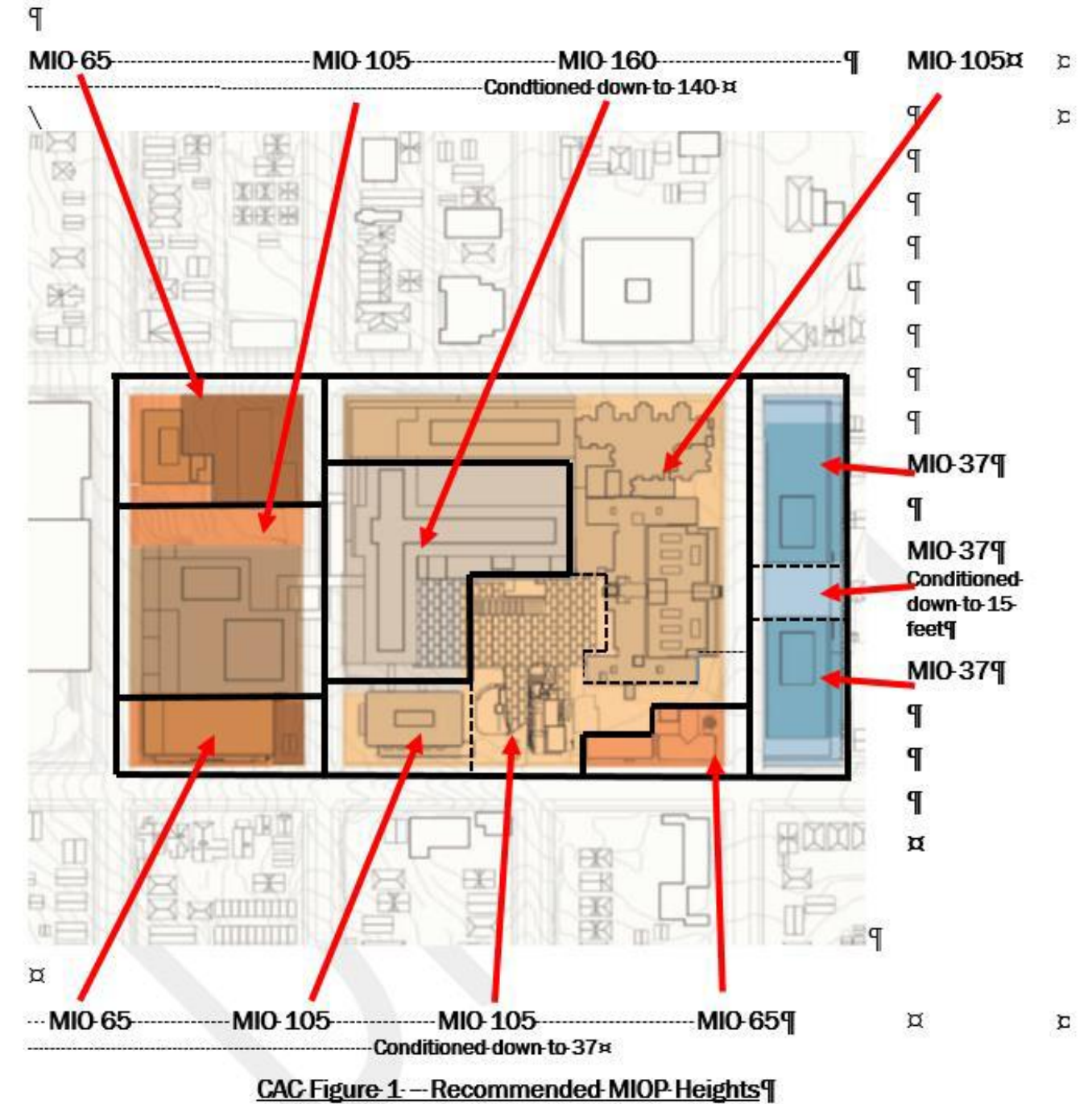
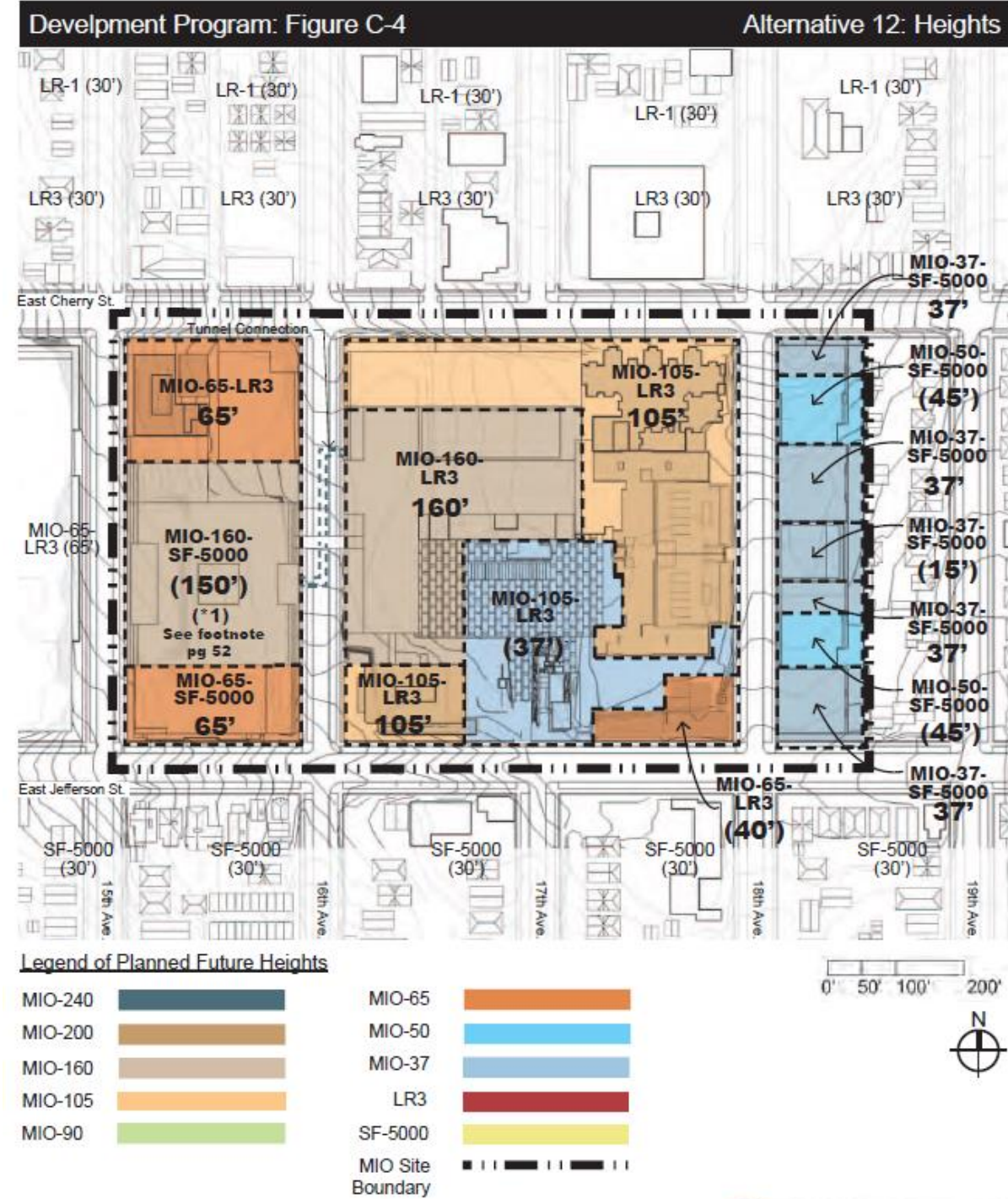


Table 5 – Height, Bulk and Scale – Current to Proposed (Source: Electronic Copy of EIS, Exhibit 5)



Figure 3.4-2
Viewpoint 1: Alternative 1
East on E James Court at 12th Avenue



Figure 3.4-42
Viewpoint 11: Alternative 1
North on 16th Avenue at E Jefferson Street



Figure 3.4-34
Viewpoint 9: Alternative 1
North on 18th Avenue at E Jefferson Street



Figure 3.4-5
Viewpoint 1: Alternative 12
East on E James Court at 12th Avenue



Figure 3.4-45
Viewpoint 11: Alternative 12
North on 16th Avenue at E Jefferson Street



Figure 3.4-37
Viewpoint 9: Alternative 12
North on 18th Avenue at E Jefferson Street

Note: The massing in viewpoint 9 does not reflect the reduced height recommended by the Hearing Examiner for the eastern half block.