BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In the matter of the Appeal of: WASHINGTON COMMUNITY ACTION NETWORK, et al. Of a decision by the Director of the Department of Planning and Development	File No. MUP 15-010-MUP 15-015 **RESPONDENTS SWEDISH MEDICAL CENTER AND SABEY CORPORATION'S PROPOSED SEPA FINDINGS AND CONCLUSIONS**

Respondents Swedish Medical Center and Sabey Corporation submit the enclosed proposed SEPA findings and conclusions for consideration by the Hearing Examiner.

Dated this 11th day of August, 2015.

FOSTER PEPPER PLLC

Courtney Kaylor for

Joseph A. Brogan, WSBA #30664
Steven J. Gillespie, WSBA #39538
Attorneys for Swedish Medical Center Cherry Hill with authorization

McCULLOUGH HILL LEARY, P.S.

Courtney Kaylor

John C. McCullough, WSBA #12740
Courtney A. Kaylor, WSBA # 27519
Katie Kendall, WSBA # 48164
Attorneys for Sabey Corporation

McCULLOUGH HILL LEARY, P.S.
701 Fifth Avenue, Suite 6600
Seattle, WA 98104
206.812.3388
206.812.3389 fax

Introduction

Pursuant to Chapter 25.05 Seattle Municipal Code (City SEPA Policies), the Director of the Department of Planning and Development (DPD) determined that the environmental impact statement (EIS) prepared for the proposed Swedish Medical Center Cherry Hill Campus Final Major Institution Master Plan (MIMP) was adequate. Appellants Washington Community Action Network (Washington CAN), 19th Avenue Block Watch/Squire Park Neighbors (19th Avenue), Cherry Hill Community Council (Cherry Hill), Squire Park Community Council (Squire Park), Concerned Neighbors of Swedish Cherry Hill (Concerned Neighbors), and members of the Citizens Advisory Committee (CAC Members) (collectively, Appellants) filed separate appeals of the SEPA determination.

A consolidated hearing on the proposed MIMP and the appeal of the EIS was held on July 13 - 17, 2015, before the Hearing Examiner (Examiner). Appellant Washington CAN was represented by Claudia Newman, Bricklin & Newman LLP; Appellant 19th Avenue was represented by Vicky Schiantarelli; Appellant Cherry Hill was represented by Mary Pat DiLeva; Appellant Squire Park was represented by Bill Zosel; Appellant Concerned Neighbors was represented by Troy Meyers; Appellant CAC Members was represented by Dean Paton; the Applicant, Swedish Medical Center (Swedish), was represented by Joseph Brogan and Steve Gillespie, Foster Pepper PLLC; the property owner Sabey Corporation (Sabey) was represented by John McCullough, Courtney Kaylor and Katie Kendall, McCullough Hill Leary PS; and the Director of DPD was represented by Stephanie Haines, DPD. The record was held open for comments on the MIMP until July 21, 2005. Post-hearing briefing on the SEPA appeals was received from Washington CAN, 19th Avenue, Squire Park, Swedish and Sabey.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code (SMC or Code) unless otherwise indicated.

Having considered the evidence in the record, the Examiner enters the following findings of fact, conclusions and decision on this appeal.

Findings of Fact

Background

1. Swedish is a non-profit healthcare provider.

2. Sabey is a for-profit development and property management company that owns approximately 40% of the property within the Cherry Hill Major Institution Overlay (MIO).

3. Hospital uses commenced at the Swedish Cherry Hill campus in 1910 with the establishment of Providence Hospital and have continued since that time.

4. Swedish Cherry Hill provides two specialized facilities, the Swedish Heart and Vascular Institute and the Swedish Neuroscience Institute, which provide tertiary and quaternary treatment of cardiac disease, as well as neurological trauma, cancers, and disorders. Swedish Cherry Hill also provides clinical space and general health services.

Site and Vicinity

5. The Cherry Hill campus is bounded on the north by Cherry Street, on the west by 15th Avenue, on the south by Jefferson Street, and on the east by shared property lines with private homes on 19th Avenue. The site slopes down east-to-west, and less so north-to-south.

6. The Cherry Hill campus is within the boundaries of the MIO. The boundaries are not proposed to be altered. The current MIO includes three height districts: MIO-37, -65 and -105. The underlying zoning for the Cherry Hill MIO is Single-Family 5000 (SF-5000) and Lowrise 3 (LR-3) with a 30 foot height limit. A MIMP was approved in 1994. Some of the development approved in that MIMP was constructed. The MIMP expired in 2011.

7. To the west of the Cherry Hill MIO across 15th Avenue is the MIO for Seattle University and the easterly boundary of the 12th Avenue Urban Center Village. Seattle University, a major institution, is designated MIO-65 over LR3 within the urban village. Property bordering the MIO to the south, east, and northeast is SF-5000, largely in residential use with some small-scale retail to the south. Property bordering the MIO to the north is zoned LR3 and is largely in multifamily residential use, with some office uses.

8. Retail and commercial business in the 12th Avenue Urban Center Village are concentrated along 12th Avenue, three blocks west of the MIO. Several other major institutions are also located nearby, including Seattle University, Swedish First Hill, Harborview Medical and Virginia Mason Medical Center. In addition, the King County Juvenile Detention Facility is two blocks southwest of the MIO, and Garfield High School is approximately five blocks east.

Master Plan Proposal

9. Swedish has applied for a new MIMP to establish its development program and potential for the next approximately 30 years. The proposal also includes a rezone to modify MIO height limits. The FEIS states that the objective is to "provide flexibility as the medical center plans for the future while accommodating best medical practices and the needs of the neighborhood." The FEIS states that Swedish determined a need for a total of 3.1 million square feet (SF).

10. During the development of the MIMP and EIS process, Swedish explored various alternatives that would achieve this objective. Some of these alternatives would have required expansion of the MIO boundary and street vacations. In response to community input that expansion of the MIO boundary and street vacations were not desirable, Swedish explored additional alternatives that would not require these actions.

11. The EIS analyzes the no-build alternative (Alternative 1) and three "build" alternatives, (Alternatives 8, 11 and 12). Alternative 8 includes the addition of approximately 1.9 million gross SF (for a total of approximately 3.1 million gross SF) and a change in heights to MIO-50, -65, -105 and -240. Alternative 11 includes the addition of approximately 1.55 million gross SF (for a total of approximately 2.75 million gross SF) and a change in heights to MIO-37, -50, -65, -105 and -160. Alternative 12 also includes the addition of approximately 1.55 million gross SF (for a total of approximately 2.75 million gross SF) and a change in heights to MIO-37, -50, -65, -105 and -160, with the space configured differently than in Alternative 11. All three "build" alternatives include a double-level skybridge across 16th Avenue. Alternative 12 is the preferred alternative.

Director's Review and Decision

12. Swedish submitted the formal Notice of Intent to prepare a new Master Plan to DPD on November 11, 2011. Swedish began to work with the Department of Neighborhoods (DON) in 2012 to assist with the formation of a Citizens Advisory Committee (CAC).

13. DPD issued a Public Notice of Scoping on March 7, 2013, and held a Public Scoping Meeting on March 21, 2013. The scoping comment period ended on April 4, 2013.

14. Following two preliminary drafts, Swedish submitted a Draft Master Plan dated May 22, 2014, to DPD. DPD published a Notice of Availability of the Draft EIS, Draft Master Plan and Public Hearing on May 22, 2014. A public hearing was held on June 12, 2014. The written comment period ended on July 6, 2014.

15. Following one preliminary final, Swedish submitted a Final Master Plan dated December 11, 2014, to DPD. DPD published a Notice of Availability of the Final EIS and Final Master Plan on December 11, 2014.

16. On March 19, 2015, the Director issued an analysis and recommendation on the final MIMP, including certain recommended conditions to be imposed pursuant to SEPA and the Land Use Code.

Appeal

17. The Appellants timely appealed the adequacy of the FEIS. Appellants asserted that the FEIS is inadequate with regard to height, bulk and scale, consistency with existing land use plans and policies, aesthetics (particularly in relation to the proposed skybridge), transportation, noise, drainage and greenhouse gasses. The appeals also raised several other issues that were dismissed prior to hearing or that were abandoned because they were not addressed at hearing.

Height, Bulk and Scale

18. Aesthetic Impacts, including height, bulk and scale impacts, are analyzed in Section 3.4 of the FEIS. The discussion of height, bulk, and scale analyzes the relationship of potential massing of new Swedish Cherry Hill MIMP buildings to surrounding development in the vicinity of the Swedish Cherry Hill campus boundaries.

19. The height, bulk and scale discussion first addresses the affected environment, noting that the neighborhood surrounding Swedish Cherry Hill varies in character depending upon the point of reference. The FEIS discusses that the blocks to the west are occupied by the approximately 57-acre Seattle University campus, the blocks to the north across E Cherry Street are a mix of office/commercial, 2-story condominiums, a multi-story condominium complex, and single-family residential. To the south, across E Jefferson Street, the area character is a mix of lowrise apartments, neighborhood-commercial, and single-family residential. The blocks to the east are primarily single-family residential.

20. The height, bulk and scale analysis includes photo simulations of views from 12 viewpoints under each of the Alternatives, and discusses the height, bulk and scale, and view

impacts of each alternative from each viewpoint.

21. The FEIS discloses the potential for impacts under Alternatives 8, 11, and 12 and concludes that development on the existing campus would intensify, resulting in greater height, bulk, and scale as compared to existing development on campus.

22. The FEIS discusses potential mitigation measures under each Alternative. Swedish proposes building setbacks as one means of mitigating or lessening the proposed heights of buildings.

23. The FEIS further discloses that the height, bulk, and scale of Alternatives 8, and the bulk and scale of Alternatives 11 and 12, adjacent to the single-family residential block between 18th and 19th Avenues (Viewpoints 5, 7, and 8) would be a significant unavoidable adverse impact. Alternatives 11 and 12 would have less of an impact than Alternative 8 due to the proposed lower heights and greater setbacks. Other significant unavoidable adverse impacts include Viewpoints 3 and 5 (Alternatives 8 and 11).

Consistency with Plans and Policies

24. The FEIS includes a 45-page discussion of the proposal's relationship to existing land use plans, including the City's Comprehensive Plan, the Central Area Neighborhood Plan, and the City's Land Use Code. This discussion identifies some goals and policies with which the proposal is consistent and others with which it is not consistent. The FEIS notes that density-related impacts such as increased height, bulk and scale are addressed in other sections of the FEIS. The FEIS does not identify the need for mitigation or any significant unavoidable adverse land use impacts.

Aesthetics (Skybridge)

25. The campus is currently served by a skybridge spanning 16th Avenue, connecting the hospital to the parking garage. The MIMP proposes to separate patient flows from other flows in a two-story skybridge.

26. The impacts of the proposed skybridge are analyzed in Section 3.4 of the FEIS. Height, bulk and scale of the skybridge alternatives are depicted graphically in photo simulations for viewpoints summarized in Table 3.4-1. Shadow impacts of the building envelopes defined in the MIMP are depicted in 48 figures, which include the skybridge and its anticipated shadows. The FEIS finds that the existing "skybridge casts a narrow shadow onto 16th Avenue" during the autumnal equinox and the vernal equinox. FEIS at 3.4-61, 3.4-85.

Transportation

27. Transportation impacts are addressed in Chapter 3.7 and Appendix C (Transportation Technical Report) to the FEIS. The FEIS discusses existing conditions relating to the street system, campus access and service vehicle loading, pedestrians and bicycle transportation, transit/shuttle service, traffic volumes, traffic operations, traffic safety and parking. The FEIS also analyzes the impacts of each of the Alternatives with regard to these transportation elements. The FEIS identifies mitigation measures to address significant adverse traffic impacts.

Finally, the FEIS states whether significant adverse impacts are unavoidable.

28. The FEIS states that impacts associated with access to parking and loading are similar for all of the "build" Alternatives. Delivery volume will increase which may result in larger deliveries, increased frequency of deliveries, changes to delivery hours and longer dwell times. Impacts should be evaluated when a specific project is proposed, with the goal of minimizing the number of access points on street to reduce conflicts with bicycles and pedestrians while maintaining adequate service levels for accessing parking and loading/service areas. The FEIS discusses the MIMP's request for relief from City Code requirements for loading berths to allow for consolidation of facilities. The FEIS concludes that additional analysis at the project level will be required to more accurately assess operational needs and establish appropriate loading berth quantities, sizes and locations.

29. The impacts of the "build" Alternatives on pedestrian and bicycle transportation are also similar. There are sidewalks around the campus and Swedish has proposed to create a "health walk" around the campus. The proposal is expected in increase the number of pedestrians on and around campus. Where it bisects the Swedish Cherry Hill campus, 18th Avenue has been identified as a potential greenway in the 2014 Council Adopted Bicycle Master Plan. The greenway could increase the number of conflicts between bicycles and vehicular access to the loading and delivery areas and parking garage. However, the proposal will reduce the number of curb cuts in this area. The proposal would not preclude development of the greenway.

30. Impacts of the "build" Alternatives on transit ridership are also similar. The "build" Alternatives would increase transit ridership. The FEIS states that there is capacity to accommodate additional riders. The existing campus transit stops could be enhanced. The FEIS assumes that existing shuttle service would continue and states that consideration should be given to providing a connection between Swedish Cherry Hill and the streetcar and light rail. Testimony at hearing questioned the amount of capacity system wide. Testimony indicated that additional transit analysis would occur at the project level based on transit capacity information available at the time of project development.

31. The FEIS analyzes increases in traffic volumes and impacts to traffic operations resulting from each Alternative. Alternative 8 would generate more traffic than Alternatives 11 and 12 due to its higher gross SF. The trip generation analysis assumes a 50-50 mode split based on the base goal in the Transportation Management Program (TMP) for the proposal. During the AM peak hour, Alternative 8 would result in two additional intersections operating at LOS E and two degrading to LOS F: 14th Avenue/E. Jefferson Street (LOS E), 15th Avenue/E. Cherry Street (LOS E), 16th Avenue/E. Cherry Street (LOS F) and 14th Avenue/S. Jackson Street (LOS F). During the PM peak hour, under 2023 conditions, traffic associated with Alternative 8 would result in three intersections degrading from LOS D to LOS E, one from LOS D to LOS F, and one from LOS E to LOS F: Broadway/James Street (LOS E), 13th Avenue/E. Cherry Street (LOS F), 14th Avenue/E. Jefferson Street (LOS E), 15th Avenue/E. Cherry Street (LOS F) and 16th Avenue/E Cherry Street (LOS F).

32. By 2040, Alternative 8 would result in two intersections degrading from LOS D to F and one from LOS E to F in the weekday AM peak hour and three intersections degrading from LOS

D to LOS F, one from LOS D to E, and one from LOS E to F during the weekday PM peak hour: 13th Avenue/E. Cherry Street (LOS F), 15th Avenue/E. Cherry Street (LOS F), 16th Avenue/E Cherry Street (LOS F), 14th Avenue/E. Jefferson Street (LOS F), 23rd Avenue/E Yesler Way (LOS E).

33. Intersection operations would be the same under Alternatives 11 and 12 for the year 2023. In 2040, impacts of Alternatives 11 and 12 would be similar to those of Alternative 8, with a slightly lower number of vehicles.

34. Alternative 8 would also cause additional small delays along the James Street and E. Cherry Street corridors. Travel times on westbound James Street in the PM peak hour would increase by approximately 3 minutes in 2040. Alternatives 11 and 12 would have slightly reduced impacts on travel times.

35. With regard to traffic safety, the FEIS states that the area has not experienced an unusually high level of accidents except at the James Street/6th Street intersection. Traffic volumes would increase, increasing the potential for conflicts between pedestrians and vehicles. Proposed pedestrian and bicycle enhancements and additional signalized intersections are proposed to mitigate this impact. Impacts of all the "build" Alternatives would be similar.

36. Parking demand would increase as a result of any of the Alternatives, although Alternative 8 would generate the highest parking demand. Existing use of parking in the neighborhood may increase. Measures in the TMP will address this impact.

37. The FEIS identifies potential mitigation measures. The proposed TMP is one mitigation measure. The TMP is discussed at pages 3.7-47 to 53 of the FEIS. The Director recommended conditioning the first building permit approved under the new MIMP to achieving a 50% SOV rate. The Director recommends reducing the SOV goal by one percentage point every two years to a maximum 38% SOV goal after 25 years (the estimated time of full build-out of the MIMP).

38. Additional mitigation measures include capacity and safety improvements at identified locations, including potential signalization, bulb-outs, turn lanes and bike lanes. Specific mitigation and Swedish's level of responsibility for each location would be identified at the time of MIMP approval by the City Council or during subsequent MUP review. In addition, mitigation relating to general vehicular access, loading access, the potential greenway and transit enhancements will be identified at the project level.

39. The FEIS identifies significant unavoidable adverse impacts relating to the street system (an increase in traffic and related congestion) and traffic volumes and operations.

Noise

40. Noise impacts are analyzed in Subsection 3.2 of the FEIS and in Appendix B of the FEIS Appendices.

41. Existing ambient noise levels were measured over a multiple days at 7 locations. The noise measurement study found that the existing Swedish Cherry Hill site is typical of a semi-

urban residential setting, and sound levels often do not drop below Noise Code limits. Noise on and around the campus is driven by automobile traffic on the nearby surface roads, aircraft overflights, pedestrian activity and other typical urban activities.

42. The FEIS disclosed the potential for noise impacts from increased development at the Swedish Cherry Hill campus due to increased traffic volumes, noise from new parking locations, noise from building mechanical systems, noise from loading docks, noise from solid waste and recycling collection or compaction equipment, noise from emergency vehicles, and noise from maintenance activities.

43. The FEIS found that buildings would not be designed until after the MIMP is approved, so no project-specific details were available regarding the types and location of equipment or the type or location of loading docks at the campus.

44. As potential mitigation, because the buildings to be developed under the proposed MIMP have not been designed, noise will be evaluated to ensure all construction and operational noise activities must meet the Noise Code limits for offsite noise receivers.

45. The FEIS also recommended that loading docks be designed and sited with consideration of nearby sensitive receivers and to ensure that noise from truck traffic to and from the docks and from loading activities would comply with the City Noise Code limits. Also, depending on the location of loading docks relative to residences, the FEIS recommended limiting noisy deliveries to daytime hours.

Drainage

46. The FEIS discusses the proposed MIMP's impact on stormwater at section 3.8. It provides information on the capacity of the existing stormwater service, which is provided by Seattle Public Utilities. The FEIS notes that the storm water drainage capacity on 23rd Avenue is known to be deficient. The FEIS concludes that the MIMP development would occur over the next 30 years, so existing capacity could change.

47. The FEIS provides that, with each new building proposed, an evaluation of the stormwater infrastructure would be performed and improvements identified if needed.

48. The FEIS recommends a range of mitigation measures, including utilizing low-impact development ("LID") measures, flow control measures, and water quality measures. The FEIS notes that there are several other measures that can be used to manage stormwater, but it will depend on site constraints and the amount of stormwater that needs to be treated.

49. The FEIS discusses the proposed MIMP's impact on groundwater at Subsection 3.9. It provides information on the soil conditions encountered in a prior geotechnical report for construction of the East Tower on campus. The FEIS discusses that the geotechnical report discloses that the site conditions indicated variable soil conditions, including glacial till overlying silty, fine sand. Groundwater was encountered approximately 35 to 50 feet below the surface. The FEIS finds that there are likely areas of perched groundwater, where there are pockets of groundwater that have rock or clay under them that prevents the groundwater from

draining.

50. The FEIS recommends as potential mitigation that, with each site-specific development, a geotechnical analysis would be performed that would include soil borings that would identify depth to groundwater and subsurface conditions that may affect groundwater flow. The geotechnical report would include recommendations for soil strengthening and means of addressing groundwater.

Greenhouse Gasses

51. Greenhouse Gas (GHG) emissions are discussed in Section 3.1 of the FEIS and in Appendix A to the FEIS.

52. The FEIS found that, because no buildings have been designed and no construction materials identified, it is not possible to refine the GHG emission estimates beyond those categories and formulas already included in the greenhouse gas emissions worksheet found in Appendix A. If the MIMP is approved, the FEIS anticipated that with each subsequent MUP application there will be an accompanying SEPA review and project-specific GHG emission worksheet which will allow the refinement of overall GHG emission estimates.

53. The FEIS discussed a range of potential mitigation measures to reduce energy use, increase sustainable building design, and reduce GHG emissions. The FEIS recommends that Swedish consider these measures during future design and construction of the buildings on the campus.

Applicable Law and Guidelines

54. The adequacy of an EIS is a question of law, reviewed *de novo*. *Citizens for Clean Air v. Spokane*, 114 Wn.2d 20, 34, 785 P.2d 447 (1990). EIS adequacy refers to the legal sufficiency of the environmental data contained in the document. Glasser v. City of Seattle, 139 Wn.App. 728, 739, 162 P.3d 1134 (2007).

55. EIS adequacy is reviewed under the "rule of reason," which requires that the EIS include a "'reasonably thorough discussion of the significant aspects of the probable environmental consequences" of an agency decision.'" *Glasser, supra*, at 740, *quoting Cheney v. Mountlake Terrace*, 87 Wn.2d 338, 344-45, 552 P.2d 184 (1976). The focus is "to determine whether the environmental effects of the proposed action are disclosed, discussed and substantiated by opinion and data." *Solid Waste Alternative Proponents v. Okanagan County*, 66 Wn. App. 439, 442, 832 P.2d 503(1992).

56. An EIS must discuss "reasonable alternatives," which "include actions that could feasibly attain or approximate a proposal's objectives, but at a lower environmental cost or decreased level of environmental degradation." SMC 25.05.440.D.2. "When a proposal is for a private project on a specific site, the lead agency shall be required to evaluate only the no-action alternative plus other reasonable alternatives for achieving the proposal's objective on the same site. This subsection shall not apply when the proposal includes a rezone, unless the rezone is for a use allowed in an existing comprehensive plan that was adopted after review under SEPA."

SMC 25.05.440.D.4.

57. An EIS is to "discuss reasonable mitigation measures that would significantly mitigate adverse impacts." SMC 25.05.440.E.1. The EIS is to "[c]learly indicate those mitigation measures . . . that could be implemented or might be required as well as those, if any, that agencies or applicants are committed to implement" and "[i]ndicate what the intended environmental benefits of mitigation measures are for significant impacts, and may discuss their technical feasibility and economic practicality . . . The EIS need not analyze mitigation measures in detail . . . [.]" SMC 25.05.440.E.3.c and 3.d.

58. The Swedish MIMP is a nonproject proposal. The City has "more flexibility in preparing EISs on nonproject proposals, because there is normally less detailed information available on their environmental impacts and on any subsequent project proposals." SMC 25.05.442.A. The EIS "shall discuss impacts and alternatives in the level of detail appropriate to the scope of the nonproject proposal and the level of planning for the proposal." SMC 25.05.442.B. "A nonproject proposal may be approved based on an EIS assessing its broad impacts. When a project is then proposed that is consistent with the approved nonproject action, the EIS on such a project shall focus on the impacts and alternatives including mitigation measures specific to the subsequent project and not analyzed in the nonproject EIS." SMC 25.05.443.

59. The City's SEPA Overview Policy states that, "[w]here City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation," subject to some limitations. SMC 25.05.665.D.

60. The City's SEPA Policy on height, bulk and scale states that "the height, bulk and scale of development projects should be reasonably compatible with the general character of development anticipated by the goals and policies set forth in Section B of the land use element of the Seattle Comprehensive Plan regarding Land Use Categories . . . and the adopted land use regulations for the area in which they are located, and to provide for a reasonable transition between areas of less intensive zoning and more intensive zoning." SMC 25.05.675.G. Subject to the Overview Policy in SMC 25.05.665, the decision maker (which here is the City Council) may impose the following mitigating measures for height, bulk and scale impacts: (i) Limiting the height of the development; (ii) Modifying the bulk of the development; (iii) Modifying the development's facade including but not limited to color and finish material; (iv) Reducing the number or size of accessory structures or relocating accessory structures . . . (v) Repositioning the development on the site; and (vi) Modifying or requiring setbacks, screening, landscaping or other techniques to offset the appearance of incompatible height, bulk and scale. SMC 25.05.675.G.

61. The City's SEPA Policy on land use states "[i]t is the City's policy to ensure that proposed uses in development projects are reasonably compatible with surrounding uses and are consistent with any applicable, adopted City land use regulations [and] the goals and policies set forth in Section B of the land use element of the Seattle Comprehensive Plan regarding Land Use Categories[.]" The decision maker may condition or deny a project to mitigate land use impacts. SMC 25.05.675.J.

62. The City's SEPA Policy on transportation provides that "[i]t is the City's policy to minimize or prevent adverse traffic impacts which would undermine the stability, safety and/or character of a neighborhood or surrounding areas." In determining traffic mitigation, the "decisionmaker shall examine the expected peak traffic and circulation pattern of the proposed project weighed against such factors as the availability of public transit; existing vehicular and pedestrian traffic conditions; accident history; the trend in local area development; parking characteristics of the immediate area; the use of the street as determined by the Seattle Department of Transportation's Seattle Comprehensive Transportation Plan; and the availability of goods, services and recreation within reasonable walking distance." Outside of downtown, traffic mitigation may include changes in access; changes in the location, number and size of curb cuts and driveways; provision of transit incentives including transit pass subsidies; bicycle parking; signage; improvements to pedestrian and vehicular traffic operations including signalization, turn channelization, right-of-way dedication, street widening, or other improvements proportionate to the impacts of the project; and transportation management plans. "For projects outside downtown which result in adverse impacts, the decisionmaker may reduce the size and/or scale of the project only if the decisionmaker determines that the traffic improvements outlined . . . above would not be adequate to effectively mitigate the adverse impacts of the project." SMC 25.05.675.R.

63. The City's SEPA Policy on noise says that the City's Noise Control Ordinance effectively addresses most noise impacts but that unusual impacts, such as continual or repetitive noise from a project's operation, may be mitigated, subject to the Overview Policy. SMC 25.05.675.L.

64. The City's SEPA Policy on drainage states that the City's Stormwater Code (Chapters 22.800 through 22.808) and Regulations for Environmentally Critical Areas (Chapter 25.09) often effectively achieves mitigation of drainage impacts in most cases. Sometimes, a project may be required to provide drainage control measures designed to a higher standard than the design storm specified in the Stormwater Code (Chapters 22.800 through 22.808) and the Environmentally Critical Areas Ordinance. SMC 25.05.675.C.

Conclusions

1. The Hearing Examiner has jurisdiction over these appeals pursuant to Chapters 25.05 and 23.76 SMC. The Examiner must give substantial weight to the Director's determination that the EIS is adequate. SMC 23.76.052.D.5.

Height, Bulk and Scale

2. The FEIS includes a complete and graphic analysis of the height, bulk and scale of the proposal and includes a reasonably through discussion of the extent of these impacts on the surrounding area.

3. Washington CAN asserts that the FEIS is inadequate because it concluded that the probable significant adverse height, bulk, and scale impacts are unavoidable in certain areas. FEIS at 3.4-50. Washington CAN further asserts that the FEIS should have analyzed greater reductions in the height, bulk and scale of the Proposal as mitigation. However, the FEIS

did discuss reducing height, bulk and scale, including reducing the setbacks. FEIS 3.4-46 – 3.4-50.

4. Respondents presented testimony of John Jex, an architect with 35 years of experience designing medical institutions. Mr. Jex's testimony established how the setbacks provided in the preferred alternative avoid creating impacts in the first place—essentially providing mitigation before the fact—and also that Swedish accepted the greater setbacks advocated by the Citizen's Advisory Committee. *See generally* Jex Testimony, Day 4, Tape 4 of 4 at 30:03-32:33.

5. SEPA does not require discussion of every conceivable mitigation measure and mitigation must be reasonable based on the proposal's goals. Reasonable alternatives studied in an EIS are actions that "feasibly attain or approximate a proposal's objectives, but at a lower environmental cost." SMC 25.05.786. The FEIS reviewed reasonable mitigation measures based on the MIMP's objectives.

6. Multiple Appellants assert that the FEIS is inadequate because it does not analyze a "dispersion" option in which the services proposed for the Swedish Cherry Hill campus are provided at other locations. This analysis is not required by SEPA. Alternatives must "feasibly attain or approximate a proposal's objectives." SMC 25.05.440.D.2. Here, the proposal's objective as stated in the FEIS objective is to "provide flexibility as the medical center plans for the future while accommodating best medical practices and the needs of the neighborhood" and, specifically, to meet the need for a total of 3.1 million square feet (SF) on the Swedish Cherry Hill campus. Dispersion alternatives do not meet this objective.

7. In addition, "[w]hen a proposal is for a private project on a specific site, the lead agency shall be required to evaluate only the no-action alternative plus other reasonable alternatives for achieving the proposal's objective on the same site. This subsection shall not apply when the proposal includes a rezone, unless the rezone is for a use allowed in an existing comprehensive plan that was adopted after review under SEPA." SMC 25.05.440.D.4. Here, this is a private proposal on a specific site. The major institution use is allowed in this location by the Comprehensive Plan land use map MIO designation. Therefore, analysis of off-site alternatives is not required.

8. The FEIS discussion of Swedish Cherry Hill's proposed mitigation of height, bulk, and scale impacts is legally sufficient for purposes of SEPA under SMC 25.05.675.G.

Consistency with Plans and Policies

9. Appellants assert that the proposal's inconsistency with some goals and policies creates a significant adverse impact under SEPA. However, in Washington, land use plans are only general guides. Inconsistency with individual goals and policies does not create a significant

adverse land use impact.

10. Appellants also claim that the proposal is inconsistent with the Urban Village strategy because the Swedish Cherry Hill Campus is not in an urban village. However, the applicable land use plans and policies do not prohibit major institutions outside of urban villages. Impacts relating to density, such as height, bulk, scale and traffic, are addressed in separate sections of the FEIS.

Aesthetics (Skybridge)

11. Washington CAN alleged in the hearing that the FEIS failed to discuss or analyze the skybridge. However, comparison between the existing one-story skybridge and a hypothetical two-story skybridge is disclosed by the renderings in Figures 3.4-42, -43, -44, and -45 of the FEIS, and included in all 48 shadow impact figures. Washington CAN presented no evidence of any probable significant adverse aesthetic impact from the skybridge as a result of the Proposal.

12. The skybridge will be subject to an extensive review process for skybridge term permits, which includes review and recommendation by the Design Commission as well as City Council approval, as discussed in the FEIS on pages 3.3-67 – 69.

13. The FEIS provides a reasonably thorough discussion of the possible impacts of the skybridge.

Transportation

14. Washington CAN asserts the FEIS discussion of transportation impacts is inadequate and incorporates by reference the testimony of Ross Tilghman. Since Washington CAN did not brief its specific claims, the Examiner need not consider them. *Hamilton v State Farm Insurance Co.*, 83 Wn.2d 787, 795, 523 P.2d 193 (1974) (assignments of error unsupported by citation of authority or legal argument will not be considered). Nevertheless, in the interests of rendering a thorough decision, and because some of these transportation claims were briefed by other appellants, the claims addressed by Mr. Tilghman are discussed below.

15. Mr. Tilghman alleged that the FEIS's analysis of transit capacity, pedestrian safety, impacts to a potential future greenway on 18th Avenue, and traffic delays on nearby streets. The FEIS contains a reasonably thorough discussion of impacts to transit. The FEIS identifies the impact associated with increased transit ridership and states that analysis of available transit capacity will occur when specific projects are proposed based on then-available information about the transit system. This is a non-project EIS. The level of analysis required in a non-project EIS is less detailed than the analysis that will occur at the project level. Transit capacity, in particular, varies over time and may be different at the time a specific project is proposed. Accordingly, analysis of transit capacity is appropriate at the project level.

16. The FEIS also contains a reasonably thorough discussion of pedestrian safety. The FEIS identifies potential impacts associated with vehicular pedestrian conflict. Mitigation is proposed to address these impacts, including signalization and bulb-outs. Specific mitigation will be identified at the project level, which is appropriate for a non-project EIS.

17. In addition, the FEIS contains a reasonably thorough discussion of traffic as it relates to the potential future greenway on 18th Avenue. At hearing, no party disputes that the location of the greenway has not yet been determined. Nevertheless, the FEIS analyzes traffic impacts in relation to the greenway should it be located on 18th Avenue in the future. The FEIS also identifies potential mitigation incorporated into the project design, including a reduction in the number of driveways that currently exist along this segment of 18th Avenue.

18. The FEIS also contains a reasonably thorough discussion of potential traffic delay impacts. The FEIS analyzes intersections and roadway segments that will be affected by the build Alternatives. The FEIS and identifies intersections which will degrade to LOS E or F and roadway segments that will experienced increase delay as a result of the build Alternatives. The FEIS identifies potential mitigation. Finally, the FEIS identifies significant unavoidable street system, traffic volume and operations impacts.

19. Washington CAN claims that the FEIS conclusion that these impacts are unavoidable is incorrect because they could be avoided by reducing the proposed SF. However, alternatives must achieve the proposal's objectives and mitigation must be feasible. The range of alternatives in the FEIS is reasonable and it was not required to include an additional "build" alternative with reduced SF.

20. In addition to the claims discussed above, Squire Park claims that the FEIS transportation section's discussion of pipeline projects is inadequate. The FEIS identifies a significant number of "pipleline" projects. Squire Park asserts that others should have been included, but does not provide sufficient information to identify whether these projects were in the "pipeline" at the time the EIS was prepared. In addition, testimony at hearing was that additional traffic analysis will occur at the project level. This analysis will take into account "pipeline" projects that exist at that future date. The FEIS analysis is reasonable.

Noise

21. 19th Avenue Block Watch alleged in its closing brief that the loading berth plan is in conflict with the traffic plan in the FEIS. In support, they presented testimony from Lindsey Amtmann, who was found not to be a noise expert. Ms. Amtmann's testimony indicated that she believed the range of mitigation measures proposed to reduce loading berth noise conflicted with the range of mitigation measures proposed to reduce traffic impacts from trucks using the loading berths. 19th Avenue Block Watch presented no evidence of any probable significant adverse noise impact from loading docks as a result of the Proposal.

22. The City's SEPA policy on noise provides that the City's Noise Control Ordinance effectively addresses most noise impacts but that unusual impacts, such as continual or repetitive noise from a project's operation, may be mitigated, subject to the Overview Policy. SMC 25.05.675.L. The FEIS states the design and operation of the loading docks must comply with Seattle Noise Code.

23. The FEIS presents a reasonably thorough discussion of the probable significant loading dock noise impacts of the proposal.

24. SEPA does not require an EIS to commit to mitigation measures, and the mitigation measures need not be analyzed in detail. SMC 25.05.440.E.3.d.

25. Even though more detail and analysis will be required on a project-specific basis, the FEIS discussion of Swedish Cherry Hill's proposed mitigation is legally sufficient for purposes of SEPA under SMC 25.05.675.L.

Drainage

26. 19th Avenue Block Watch alleged in its appeal that the FEIS failed to disclose and analyze groundwater, flooding, and stormwater infrastructure. 19th Avenue Block Watch presented testimony from a hydrogeologist, Scott Kindred, describing the soil conditions and preferred mitigation measures based on the low permeability of the soil. The testimony from Mr. Kindred agrees with the FEIS conclusion that the soil consists of glacial till, and may have pockets of perched groundwater.

27. The FEIS recommends that, for each building seeking a MUP approval, additional site-specific environmental review will be conducted, and more detailed geotechnical, groundwater, stormwater information will be provided and reviewed by DPD at that time. Mr. Kindred agrees that issues related to groundwater and stormwater can, and should, be addressed at the time of project development. There is no error here.

28. Even though more detail and analysis will be required on a project-specific basis, the FEIS discussion of Swedish Cherry Hill's proposed mitigation is legally sufficient for purposes of SEPA under SMC 25.05.675.C.

29. The FEIS presents a reasonably thorough discussion of the probable significant groundwater and stormwater impacts of the proposal as well as the potential mitigation measures.

30. DPD also recommends a condition that requires the application to submit a geotechnical report for each future site-specific building as part of the MUP application that identifies subsurface soil and groundwater conditions and would include measures for mitigating any identified impacts. This condition is sufficient to address any potential groundwater impacts.

31. 19th Avenue Block Watch presented a proposed condition for groundwater, amending DPD's recommended condition to include a more detailed requirement that precludes low impact development stormwater techniques. Respondents presented an alternative revised condition that recognizes that Swedish Cherry Hill should analyze at the project level whether LID techniques are appropriate in light of site specific conditions.

32. Because the site conditions across the campus vary, it is premature to prohibit certain stormwater management measures before the site specific analysis is conducted. DPD's Condition #56 is accordingly amended to state:

> The applicant shall submit a geotechnical report for each future site-specific building as part of the MUP application. The report would identify subsurface soil and groundwater conditions and would include measures for mitigating any identified impacts and a

discussion of whether low impact development (LID) techniques are appropriate in light of site specific conditions.

Greenhouse Gasses

33. Squire Park alleged in its closing brief that the FEIS analysis of greenhouse gas emissions is inadequate.

34. Appellants presented no evidence of any probable significant adverse greenhouse gas emissions impacts as a result of the proposal.

35. The FEIS presents a reasonably thorough discussion of greenhouse gas emissions in Section 3.1.

Decision

The Director's determination that the FEIS issued for the proposal is adequate is AFFIRMED. The FEIS presents a reasonably thorough discussion of probable significant environmental impacts, as discussed above.