



Seattle City Council

Central Staff – Memorandum

Date: March 31, 2016
To: Planning, Land Use and Zoning Committee
From: Ketil Freeman, Council Central Staff
Subject: CB 118655, CF 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 Washington CAN has withdrawn its appeal.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.

The Planning, Land Use and Zoning Committee (PLUZ) began review of the MIMP at its regularly scheduled meeting on February 19, 2016. On March 1, 2016, PLUZ heard oral argument from the appellants and applicants. On March 15, PLUZ discussed elements of the MIMP and appeals raised in oral argument. On April 4, 2016, Council Bill (CB) 118655 will be introduced. If passed CB 118566 would approve the proposed MIMP and modify height limits within the MIO.

This memorandum, (1) discusses the proposed requests to supplement the record, (2) describes the content Council Bill (CB) 118655, and (3) sets out a draft Findings, Conclusion and Decision of the Council for discussion by the Committee.

Procedural Matters and Request to Supplement the Record

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 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

¹ Council Quasi-judicial Rules II.I.

hearing. 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.

Council Bill 118655

CB 118655 would conditionally adopt the proposed MIMP and amend the Official Land Use Map to modify maximum heights within the MIO. If passed, Swedish would be required to submit a revised MIMP reflecting any changes made by the Council and incorporating revisions identified in the Council's Findings, Conclusions, and Decision.

Height changes would include: (1) a reduction in maximum height from 105 feet to 65 feet at the southeast corner of the central block generally where the central utility plant is located, (2) an increase from 105 feet to 160 feet for a portion of the central block, and (3) an increase from 65 feet to 160 feet for a portion of the western block. As recommended by the Hearing Examiner, heights on the eastern half-block would not be increased. Height changes on the rezone map to CB 118655 are shown on Attachment A. The proposed MIMP would impose conditions on the ability to achieve the maximum height in some locations on the campus.

² SMC 23.76.056.A.

³ SMC 23.76.054.E.

Draft Council Findings, Conclusions and Decision

A draft Council Findings, Conclusions and Decision is attached to the PLUZ agenda. The Council's Findings, Conclusions, and Decision will be filed in the Clerk's File and contains the Council's findings-of-fact, conclusions, decision, and conditions.

The draft Findings, Conclusions, and Decision would conditionally approve the MIMP with the conditions recommended by the Hearing Examiner and with additional Council changes to conclusions and conditions. Language in the conclusions and conditions, which varies from the Hearing Examiner's, is highlighted in yellow. Those changes would:

- Reduce the SOV reduction goal from 38% to 32% and require that the average SOV goal for the three prior years be achieved prior to issuance of each building permit after the initial building permit (p. 22 – 25);
- Add a condition to require that uses on the Swedish Cherry Hill campus are “functionally integrated with or substantively related to” Swedish's institutional use with exceptions for small neighborhood and institution serving uses, like coffee shops and small retail (p.21 and p.24); and
- Reiterate a requirement for an operation and maintenance plan for low-impact development techniques, such as the use of bio-retention, to address flooding and stormwater impacts (p.39).

The proposed draft Findings, Conclusions and Decision may be modified or added to based on committee discussion.

Attachment A – Rezone Map

