Interpretation of the Director
Under Seattle Municipal Code Title 23

Regarding the Use of the **Property at** **4800 Sand Point Way NE**	**DPD Interpretation No. 10-003-B** **(Project No. 3011996)**

Background

This interpretation was requested by Jeannie Hale on behalf of the Laurelhurst Community Club. It relates to Project No. 3011707, a proposal by Seattle Children's Hospital ("SCH") to relocate an existing helistop on the SCH campus, in conjunction with other development under its new Major Institution Master Plan ("MIMP"). The specific questions raised are, first, whether this change is considered an "exempt change" not requiring amendment to the MIMP, or a whether it requires a minor or major amendment to the MIMP, and second, whether the proposed relocation requires Council Conditional Use approval. The request for interpretation also raised questions about the timing and location of bed units under Project No. 3011377. Those questions were addressed separately in Interpretation No. 10-003, published on October 28th, 2010. DPD's approval of an Addendum to the Final EIS for the new MIMP, addressing the relocation of the helistop, is being published concurrently with this interpretation.

Findings of Fact

1. Seattle Children's Hospital has a helistop, approved under Project Nos. 8405870 and 9106441 by Council Conditional Use in 1992, located on the ground in the "kitchen garden" area at the center area of the historic campus. According to the "Existing Site Plan" on page 37 of the current MIMP, it is located roughly halfway between Northeast 45th and 50th Streets, and about 300 feet west of 44th Avenue NE. The approval of the original helistop, in 1992, was subject to a number of conditions, including the following:

> CHMC can temporarily relocate the helistop to another location on campus during the construction of the helistop at the Kitchen Gardens location. The temporary location, which is subject to approval by DCLU, should be selected to reduce construction related impacts on the surrounding residential community. … Should CHMC decide to relocate the helistop to any other location on its campus, including the alternative sites which were specifically rejected during the EIS review process, the proposal shall be subject to an environmental review and land use approvals.

2. The MIMP states, at page 19: "The existing helistop will be relocated from its current location to the rooftop of the first bed unit constructed on the Laurelon Terrace property." This location is depicted on a plan on page 21 (and again on page 39) which depicts the helistop about 150 feet east and slightly south of the intersection of 40th Avenue NE and Sand Point Way NE, and about 500 feet west and slightly south of the current location. This relocation was approved as a part of the MIMP, without a separate Council Conditional Use approval.

3. Some modifications to the MIMP were proposed under Project No. 3011377, including a change in the location of the first bed unit to be built. These were addressed in an addendum to the Final EIS for the MIMP, issued on August 12, 2010. That proposal specifically excluded relocation of the helistop. (See page ii of the Phase 1 Hospital Expansion Project EIS Addendum.) A decision approving the Phase 1 development project was issued on October 28.

4. SCH now proposes to relocate the helistop to a ground location north of the Phase 1 Development Project, in an area that was to contain 11 surface parking spaces. Based on the map on page 3 of the Addendum to the Final EIS for the helistop relocation, issued January 6, 2011, at page 1, this location is 46 feet to the south and 58 feet to the east of the location originally approved for the relocated helistop under the MIMP. The helistop would be approximately 36 feet in diameter, raised by about 15 feet above the surrounding parking lot.

5. SCH proposes this ground location for the helistop as a temporary location, for seven to ten years, until a new Diagnostic and Therapeutic (D&T) building is constructed. At the time of that construction, SCH proposes to temporarily relocate the helistop to the top of a building approved for the first phase of construction under the MIMP, and then ultimately to the top of the new D&T, not far from the surface location currently proposed. These locations are depicted on a plan on page 21 of the Addendum for the Helistop relocation. Based on that map, the ultimate location appears to be about 75 feet east of the surface location proposed for the immediate future.

6. Seattle Municipal Code Section 23.69.035 governs whether a proposed change to a master plan is an "exempt change," a "minor amendment" or a "major amendment." A copy of that section is appended to this Interpretation. Section 23.69.035.B provides:

> An exempt change shall be a change to the design and/or location of a planned structure or other improvement from that shown in the master plan, which the Director shall approve without publishing an interpretation. Any new gross floor area or parking space(s) must be accompanied by a decrease in gross floor area or parking space(s) elsewhere if the total gross floor area or parking spaces permitted for the entire MIO District or, if applicable, the subarea would be exceeded. Each exempt change must meet the development standards for the MIO District. Exempt changes shall be:
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> 1. Any new structure or addition to an existing structure not approved in the master plan that is 12,000 square feet of gross floor area or less; or
> 2. Twenty or fewer parking spaces not approved in the master plan; or
> 3. An addition to a structure not yet constructed but approved in the master plan that is no greater than 20 percent of the approved gross floor area of the that structure or 20,000 square feet, whichever is less; or

4. Any change in the phasing of construction if not tied to a master plan condition imposed under approval by the Council; or
5. Any increase in gross floor area below grade.

7. SMC Section 23.69.035.D provides in part:

A proposed change to an adopted master plan shall be considered and approved as a minor amendment when it is not an exempt change according to subsection B of this section, when it is consistent with the original intent of the adopted master plan, and when it meets at least one of the following criteria:

1. The amendment will not result in significantly greater impacts than those contemplated in the adopted master plan; or

* * *

8. SMC Section 23.69.035 E provides in part:

A proposed change to an adopted master plan shall be considered a major amendment when it is not an exempt change according to subsection B of this section or a minor amendment according to subsection D of this section. In addition, any of the following shall be considered a major amendment:

* * *

5. A use that requires Council Conditional Use approval, including but not limited to a helistop or a major communication utility, that was not described in an adopted master plan:

* * * *

9. SMC Section 23.69.012, appended to and incorporated into this interpretation, provides in part:

C. Council Conditional Uses. Helistops, when determined to meet the criteria of Section 23.69.008, may be permitted by the Council as a Council Conditional Use when:

1. The helistop is needed to save lives; and
2. Use of the helistop is restricted to life-threatening emergencies; and
3. The helistop is located so as to minimize impacts on the surrounding area.

Conclusions

1. The proposed relocation of the helistop from the location originally proposed and approved under the recent MIMP to the series of locations now proposed, would qualify as "a change to the design and/or location of a planned structure or other improvement from that shown in the master plan," and thus qualifies as the sort of change contemplated as an exempt change under Section 23.59.035.B. However, it arguably doesn't quite fit within any of five types of exempt enumerated in that subsection. The wording of the section ("Exempt changes shall be 1… or 2… or 3… or 4… or 5….") might be read as meaning that a change is not exempt unless it falls into one of those five categories. However, none of the five categories in the list address the situation where a particular facility was approved under a master plan, but is proposed to be built in a different location on the campus. If we were to read the provision as meaning that the

five enumerated categories comprise an exclusive list of the types of change to a master plan that might be considered exempt, this would give no meaning to the reference in the first sentence of the subsection, which suggests that a change in location of an approved improvement, within the campus, may also be an exempt change. If we were to read the code in this manner, it would have a curious result: Addition of a new structure of up to 12,000 square feet, not approved in the master plan, would be an exempt change, but relocation of an existing structure of the same size that had been approved in the master plan would not. On that basis, we conclude that the five types of exempt changes listed were intended as examples rather than as an exhaustive list of changes that might qualify as exempt.

2. There is currently a helistop on the campus, and movement of that helistop to another location was proposed and approved in the recent MIMP. Because the change now proposed involves relocation of an improvement that has already been approved as a part of the MIMP, modifying the plans to provide it in a different location on the campus would qualify as an exempt change to the MIMP, under the above reasoning.

3. If the proposed relocation of the helistop were not an exempt change under Section 23.69.035.B, we would need to consider whether it qualifies as a minor amendment to the MIMP under Section 23.69.035.D. It would be regarded as a minor amendment, according to that subsection, if it is "consistent with the original intent of the adopted master plan" and would not "result in significantly greater impacts than those contemplated in the adopted master plan." Provision of the helistop was addressed in the MIMP, and providing it in a slightly different location, roughly 74 feet towards the interior of the campus, would be consistent with the original intent of the adopted plan. The impacts of this change have been addressed in an Addendum to the FEIS, and the Department has concluded (in the concurrent decision) that the impacts of the helistop will not be significantly greater as a result of the move.

4. Notwithstanding the provisions for exempt changes and minor amendments, a proposed change is considered a major amendment, under Section 23.69.035.E, if it is "a use that requires Council Conditional Use approval, including but not limited to a helistop or a major communication utility, **that was not described in an adopted master plan**." Although this proposal relates to a helistop, the proposal is to relocate a helistop that was already a part of an approved MIMP, so we conclude that the proposal does not require a major amendment under this language.

5. An argument has been raised that the proposed helistop requires a Council Conditional Use approval pursuant to Section 23.69.012.C. However, that section does not say that a Council Conditional Use is the sole means of approval for a helistop, or that that process is required in the case of relocation of an existing or approved facility within an institutional campus. The intent that this additional process is not necessary for a facility that was a part of an adopted master plan is reflected in the above language from Section 23.69.035.E: That language gives helistops and major communication utilities *not described in a master plan* as an example of uses requiring Council Conditional Use approval, suggesting that such facilities, when described in a master plan, do not require Council Conditional Use approval.

6. The original Council Conditional Use approval, for the helistop in the kitchen garden area, was subject to a condition that movement of the helistop to a different location on the campus would require a land use approval and environmental review. Relocation of the helistop was

approved by the City Council as a part of the 2010 MIMP. There is no express provision in this 2010 approval that suggests that conditions imposed on the approval of the existing helistop, 18 years earlier, were meant to adhere to the helistop included in the 2010 MIMP, which was the subject of a separate City Council approval after a new EIS process. Absent express conditions as a part of this new approval, we conclude that conditions imposed under the approval of the earlier helistop do not apply. However, that said, the relocations now contemplated meet the condition that was imposed on the earlier helistop: That condition required that a proposal to relocate be subject to environmental review and land use approvals, which is exactly what has occurred with the Addendum.

Decision

The modification under Project No. 3011701 to the location of helistop approved in SCH's MIMP qualifies as an exempt change to the MIMP, pursuant to SMC Section 23.69.035, as it involves the relocation of an approved facility. However, even if it did not qualify as an exempt change, it would qualify as a minor amendment to the MIMP, as it would be consistent with the original intent of the adopted master plan, and the relocation would not result in significantly greater impacts than those contemplated in the adopted master plan. The relocation of the approved helistop to a different location on the SCH campus does not require Council Conditional Use approval.

Entered this 17th day of February, 2011.

___(Signature on file)_____
Andrew S. McKim
Land Use Planner – Supervisor

SMC 23.69.012 Conditional uses.

A. All conditional uses shall be subject to the following:

1. The use shall not be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.

2. The benefits to the public of the use shall outweigh the negative impacts of the use.

3. In authorizing a conditional use, adverse impacts may be mitigated by imposing conditions such as landscaping and screening, vehicular access controls and any other measures needed to mitigate adverse impacts on other properties in the zone or vicinity and to protect the public interest. The Director shall deny or recommend denial of a conditional use if it is determined that adverse impacts cannot be mitigated satisfactorily.

B. Administrative Conditional Uses.

1. Development otherwise requiring preparation of a master plan may be permitted by the Director as an administrative conditional use according to the standards of Section 23.69.033.

2. In considering an application for a conditional use, the Director's decision shall be based on the following criteria:

a. Parking areas and facilities, trash and refuse storage areas, ventilating mechanisms and other noise-generating or odor-generating equipment, fixtures or facilities shall be located so as to minimize noise and odor impacts on the surrounding area. The Director may require measures such as landscaping, sound barriers, fences, mounding or berming, adjustments to parking location or setback development standards, design modification, limits on hours of operation or other similar measures to mitigate impacts; and

b. Required landscaping shall be compatible with neighboring properties. Landscaping in addition to that required by the Code may be required to reduce the potential for erosion or excessive stormwater runoff, to minimize coverage of the site by impervious surfaces, to screen parking, or to reduce noise or the appearance of bulk and scale; and

c. Traffic and parking impacts shall be minimized; and

d. To reduce the impact of light and glare, exterior lighting shall be shielded or directed away from residentially zoned properties. The Director may require that the area, intensity, location or angle of illumination be limited.

C. Council Conditional Uses. Helistops, when determined to meet the criteria of Section 23.69.008, may be permitted by the Council as a Council Conditional Use when:

1. The helistop is needed to save lives; and

2. Use of the helistop is restricted to life-threatening emergencies; and

3. The helistop is located so as to minimize impacts on the surrounding area.

The Director's report to the Council shall examine alternative locations for the helistop as identified by the major institution, including sites outside the institution's boundaries, which would accomplish the purpose of the helistop with a lesser impact upon the surrounding area.

(Ord. 115043 Section 14, 1990; Ord. 115002 Section 23(part),1990.)

SMC 23.69.035 Changes to master plan.

A. A proposed change to an adopted master plan shall be reviewed by the Director and determined to be an exempt change, a minor amendment, or a major amendment.

B. Exempt Changes. An exempt change shall be a change to the design and/or location of a planned structure or other improvement from that shown in the master plan, which the Director shall approve without publishing an interpretation. Any new gross floor area or parking space(s) must be accompanied by a decrease in gross floor area or parking space(s) elsewhere if the total gross floor area or parking spaces permitted for the entire MIO District or, if applicable, the subarea would be exceeded. Each exempt change must meet the development standards for the MIO District. Exempt changes shall be:

1. Any new structure or addition to an existing structure not approved in the master plan that is twelve thousand (12,000) square feet of gross floor area or less; or

2. Twenty (20) or fewer parking spaces not approved in the master plan; or

3. An addition to a structure not yet constructed but approved in the master plan that is no greater than twenty percent (20%) of the approved gross floor area of that structure or twenty thousand (20,000) square feet, whichever is less; or

4. Any change in the phasing of construction, if not tied to a master plan condition imposed under approval by the Council; or

5. Any increase in gross floor area below grade.

C. Amendments. The Advisory Committee shall be given the opportunity to review a proposed minor or major amendment and submit comments on whether it should be considered minor or major, and what conditions (if any) should be imposed if it is minor. The Director shall determine whether the amendment is minor or major according to subsections D and E of this section. The Director's decision that a proposed amendment is minor or major shall be made in the form of an interpretation subject to the procedures of Chapter 23.88, Rules; Interpretation. If the Director and the Major Institution agree that a major amendment is required based on subsection E of this section, the interpretation process may be waived, and the amendment and environmental review process shall be subject to the provisions of subsection G of this section. After the Director makes a decision on whether an amendment is minor or major, the Advisory Committee shall be notified.

D. Minor Amendments. A proposed change to an adopted master plan shall be considered and approved as a minor amendment when it is not an exempt change according to subsection B of this section, when it is consistent with the original intent of the adopted master plan, and when it meets at least one of the following criteria:

1. The amendment will not result in significantly greater impacts than those contemplated in the adopted master plan; or

2. The amendment is a waiver from a development standard or master plan condition, or a change in the location or decrease in size of designated open space, and the proposal does not go beyond the minimum necessary to afford relief and will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity in which the Major Institution is located; or

3. The amendment is a proposal by the Major Institution to lease space or otherwise locate a use at street level in a commercial zone outside an MIO District, and within two thousand five hundred feet (2,500') of the MIO District boundary, and the use is allowed in the zone for but not permitted pursuant to Section 23.69.022. In making the determination whether the amendment is minor, the Director shall consider the following factors:

a. Whether an adequate supply of commercially zoned land for business serving neighborhood residents will continue to exist, and

b. Whether the use will maintain or enhance the viability or long term potential of the neighborhood-serving character of the area, and

c. Whether the use will displace existing neighborhood-serving commercial uses at street level or disrupt a continuous commercial street front, particularly of personal and household retail sales and service uses, and

d. Whether the use supports neighborhood planning goals and objectives as provided in a Council-approved neighborhood plan.

E. Major Amendments. A proposed change to an adopted master plan shall be considered a major amendment when it is not an exempt change according to subsection B of this section or a minor amendment according to subsection D of this section. In addition, any of the following shall be considered a major amendment:

1. An increase in a height designation or the expansion of the boundary of the MIO District; or

2. Any change to a development standard that is less restrictive; or

3. A reduction in housing stock outside the boundary but within two thousand five hundred feet (2,500') of the MIO District, other than within a Downtown zone, that exceeds the level approved in an adopted master plan; or

4. A change to the single-occupancy vehicle goal of an approved transportation management program that increases the percentage of people traveling by single-occupancy vehicle; or

5. A use that requires Council Conditional Use approval, including but not limited to a helistop or a major communication utility, that was not described in an adopted master plan; or

6. The update of an entire development program component of a master plan that was adopted under Code provisions prior to the 1996 Major Institutions Ordinance where the institution proposes an increase to the total amount of gross floor area allowed or the total number of parking spaces allowed under the institution's existing development program component within the MIO District.

F. If the Director, after reviewing any Advisory Committee recommendation, determines that a proposed major amendment is of unusual complexity or size, the Director may require that the institution prepare a new master plan subject to Section 23.69.032.

G. If an amendment is determined to be major, the amendment and environmental review process shall be subject to the provisions of Section 23.69.032, Master plan process. However, a concept plan and preliminary draft plan shall not be required. Instead, the Major Institution shall submit a major amendment draft report as part of the application stating which parts of the master plan are proposed to be amended. If an EIS is required for the major amendment, the draft EIS shall be prepared after submittal of the major amendment draft report. After comments are received on the major amendment draft report, the institution shall prepare the major amendment final report and if required, the final EIS. If an EIS is not required for the major amendment, the Director is not required to hold a public hearing on the major amendment draft report.

H. Noncontiguous areas that are included in a MIO District as a result of a previously adopted master plan shall be deleted from the MIO District at the time a major amendment is approved unless the noncontiguous area was a former and separate MIO District. The change to the MIO District boundaries shall be in accordance with the procedures for City-initiated amendments to the Official Land Use Map as provided in Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions, and shall not be subject to the rezone criteria contained in Section 23.34.124.

(Ord. 120691 Section 26, 2001; Ord. 118362 Section 23, 1996: Ord. 115165 Section 10, 1990; Ord. 115002 Section 23(part), 1990.)