

## Attachment 2

### Seattle City Council Conclusions Related to the University of Washington 2018 Seattle Campus Master Plan

The City Council intends to adopt the following conclusions regarding Clerk File 314346, as promulgated by the Seattle Hearing Examiner on January 17, 2018 and as amended by the Council.

#### Conclusions

1. The Seattle City Council has jurisdiction over this matter pursuant to Chapters 23.69 and 23.76 SMC and as reflected in the City-University Agreement. All conditions of approval of the Master Plan are established pursuant to the City’s exercise of substantive SEPA authority, but that authority is supplemental to the land use authority described above.

2. The review process for development of the Master Plan met the process requirements in Section II.B of the City-University Agreement.

#### Areas of Dispute

3. Authority for Master Plan to Modify City Development Regulations. The University maintains that the City-University Agreement is “*the* development regulation governing the University’s land use activities on campus,”<sup>1</sup> and that the Agreement allows the Master Plan to modify all City development regulations, not just the development standards of the underlying zoning. This position fails to take into account the entirety of the legal framework for the Master Plan.

4. The statutory framework for the Master Plan begins with SMC 23.69.006, which includes two sentences that must be read together and harmonized.<sup>2</sup> The first sentence authorizes the Agreement to govern such things as the uses on campus and outside the campus boundary, permit acquisition and conditioning, and zoning and environmental review authority. The second sentence then states that within the MIO Boundaries, “development standards of the underlying zoning may be modified by an adopted master plan” or an amendment to the Agreement.<sup>3</sup>

5. The “development standards of the underlying zoning” are the limitations on physical development applied within each zone, such as height, floor area ratios, and setbacks, that ensure compatibility of development patterns within the zone.<sup>4</sup> The language in the first sentence of SMC

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<sup>1</sup> The University cites the GMA Board’s decision in *Laurelhurst II* as support for its position, but the Board’s conclusion in that case was that the Agreement “has the effect of being a local land use regulation” and thus, qualified as a development regulation as that term is defined in the GMA. *Laurelhurst II* at 11.

<sup>2</sup> A statute or code must be construed to give effect to all the language used, *Danley v. Cooper*, 62 Wn.2d 179, 381 P.2d 747 (1963), and to give effect to each word if possible. *Chelan Cy. V. Fellers*, 65 Wn.2d 943, 400 P.2d 609 (1965).

<sup>3</sup> Emphasis added.

<sup>4</sup> The Master Plan depicts the zoning underlying the University’s MIO at 290-91 The development standards for that zoning are found in SMC Chapters 23.43 through 21.51B, SMC 23.54.016.B, and SMC 23.54.030.

23.69.006.B, authorizing the City-University Agreement to govern “zoning ... authority,” does not authorize the Agreement to supersede development regulations other than zoning. Zoning is a mapping exercise subject to Chapters 23.30 through 23.34 SMC, which establish zone designations, adopt a map depicting underlying zoning, and govern mapping amendments. It does not include other development regulations, such as the uses allowed within the zone; development standards for height, bulk, and scale; subdivision regulations; critical area regulations; historic preservation ordinances; etc. If zoning encompassed all development regulations, there would be no need for the same sentence to expressly authorize the Agreement to govern “uses” within and outside campus boundaries, or “permit acquisition and conditioning,” or for the second sentence of SMC 23.69.006.B to authorize the Agreement to “modify development standards of the underlying zoning”.<sup>5</sup>

6. The University’s reading of the Agreement conflicts with SMC 23.69.006.B. The University argues that the Agreement’s requirement that the Master Plan include the “institutional zone and development standards” to be used by the University” means that the Master Plan may designate the institutional zone and supersede all City “development regulations.” However if, as the GMA Board held, the Agreement is itself a land use regulation, codified as part of SMC 23.69.006.B, it must be read together with that Code section. Reading the two together, and harmonizing them, the Agreement requires that the Master Plan include the institutional zone and any modified development standards of the underlying zoning. It does not authorize the Master Plan to modify any other City development regulations.

7. Finally, the University’s reading of the Agreement’s requirement for the Master Plan to include “the institutional zone and development standards” to be used by the University, would create a conflict within the Agreement itself. The Agreement requires that the Department and the Examiner each base their recommendations on the Master Plan, in part, on “other applicable land use policies and regulations.”<sup>6</sup> But under the University’s reading of the Agreement, there would be no “other applicable land use ... regulations” for the Department and Examiner to assess. Again, reading the Agreement as a whole and giving effect to all of its provisions, and reading it together with SMC 23.69.006.B, the Master Plan must include the institutional zone and any modified development standards of the underlying zoning.

8. As proposed, the Master Plan would control all development regulations, including those not tailored to a zone. The Examiner recommends adoption of the Director’s recommended conditions, 29, 30, 34, 35, and 39. Those recommended conditions better align the Master Plan with the SMC but also include language that is consistent with the Washington Supreme Court’s recent ruling, which bars local jurisdictions from using development regulations to preclude the siting of state education facilities. Recommended condition 39 would add a common-sense rule to address potential conflicts between definitions in the Master Plan and those in the SMC. Terms undefined in the Master Plan would default to definitions found in the SMC.

9. Public Realm Allowance. The Master Plan cannot control future City decisions regarding City rights-of-way. The University is concerned that recommended Conditions 12, which would acknowledge that the City is authorized to widen its rights-of-way, could impact the potential

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<sup>5</sup> See also SMC 23.69.002.H.

<sup>6</sup> Exhibit D5 at 6.

development capacity of the Master Plan. Although the concern is understandable, the City cannot, in the Master Plan process, appear to abdicate its authority to manage and, where necessary, expand City rights-of-way. If an expansion that reduced the University's development capacity were proposed, the University and City could explore a Master Plan amendment to adjust public realm allowance requirements to the University's needs.

10. The University also argues that the following sentence in recommended Condition 12 should be removed as unnecessary: "Where required, improvements to the public realm allowance shall be completed in accordance with adopted [the] Greenstreet Concept Plan." The Master Plan includes a statement of intent that the University "shall strive to follow the guidance provided" in the University District Green Street's Concept Plan,<sup>7</sup> but recommended Conditions 12 would mandate what is now written as discretionary.

11. The Examiner recommended adoption of the Director's recommended Condition 12.

12. Plan Amendment Process/ Portability of Development Capacity. Under SMC 23.69.006.B, the Agreement is to govern "the Master Plan process (formulation, approval and amendment)." Subsection II.C of the Agreement addresses changes to the Master Plan, with provisions defining exempt changes and addressing procedures for amendments that are not exempt. As noted above, language in the Master Plan's chapter on Development Standards includes procedures that conflict with those spelled out in the Agreement. The University states that the City Council which approved the existing master plan added the provisions that the University included in the proposed Master Plan. Nonetheless, nothing in the record explains the reason such provisions would have been added, and the Master Plan should be consistent with the Code and Agreement. The Examiner recommends adoption of recommended Conditions 17 and 18.

13. Housing. As noted above, the Director concluded that the Master Plan was not consistent with Comprehensive Plan Policy H5.19 because it would lead to an increase of approximately 4,649 faculty and staff over its 10-year life without providing for housing, including rent- or income-restricted housing, to accommodate that employment growth. The University argues that the Master Plan is a specific development proposal and thus, need not be consistent with the Comprehensive Plan, but the City asserts that because the Master Plan is a nonproject action for purposes of SEPA, it is regulatory in nature and must comply with the Comprehensive Plan. As noted above, in *Laurelhurst I*, the City and University argued, and the GMA Board agreed, that a University master plan is properly characterized as a land use decision that establishes development requirements for specific pieces of property. It is not a land use regulation that must be consistent with, and implement the Comprehensive Plan except to the extent required by Chapter 23.69 SMC and the Agreement.

14. The Agreement requires both the Director and the Examiner to assess the Master Plan based, in part, on "SEPA [and] other applicable land use policies and regulations of the City," and the Director's report is to include findings and recommendations on the Master Plan's "[c]onsistency with "other adopted land use policies and regulations of the City".<sup>8</sup> Contrary to the University's position, nothing in the Agreement indicates that "land use policies" are limited to

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<sup>7</sup> Exhibit D2 at 182.

<sup>8</sup> Exhibit D5 at 5-6.

the policies found in the Land Use Element of the Comprehensive Plan. If the drafters of the Agreement had intended to so limit the Director’s and the Examiner’s consideration of “land use policies,” the limitation would be spelled out in the Agreement.

15. Transportation. Subsection III.C.6 of the Agreement provides that the City and University “will continue to act in partnership with King County Metro and Community Transit to provide a high level of transit service to the campus, University area, and nearby neighborhood business districts.”

16. Recommended Conditions 51, 52, and 53 are consistent with SMC 25.05.675.R.1, the City’s Traffic and Transportation “Policy Background,” which states, in part, that “[e]xcessive traffic can adversely affect the stability, safety and character of Seattle’s communities,” and that the “University District is an area of the City which is subject to particularly severe traffic congestion problems ... and therefore deserves special attention in the environmental review of project proposals”. As noted above, the EIS documents that traffic generated by the Master Plan will cause substantial additional delay at intersections and reduce arterial speed for transit and general-purpose traffic. These impacts can reasonably be considered “excessive” within the meaning of SMC 25.05.675.R.1.a. The Master Plan anticipates major projects with substantial traffic volumes that will adversely impact surrounding areas,<sup>9</sup> and some individual projects anticipated by the Master Plan will create adverse impacts on transportation facilities serving those projects.<sup>10</sup> Further, the recommended conditions, which mitigate the Master Plan’s anticipated growth impacts on transit facilities, would increase the use of alternative transportation modes.<sup>11</sup>

17. The recommended conditions are also justified by the applicable SEPA transportation policies in SMC 25.05.675.R.2. Policy “a” is “to minimize or prevent adverse traffic impacts which would undermine the stability, safety and/or character of a neighborhood or surrounding areas.”

18. Recommended Condition 51 would increase capacities on likely overcrowded transit lines, thereby enhancing the University’s ability to meet its TMP goal by providing sufficient space on buses for prospective riders, thereby minimizing destabilizing and unsafe traffic impacts. However, although it is reasonable to assume that the increased demand resulting from additional University riders would exceed capacity on some routes on the screenline, it is not clear how that increased demand would be allocated across the routes in question. Thus, while it is reasonably likely that the additional 164 riders would result in the need for at least two additional bus transit coaches during the AM and PM peak hours, it is not clear that three additional coaches would be needed to maintain capacity across all routes within the screenline. The Examiner recommends that the condition be revised to provide that the University pay King County Metro’s operating costs for two additional bus transit coaches in both the AM and PM peak hours to provide additional capacity on routes serving Campus Parkway near Brooklyn Avenue NE.

19. Recommended Condition 52 would help fund proposed RapidRide lines in the University District, thereby increasing transit speed and reliability, increasing the attractiveness of transit, and

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<sup>9</sup> See SMC 25.05.675.R.1.b.

<sup>10</sup> See SMC 25.05.675.R.1.c.

<sup>11</sup> See SMC 25.05.675.R.1.d.

minimizing destabilizing and unsafe traffic impacts. Maintaining and improving transit performance is a necessary part of supporting an increase in transit service and meeting the University’s TMP goals.

20. Recommended Condition 53 would provide on-campus opportunities to accommodate high volumes of transit riders and shared mobility services, better connections between modes, and information related to travel and transfer options that would encourage the use of alternative modes, supporting the University’s TMP and minimizing destabilizing and unsafe traffic impacts.

21. Recommended Condition 55 would increase the size of waiting areas at two highly congested bus stops, which would encourage use of transit, supporting the University’s TMP, and thereby minimizing destabilizing and unsafe traffic impacts, by decreasing discomfort from waiting in highly congested conditions. Such conditions at transit stops could also degrade the character of a neighborhood by causing congestion and blockages for pedestrians on sidewalks.

22. The EIS documents the availability of public transit, existing vehicular and pedestrian traffic conditions, and other specific policy elements. The results of, and the impacts identified in, the EIS transportation analysis shaped the Director’s recommended conditions.<sup>12</sup> And the Director’s recommended conditions, with the exception noted for Recommended Condition 51, are attributable to the impacts identified in the EIS and generally based on a pro rata share of vehicle or transit trips generated by the growth anticipated under the Master Plan.

23. The Examiner’s recommended conditions are reasonable and capable of being accomplished.<sup>13</sup> Like the uncertainty for the University and the surrounding community that is inherent in a Master Plan, the recommended transportation conditions are expressed in terms of percentages of future costs that cannot be defined with certainty at this time. The costs will be made certain in advance of the time payment is required, however, and the University may then negotiate and challenge costs it deems inconsistent with the conditions.

24. The City Council adopts the Examiner’s recommended Condition 51 as amended, and the Director’s recommended Conditions 52, 53, and 55.

### **Other Conclusions**

24. As conditioned, the Master Plan includes all elements required by Section II.A of the City-University Agreement.

25. As conditioned, the Master Plan is consistent with Section II.C of the Agreement concerning changes to the University master plan.

26. As conditioned, the Master Plan is consistent with relevant Comprehensive Plan policies.

27. As conditioned, the Master Plan appropriately mitigates short- and long-term environmental impacts identified in the EIS.

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<sup>12</sup> See SMC 25.05.675.R.2.b; SMC 25.05.060.A.2.

<sup>13</sup> See SMC 25.05.060.A.3.

28. As conditioned, the draft Shoreline public access plan is appropriate for SDCI's consideration. If the City Council approves the Master Plan, the University may submit a final Shoreline public access plan to the Director for consideration through the review and approval process in SMC 23.60A.164.K.

29. The CUCAC's requested height reduction for Site W22 is not recommended. Although some may consider it a gateway to the neighborhood, the site is not on the campus boundary and is proximate to the Seattle Mixed-University 75-240 zone that would allow structures up to 240 feet in height.

30. The CUCAC's requested height reduction for Site W37 is not recommended. The University has identified a view corridor at this location, and because the topography rises to the north of the site, most of the square footage allocated to the site will be outside the view corridor.

31. The suggestion that the Master Plan be amended to reduce the University's SOV rate to 12 percent by 2024 has some merit, particularly in light of the facts that the SOV rate is presently 17%, the University proposes to replace parking lost in demolition under the Master Plan rather than reducing the parking cap, and the University commits only to consider revising its payment system for parking to reduce demand. However, under current circumstances, the SOV reduction rates recommended by the Director are reasonable and capable of being accomplished and are recommended by the Examiner.<sup>14</sup>

32. The Council adopts the Examiner's recommendations on the proposed MIO height designations.<sup>15</sup>

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<sup>14</sup> History shows that the U-Pass system and its subsidies have been the primary incentives for changes in student travel modes, and increased subsidies for the employee and faculty U-Pass would significantly increase their access to affordable transportation options and reduce the University's SOV rate. The University has committed to going to the state legislature to seek inclusion of the state's higher education employees in the existing program that grants all other state employees living in King County a fully subsidized transit pass. A successful outcome in that forum would do more to reduce the University's SOV rate than mandating in the Master Plan that it achieve a 12% SOV rate by 2024.

<sup>15</sup> Exhibit D1 at 45.