

BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In the Matter of the Application of) Hearing Examiner File:
) **CF-314346**
 UNIVERSITY OF WASHINGTON)
) Department Reference:
 for approval of a Major Institution) 3023261
 Master Plan for property located at)
 4000 15th Ave. E.) **SDCI’S POSTHEARING BRIEF**

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1 **I. INTRODUCTION**

2 The Seattle Department of Construction and Inspections (SDCI) and the University of
3 Washington (UW) continued to discuss their differences during and after the hearing and have
4 agreed on modified language for most of the SDCI conditions to which UW originally objected.
5 Attached to this brief is a chart that updates the substance of Attachment 1 to UW’s Pre-Hearing
6 Brief to summarize the SDCI-UW discussions. Appendix B to UW’s Post-Hearing Brief also
7 contains a list of typographical edits with which SDCI agrees.

8 This brief and SDCI’s proposed findings and conclusions focus on the few areas of
9 disagreement between SDCI and UW. Neither this brief nor SDCI’s proposed findings and
10 conclusions discusses CUCAC’s recommendations and testimony or public testimony and
11 comments; SDCI commends those matters to the Examiner’s discretion.

12 **II. ARGUMENT REGARDING DISPUTED CONDITIONS**

13 **A. The CMP may modify only development standards of the “underlying
14 zoning.” (Conditions 29, 30, 34, 35, and 39)**

15 SDCI and UW continue to disagree over the authority of the Campus Master Plan (CMP)
16 to supersede City development regulations. This is a legal dispute not covered in hearing
17 testimony. SDCI relies on its Prehearing Brief, which explains how the Code and the City-
18 University Agreement (Agreement) authorize the CMP to modify only development standards of
19 the “underlying zoning,” not all City development regulations.¹ SDCI asks the Examiner to
20 recommend the Council adopt SDCI Condition 35, which makes that point most directly, and
21 other disputed conditions (Conditions 29, 30, 34, and 39) aimed at correcting or clarifying
22 passages suggesting the CMP excuses UW’s compliance with other development regulations.

23 ¹ See SDCI Prehearing Brief at 1 – 7.

1 **B. SDCI’s recommended affordable housing conditions are reasonable and**
2 **consistent with the Comprehensive Plan’s call to mitigate the impacts of a**
3 **major institution’s employment growth on affordable housing. (Conditions 1**
4 **and 2)**

5 SDCI’s Prehearing Brief explains why the City has authority to impose Conditions 1 and
6 2, which would require UW to construct 150 affordable housing units for faculty and staff
7 earning less than 60% of the area median income (AMI).² Cheryl Waldman rebutted Morgan
8 Shook’s testimony that housing conditions are inappropriate because City policies and
9 regulations have already accounted for growth at UW. Ms. Waldman identified documents
10 establishing that, although City lawmakers may have accounted for UW and other growth in
11 planning documents, lawmakers consistently note that current and anticipated City regulations
12 will not fully mitigate the affordable housing impacts caused by that growth.

13 Ms. Waldman began with the Mandatory Housing Affordability (MHA) program’s final
14 environmental impact statement (FEIS).³ That document describes additional strategies—beyond
15 the proposed MHA program—for mitigating affordable housing impacts and preventing
16 displacement, many of which are among the strategies Mr. Shook mentioned.⁴ But the MHA
17 FEIS also concedes that, under all alternatives, “housing affordability and displacement would
18 continue to be significant concerns.”⁵ The FEIS then referred to the Comprehensive Plan to
19 explain why affordable housing impacts will remain unavoidable:

20 Implementing MHA cannot meet the entire need for affordable housing.
21 Seattle will continue to face housing affordability challenges. The Seattle 2035
22 Comprehensive Plan Final EIS found a significant unavoidable adverse impact in

23

² See SDCI Prehearing Brief at 10 – 12.

³ Ex. D-25.

⁴ *Id.* at 3.92 – 3.97.

⁵ *Id.* at 3.92.

1 the area of housing, stating that Seattle would continue to face a housing
2 affordability challenge under all alternatives studied Housing costs will
3 continue to be a burden for a segment of the [*sic*] Seattle’s population due to high
4 demand and competition for housing generated by a strong job market and
attractive natural and cultural amenities. Therefore, even with implementation of
MHA in the study area, Seattle will continue to face a significant challenge in the
area of housing affordability.⁶

5 The FEIS and DEIS for the Comprehensive Plan also concede the City has not fully
6 mitigated affordable housing impacts. The Comp Plan FEIS essentially adopts the findings of the
7 DEIS on this topic.⁷ The DEIS discussed mitigation strategies beyond those mentioned in the
8 MHA FEIS.⁸ Yet the DEIS also concluded that housing impacts will remain an unmitigated
9 impact of Seattle’s growth:

10 Seattle will face housing affordability challenges due to increasing demand (both
11 as a result of growth in the number of households and in the economic profile of
12 households, which are becoming more economically stratified). Seattle’s fixed
land supply and the premium in terms of housing cost and commercial space that
are placed on higher density development close to transit and other amenities
would likely exacerbate this issue in those locations.⁹

13 Because growth in Seattle—including UW’s growth—will cause affordable housing
14 impacts that other strategies cannot fully mitigate, the City Council must have included Policy
15 H 5.19 in the City’s Comprehensive Plan to mitigate the impact of growth from major
16 institutions, including UW: “Consider requiring provisions for housing, including rent/income-
17 restricted housing, as part of major institution master plans and development agreements when
18 such plans would lead to housing demolition or employment growth.”¹⁰

19
20 ⁶ *Id.* at 3.98.

21 ⁷ *See* Ex. D-26 at 3.1-20.

22 ⁸ Ex. D-27 at 3.6-32 – 3.6-34.

23 ⁹ *Id.* at 3.6-34.

¹⁰ Policy H 5.19. Comprehensive Plan at 105.

1 As Ms. Waldman testified, SDCI recommends a reasonable requirement of 150
2 affordable housing units for faculty and staff earning less than 60% AMI. UW has already
3 publicly stated its intent to provide that housing in cooperation with the Seattle Housing
4 Authority.¹¹ Consistent with Policy H 5.19, SDCI believes the CMP should manifest that intent
5 as a requirement.

6 **C. The City has authority to impose SDCI’s recommended transportation**
7 **conditions. (Conditions 51 – 53 and 55)**

8 Legal authority supports SDCI’s proposed Conditions 51 – 53 and 55, all related to
9 transportation. The conditions are consistent with Section III of the Agreement, which
10 memorializes UW’s commitment to working with the City and King County Metro to improve
11 transportation within the already-congested University District:

12 The City, which is responsible for the regulation and control of City streets, has
13 determined that the university area is substantially impacted by automobiles
14 during peak periods....

15 The University will support the City and adjacent communities in improving
16 traffic flow on street networks surrounding and leading to the University....

17 The City and the University will continue to act in partnership with King County
18 Metro and Community Transit to provide a high level of transit service to the
19 campus, the university area, and nearby neighborhood business districts.¹²

20 The conditions are also consistent with the City’s SEPA transportation “policy
21 background” in SMC 25.05.675.R.1. “The University District is an area of the City which is
22 subject to particularly severe traffic congestion problems . . . and therefore deserves special
23 attention in the environmental review of project proposals.”¹³ The CMP FEIS documents that

21 ¹¹ See Ex. D-14.

22 ¹² Agreement §§ III.B.1, III.C.5, and III.C.6.

23 ¹³ SMC 25.05.675.R.1.f.

1 traffic generated by the CMP will cause substantial additional delay at intersections and reduce
2 speeds on arterials for transit and general purpose traffic. This reasonably can be considered
3 excessive.¹⁴ The CMP anticipates major projects with substantial traffic volumes that will
4 adversely impact surrounding areas.¹⁵ Individual projects anticipated by the CMP will create
5 adverse impacts on transportation facilities serving those projects.¹⁶ Conditions 51, 52, 53, and
6 55—which mitigate the impact of CMP-anticipated growth on transit facilities—would increase
7 the use of alternative transportation modes.¹⁷

8 The conditions are justified by the relevant SEPA transportation policies in
9 SMC 25.05.675.R.2. One policy is “to minimize or prevent adverse traffic impacts which would
10 undermine the stability, safety and/or character of a neighborhood or surrounding areas.”¹⁸

11 SDCI’s recommended conditions implement this policy:

12 Condition 51: Increasing capacities on potentially overcrowded transit lines will
13 enhance the ability of UW to meet its TMP goal by providing sufficient space on
14 buses for prospective riders, minimizing destabilizing and unsafe traffic impacts.

15 Condition 52: Maintaining and improving transit performance is a necessary part
16 of supporting an increase in transit service and meeting TMP goals. Helping fund

17
18 ¹⁴ See SMC 25.05.675.R.1.a (“Excessive traffic can adversely affect the stability, safety and character of Seattle’s
communities.”).

19 ¹⁵ See SMC 25.05.675.R.1.b (“Substantial traffic volumes associated with major projects may adversely impact
surrounding areas.”).

20 ¹⁶ See SMC 25.05.675.R.1.c (“Individual projects may create adverse impacts on transportation facilities which
service such projects. Such impacts may result in a need for turn channelization, right-of-way dedication, street
21 widening or other improvements including traffic signalization.”).

22 ¹⁷ See SMC 25.05.675.R.1.d (“Seattle’s land use policies call for decreasing reliance on the single occupant
automobile and increased use of alternative transportation modes.”).

23 ¹⁸ SMC 25.05.675.R.2.a.

1 proposed RapidRide lines in the University District will increase transit speed and
2 reliability, increasing the attractiveness of transit as a mode choice, and
3 minimizing destabilizing and unsafe traffic impacts.

4 Condition 53: Providing on-campus opportunities to accommodate high volumes
5 of transit riders and shared mobility services, better connections between modes,
6 and information related to travel and transfer options will encourage the use of
7 alternative modes, supporting the TMP and minimizing destabilizing and unsafe
8 traffic impacts.

9 Condition 55: Increasing the size of waiting areas at two congested bus stops will
10 encourage use of transit, supporting the recommended TMP (and minimizing
11 destabilizing and unsafe traffic impacts) by decreasing discomfort from waiting in
12 congested conditions. Separate from a potential disincentive to use transit, high
13 densities at transit stops may also negatively impact the character of a
14 neighborhood by causing congestion and blockages for pedestrians on sidewalks.

15 Another policy commands the decisionmaker to examine certain factors when
16 determining traffic and transportation mitigation:

17 [E]xamine the expected peak traffic and circulation pattern of the proposed
18 project weighed against such factors as the availability of public transit; existing
19 vehicular and pedestrian traffic conditions; accident history; the trend in local area
20 development; parking characteristics of the immediate area; the use of the street
21 as determined by the Seattle Department of Transportation's Seattle
22 Comprehensive Transportation Plan; and the availability of goods, services and
23 recreation within reasonable walking distance.¹⁹

¹⁹ SMC 25.05.675.R.2.b.

1 The CMP FEIS documents the availability of public transit, existing vehicular and pedestrian
2 traffic conditions, and other specific policy elements. The results of, and impacts identified in,
3 the FEIS transportation analysis shaped SDCI's recommended conditions.²⁰

4 SDCI's recommended conditions are attributable to the impacts identified in the FEIS,
5 generally based on a pro rata share of vehicle or transit trips generated by the growth anticipated
6 in the CMP.²¹

7 SDCI's recommended conditions are reasonable and capable of being accomplished.²²
8 Although the conditions are expressed in terms of percentages of future costs, those costs will be
9 known at the time a payment is required and UW may negotiate and challenge costs it deems
10 inconsistent with the conditions.²³

11 **D. The CMP should defer to the Agreement's process for Plan amendments.**
12 **(Conds. 17 and 18)**

13 Conditions 17 and 18 would appropriately conform CMP pages 232 and 233 to the
14 Agreement's provisions for Plan amendments. SMC 23.69.006.B states the Agreement shall
15 govern "the master plan process (formulation, approval and amendment)." Subsections II.C.1 – 5
16 of the Agreement govern changes to the CMP. Pages 232 and 233 of the CMP contain
17 procedures at odds with the ones in the Agreement. Conditions 17 and 18 would modify the
18 CMP so the amendment process in the Agreement controls.

20 ²⁰ See also SMC 25.05.060.A.2 ("Mitigation measures shall be related to specific, adverse environmental impacts
21 clearly identified in an environmental document on the proposal . . .").

22 ²¹ See SMC 25.05.060.A.4.

23 ²² See SMC 25.05.060.A.3.

²³ See also Agreement § VIII.B (dispute resolution provisions).

1 Theresa Doherty testified that the City Council, when approving the current CMP, added
2 the provisions UW now proposes at pages 232 and 233—provisions at odds with how the
3 Agreement handles CMP amendments. But the record does not reflect why the Council added
4 those provisions. Given the language of SMC 23.69.006.B and the Agreement, the CMP should
5 defer to the Agreement on how to process future CMP amendments.

6 **E. The CMP should acknowledge that City may expand rights-of-way and make**
7 **provisions of future Green Street plans mandatory in ways that affect the**
8 **required public realm allowance. (Condition 12)**

9 The Examiner should recommend adoption of Condition 12, which would direct the
10 reader to City law on street widths and improvements within the public realm allowance. UW’s
11 principal concern is that the City may widen its rights-of-way.²⁴ That concern is understandable,
12 but a plan for a campus cannot dictate future City decisions regarding its rights-of-way. If the
13 City must expand a right-of-way that reduces UW’s development capacity, UW and SDCI may
14 explore proposed CMP amendments to tailor public realm allowance requirements to address
15 UW’s needs. But the City cannot, through the CMP process, abdicate its authority to manage
16 and, where necessary, expand City rights-of-way in the public interest.

17 UW also objects to the portion of Condition 12 that would state: “Where required,
18 improvements to the public realm allowance shall be completed in accordance with adopted
19 Green Street Concept Plan.”²⁵ Suggesting that sentence is unnecessary, UW points to the CMP’s
20 stated intent that UW “shall strive to follow the guidance provided” in the University District
21 Green Streets Concept Plan.²⁶ UW’s intent is laudable, especially given that compliance with

22 ²⁴ See Appendix at 6, second column.

23 ²⁵ See *id.*

²⁶ *Id.* (citing CMP at 182 (Ex. D-2)).

1 that Plan is voluntary. But UW's laudable intent does not obviate the sentence, which reminds
2 the reader that, if a future Green Street Concept Plan—perhaps one that supplants the current
3 University District Plan—contains mandatory provisions, UW will have to comply with those
4 provisions.

5 III. CONCLUSION

6 SDCI asks the Examiner to recommend Council adoption of the many agreed conditions
7 that manifest UW's and SDCI's shared vision for the next phase of UW's growth. Where UW
8 and SDCI disagree, SDCI asks the Examiner to find that the City has the authority to impose
9 SDCI's recommended conditions, and to recommend that the Council adopt those conditions.

10 Respectfully submitted January 2, 2018.

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1 **CERTIFICATE OF SERVICE**

2 I certify that on this date, I electronically filed a copy of this document, the Appendix to SDCI's
3 Posthearing Brief, and SDCI's Proposed Findings and Conclusions with the Office of the Seattle
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12 DATED this 2nd day of January, 2018, at Seattle, Washington.

13
14 *s/Alicia Reise*
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