

**Proposed Findings and Conclusions concerning Need and Public Benefit**  
**Swedish Medical Center Cherry Hill MIMP, Project 3012953**  
**Submitted by: Washington CAN**  
**August 11, 2015**

**Findings of Fact**

Background

1. Swedish Cherry Hill is a non-academic hospital that offers a range of primary and acute care services and maintains an emergency room open to all. Specialty services offered at the Cherry Hill campus include neurology and neurosurgery (at the Swedish Neuroscience Institute); cardiovascular services (at the Swedish Heart and Vascular Institute); inpatient psychiatric care; kidney dialysis (at the NW Kidney Center); and rehabilitation services. The Cherry Hill campus is also home to a pilot “medical home” clinic (the Swedish Family Medicine Clinic), a family medicine training program, the Country Doctor After Hours Clinic, and other primary care, acute care, chronic care, and preventive services. *See Exhibit 1, Final MIMP, pages 3-4.*
2. The hospital at Cherry Hill currently operates with 196 beds set up and staffed, though Swedish holds a license from the state Department of Health that allows it to operate up to 385 inpatient beds on the Cherry Hill campus. *See Exhibit 1, Final MIMP, page 135.*
3. Swedish Cherry Hill is part of Swedish Health Services, a nonprofit health care system comprised of five hospitals, two ambulatory care centers, and 108 medical clinics serving patients throughout Western Washington. *See Exhibit 1, Final MIMP, page 3.*
4. Swedish Health Services is part of Providence Health and Services, a nonprofit health care system headquartered in Renton, Washington, that operates 34 hospitals and other facilities at locations across Alaska, California, Montana, Oregon, and Washington. *See Exhibit 1, Final MIMP, pages 6-8.*

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Proposed Master Plan

5. Swedish has applied for a new MIMP to establish development potential at the Cherry Hill campus over the coming years. Although no term for the MIMP is proposed, Swedish discusses its projected needs and potential projects through the year 2040.

6. Swedish explored seven alternatives in its draft MIMP that would have allowed it to build out a total of 3.1 million square feet at the Cherry Hill campus; four alternatives that would have allowed it to build out a total of 2.75 million square feet; and one alternative (Alternative 1a – No Change to Existing MIO) that would have allowed it to build out a total of 2 million square feet. *See* Exhibit 1, Final MIMP, pages 52-54, 107-128.

7. Swedish selected Alternative 12 as its preferred alternative. Alternative 12 maintains the existing MIO boundary for the Cherry Hill campus and increases height limits on different parts of the campus to 37, 50, 65, 105, and 160 feet.

8. Under Alternative 12, the net increase in building area over the life of the MIMP would be approximately 1.55 million square feet, for a total building area on the completed campus of 2.75 million square feet, an increase of 140% over existing facilities. This would come with a net increase of 189 hospital beds, for a total of 385 beds at project completion – a 96% increase over the current bed count.

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#### Major Areas of Controversy

##### Need and Public Benefit

9. SMC 23.69.002 states that the purpose and intent of establishing a Major Institution Overlay District is “to regulate Seattle’s educational and medical institutions in order to”:

A. Permit appropriate institutional growth within boundaries while minimizing the adverse impacts associated with development and geographic expansion;

B. Balance a Major Institution's ability to change and the public benefit derived from change with the need to protect the livability and vitality of adjacent neighborhoods;

C. Encourage the concentration of Major Institution development on existing campuses, or alternatively, the decentralization of such uses to locations more than two thousand five hundred (2,500) feet from campus boundaries;

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E. Discourage the expansion of established major institution boundaries;

F. Encourage significant community involvement in the development, monitoring, implementation and amendment of major institution master plans, including the establishment of citizen's advisory committees containing community and major institution representatives;

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H. Accommodate the changing needs of major institutions, provide flexibility for development and encourage a high quality environment through modifications of use restrictions and parking requirements of the underlying zoning;

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10. SMC 23.69.025 states that the intent of a MIMP "shall be 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."

11. SMC 23.69.032.E.2 states that a determination shall be made whether the planned development and changes of the major institution are consistent with the purpose and intent of Chapter 23.69 SMC, and represent a reasonable balance of the public benefits of development and change with the need to maintain livability and vitality of adjacent neighborhoods. The Code looks specifically at the public benefits "resulting from the planned new facilities and services." SMC 23.69.032.E.2.a.

12. Swedish states that its mission is "to improve the health and well-being of each person we serve." *See* Exhibit 1, Final MIMP, page 2.

13. Swedish aims to operate Cherry Hill as a "regional referral center" within the Providence system, locating certain specialty services at the Cherry Hill campus so that other Providence and Swedish facilities in the region can send patients to Cherry Hill for care. *See* Exhibit 1, Final MIMP, pages 6-8; Exhibit 26, Director's Decision, page 37.

14. The proposed MIMP is intended to allow Swedish to serve its mission and to expand its Cherry Hill facility to meet its goal of operating the campus as a regional referral center.

15. In support of its projected need for more space at the Cherry Hill campus, Swedish cites the need to replace aging existing facilities; the rising incidence of certain diseases as evidenced by national statistics; and increased patient demand driven by the region's growing population, the country's aging population, national health care reform efforts, technological innovations in care delivery, and changing standards for patient safety and health care quality.

16. Swedish and its need expert also discussed sharp increases in patient volumes at the Cherry Hill campus over just the past few months.

17. Swedish did not, however, provide detailed information about past and projected future inpatient and outpatient volume trends at the Cherry Hill campus. The record does not specify how many patients have received care at Cherry Hill in recent years or exactly how many are expected to receive care there in the future. Expert testimony to the Examiner from Jack Hanson, a neighbor with professional health facility planning experience, also pointed out that Swedish failed to identify or discuss the specific method or model (if any) that it used to project patient demand.

18. Swedish will not require a certificate of need (CoN) from the state Department of Health in order to add the proposed 189 new hospital beds at the campus because Cherry Hill is already licensed to operate up to 385 beds. *See Exhibit 1, Final MIMP, page 135.* Swedish also will not require a CoN to add physician clinical and research office space, hotel rooms, and education space at the Cherry Hill campus, because the addition of space to serve these functions is not regulated by the state CoN process. The record is unclear as to whether Swedish will need to obtain a CoN for the 50 long-term care / rehabilitation beds that it proposes to add at the Cherry Hill campus.

19. Swedish states that it will need additional space at the Cherry Hill campus related to each of five program areas: 808,700 additional square feet (for a total of 1.4 million square feet) for hospital beds and support functions; 643,000 additional square feet (for a total of 1.1 million square feet) for physician clinical and research functions; 77,000 additional square feet (for a total of 150,000 square feet) for staff training, employee orientation, and system-wide education functions; 27,500 additional square feet (for a total of 40,000 square feet) for hotel rooms for patients, family, and visitors; and 50,000 additional square feet (for a total of 93,000 square feet) for long-term care / rehabilitation services. *See Exhibit 1, Final MIMP, pages 54, 129-141.*

20. Swedish uses benchmarks to translate its projected needs in these five program areas into square feet of total building space. Thus, 385 inpatient hospital beds at 3,500 building gross square feet (BGSF) per bed yields a need for 1.4 million BGSF for the hospital; and 50 new long-term care / rehabilitation beds at 1,000 BGSF per bed yields a need for 50,000 additional BGSF for long-term care / rehabilitation services. Swedish employs similar benchmarks for physician clinical and research space (2,200 BGSF per physician) and for hotel rooms (1,000 BGSF per room). *See Exhibit 1, Final MIMP, pages 54, 133-140.*

21. Expert testimony to the Examiner from Jack Hanson, a neighbor who has professional experience with health facility planning, questioned the benchmarks that Swedish used to

translate its needs for additional hospital beds, physician clinical and research space, hotel rooms, education facilities, and long-term care / rehabilitation beds into square feet of building space. Mr. Hanson argued that the benchmarks Swedish employed may not be appropriate for use in this context and may overestimate the need for additional building space at the Cherry Hill campus.

22. Swedish evaluated one alternative (Alternative 1a – No Change to Existing MIO) that would add fewer than 1.55 million square feet of development area to the campus, but it did not pursue this alternative. Swedish did not evaluate any alternatives that would locate some or all of the specialty services that Cherry Hill provides as a regional referral center at other Providence locations in the region. However, in oral testimony at the hearing, a Swedish representative indicated that Swedish is, in fact, considering relocating cardio-vascular services to the Swedish First Hill campus during construction at Cherry Hill and that Swedish may or may not move those services back to the Cherry Hill campus after construction is complete. Cosentino testimony, Day 1, Part 5 of 5, 58:50 to 59:15.

23. Swedish did not explicitly address the impact (if any) on future Cherry Hill patient volumes of unused capacity and proposed expansions at other area hospitals providing services that compete with Swedish Cherry Hill including Virginia Mason Medical Center, Northwest Hospital and Medical Center, University of Washington Medical Center, and Harborview Medical Center in Seattle; Overlake Hospital Medical Center in Bellevue; Evergreen Hospital in Kirkland; and Valley Medical Center in Renton. More broadly, the record does not include information about likely future unmet need in the region for the specialty services that Cherry Hill provides.

24. Public comment to the Citizens Advisory Committee (CAC), the Department, and the Examiner concerning the need for the proposed expansion was split. Several Swedish physicians and other employees and a number of current and former Cherry Hill patients supported the proposed expansion, applauded the excellent care delivered at the facility, and endorsed the need for more space on the campus.

25. The majority of public comments about need questioned the rationale for such a large expansion at Cherry Hill and voiced concern about whether Swedish is focused too heavily on expansion rather than on pursuing its nonprofit mission and improving quality of care. These comments came from neighbors, Cherry Hill nurses and staff, indigent and uninsured Cherry Hill patients, and neighborhood groups including Squire Park Community Council (SPCC) and Washington Community Action Network (Washington CAN).

26. The CAC considered the issue of need, but its discussions were complicated by its reading of the Major Institution Code, which, the CAC believes, says that the institution's claims of need

are not “negotiable.” *See* Exhibit 6, Final Reports and Recommendation of the CAC, page 11. The CAC heard from the institution and from its need consultant about demographic shifts and changes to healthcare delivery norms that necessitate the development of more space at the Cherry Hill campus. Some CAC members remained skeptical about the need for this level of development at the Cherry Hill location, and some CAC members wanted to see alternative proposals that would locate at least part of the necessary development at other Seattle-area locations within the Providence system.

27. Ultimately, the CAC concluded that Swedish presented evidence sufficient to justify some, but not necessarily all, of the proposed future development at the Cherry Hill location. The final CAC majority report neither rejects nor endorses the specific level of need identified by Swedish. *See* Exhibit 6, Final Reports and Recommendation of the CAC, pages 11-12.

28. Many members of the public and some CAC members expressed concern about the use of space on the Cherry Hill campus for purposes not directly related to the institution’s core purpose of providing health care to the community. Much of this concern focused on the role that Sabey Corporation, the institution’s for-profit development partner, has played and will play in campus development.

29. The final CAC majority report recommends that the Department carefully review proposals for future development on the campus that will be owned or operated by entities other than Swedish. *See* Exhibit 6, Final Reports and Recommendation of the CAC, pages 37-38. The minority report of five CAC members also calls for deeper investigation into and evaluation of the use of campus space by entities other than Swedish. *See* Exhibit 6, Final Reports and Recommendation of the CAC, pages 41-42.

30. Swedish states that the primary public benefit of the development enabled by the proposed MIMP is the continued existence and operation of a health care facility that provides excellent care to patients throughout the region. *See* Exhibit 1, Final MIMP, page 69. A number of current and former Cherry Hill patients testified to the CAC and to the Examiner about the excellent care they received at Cherry Hill.

31. The CAC, the Department, and the Examiner also received comments from Cherry Hill nurses and other hospital employees concerned about a decline in the quality of care delivered at Cherry Hill. They mentioned as particular areas of concern inadequate staffing, poor quality supplies, and a lack of support for frontline staff after Providence acquired Swedish in 2012.

32. Swedish also lists a number of additional “community benefits” that the institution provides as a nonprofit organization. *See* Exhibit 1, Final MIMP, pages 69-72.

33. In comments to the CAC and to the Examiner, several members of the public questioned whether the additional “community benefits” listed by Swedish are relevant or appropriate to consideration of this MIMP. The final CAC majority report notes that few of the identified additional “community benefits” are local in nature. The minority report from five CAC members states that the “community amenities” proposed by Swedish do not mitigate the harms to the surrounding neighborhood from development allowed under the proposed MIMP. *See* Exhibit 6, Final Reports and Recommendation of the CAC, pages 13, 53-54.

34. Washington CAN and former Cherry Hill patients also testified to the CAC, to the Director, and to the Examiner that the public benefits to be derived from the development allowed under this MIMP should include greater health care access for indigent and uninsured patients and forgiveness of outstanding medical debt.

### Conclusions

1. The Hearing Examiner has jurisdiction over this matter pursuant to SMC 23.69 and 23.76.

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### Need and Public Benefit

2. Although SEPA allows the applicant broad latitude in defining its own development objective (SMC 25.05.440 D), the MIMP code requires a more substantial discussion of the *need* of a Major Institution to develop new facilities. To ensure that the MIMP balances the projected needs of the Major Institution against the need to minimize adverse impacts on the surrounding neighborhoods (SMC 23.69.025), it is necessary to know with some degree of accuracy what the Major Institution’s needs actually are.

3. In support of its need claims, the testimony of Swedish and its need expert focused on general issues such as incidence of disease, population growth trends, and changes in health care technology and delivery standards. Swedish and its need expert also discussed very recent increases in patient volumes specific to the Cherry Hill campus and Swedish’s intention to operate the Cherry Hill hospital as a regional referral center within the Providence system. All of this is credible testimony, as far as it goes.

4. But public comments to the Examiner – including expert testimony from Jack Hanson, a neighbor with professional health facility planning experience – raise serious doubts about whether Swedish has adequately supported its claims of future need.

5. Ultimately, it is not clear from the information in the record whether Swedish will, in fact, require 1.55 million square feet of additional space at the Cherry Hill campus to meet the increased health care needs of the region.
6. A lack of detailed information about past and projected future Cherry Hill inpatient and outpatient volumes; Swedish's failure to identify and discuss the specific method or model it used to project patient demand; the failure of Swedish and its need expert to address unused capacity and planned developments at other hospitals in the region; questions about the appropriateness of the space benchmarks that Swedish employed; the failure to explore development alternatives that would meet future patient demand by expanding capacity at other Providence facilities in the region – all of this undermines the credibility of Swedish's space need projections.
7. If this MIMP is approved, Swedish will not need to obtain a CoN (or demonstrate need to any other regulatory authority) in order to expand its capacity at Cherry Hill in the ways contemplated in this MIMP (with the possible exception of the planned addition of long-term care / rehabilitation beds at the Cherry Hill campus, which may or may not require a CoN – the information in the record does not address this issue).
8. Therefore, if this MIMP is approved, it should be conditioned on a requirement that any Master Use Permit for development of new space on the Cherry Hill campus may be approved only after Swedish has provided a credible demonstration of need for development of that space in order to meet demand for health care services.
9. Furthermore, in accordance with Recommendation 20 of the CAC majority, if this MIMP is approved, use of space within the MIO boundary should be restricted to the provision of medical care or directly related supporting services.
10. Questions about the public benefits to be derived from the development allowed under this MIMP were raised during the CAC process and during the Hearing. Members of the public including neighbors and Cherry Hill patients; local organizations including Washington CAN and SPCC; and some CAC members sought greater assurance from Swedish that a much-expanded health care facility on the Cherry Hill campus will provide specific benefits and amenities that are responsive to the local community's needs.
11. There is not sufficient information provided to show what specific public benefits will result from the plan's new facilities and services as is required by SMC 23.69.032.E.2.a. Swedish generally describes its neuroscience, heart, and vascular institute; its general offerings in the western Washington regions; its current tax and community benefit contributions; and some of

the services provided at campus, but provides no information about public benefits that will specifically result from the new facilities.

### **Recommendation**

The Examiner recommends that the City Council deny the proposed MIMP for Swedish Cherry Hill.

In the alternative, if the City Council decides to approve the proposed MIMP, the Examiner recommends that it be approved as modified by and subject to the conditions enumerated below.

#### **RECOMMENDED MASTER PLAN CONDITIONS (concerning need and public benefit)**

1. A Standing Advisory Committee (SAC) shall be created and maintained to review and comment on all proposed and potential projects prior to submission of their respective Master Use Permit (MUP) applications. The Committee shall consist of at least six (6), but no more than twelve (12) members. The formation of the Committee shall follow the rules set forth in SMC 23.69.032.B.
2. Prior to issuance of a MUP for any project under this MIMP, Swedish shall provide documentation to the Director / Department and to the SAC clearly demonstrating that the additional development requested is needed for patient care or directly related supporting uses. The MUP shall be issued only after the Director and the SAC have agreed that the additional development is needed.
3. No building space within the MIO boundary shall be used for any purpose other than the provision of medical care or directly related supporting uses. No portion of any building on the campus shall be sold to, owned by, leased to, or rented by third parties except those that are providing medical care or directly related supporting services within the entire rented or leased space. Exceptions may be allowed by the Director for commercial uses consistent with the underlying zoning that are located at the street level or within campus buildings where commercial services that serve the broader public are warranted. The Department shall review proposed uses to ensure that the provisions of SMC 23.69.008 are satisfied; the results of such review shall be provided to the SAC as part of the Schematic Review of any project.
4. Pursuant to SMC 23.69.032.H.2, Swedish shall prepare a proposal identifying specific actions that it will take associated with its expansion consisting of specific benefits and amenities that are responsive to the local community's needs. This new proposal shall be submitted to the Director, Citizens Advisory Committee, and parties of record for comment. After the new proposal has been received, the Hearing Examiner or the City Council may hold the hearing record open for evidence on the new proposal, the Advisory Committee comments and recommendation, and/or any comments pertaining to the limited issue of public benefit. Based

on the information provided, the Hearing Examiner will recommend or the City Council will adopt additional conditions for the master plan related to public benefit.