

**FINDINGS AND DECISION
OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE**

In the Matter of the Appeals of

**WASHINGTON COMMUNITY ACTION
NETWORK, 19TH AVE BLOCK WATCH,
CHERRY HILL COMMUNITY COUNCIL,
SQUIRE PARK COMMUNITY COUNCIL,
PATRICK ANGUS, ET AL., AND CONCERNED
NEIGHBORS OF SWEDISH CHERRY HILL**

Hearing Examiner Files:

**MUP-15-010 (W)
MUP-15-011 (W)
MUP-15-012 (W)
MUP-15-013 (W)
MUP-15-014 (W)
MUP-15-015 (W)**

from a SEPA Determination by the Director,
Department of Planning and Development

Department Reference:
3012953

Introduction

The Director of the Department of Planning and Development issued a Determination of Adequacy for the Final Environmental Impact Statement prepared for the proposed Swedish Cherry Hill Major Institution Master Plan, and the Appellants timely appealed.

A consolidated hearing on the proposed Major Institution Master Plan (“MIMP”) and the appeals of the Final Environmental Impact Statement (“FEIS”) was held on July 13, through July 17, 2015, before the Hearing Examiner (Examiner). Appellant Washington Community Action Network (“Washington CAN”) was represented by Claudia M. Newman, attorney-at-law; Appellant 19th Avenue Block Watch was represented by Vickie Schiantarelli, *pro se*; Appellant Squire Park Community Council (“Squire Park”) was represented by William Zosel, *pro se*; Appellant Cherry Hill Community Council was represented by Mary Pat DiLeva, *pro se*; Appellant Concerned Neighbors of Swedish Cherry Hill (“Concerned Neighbors”) was represented by Troy Meyers, *pro se*; Appellants Patrick Angus, Maja Hadlock, Dean Paton, James Schell and Nicholas Richter were represented by Dean Paton, *pro se*; Swedish Medical Center Cherry Hill, was represented by Joseph A. Brogan and Steven J. Gillespie, attorneys-at-law; Sabey Corporation (“Sabey”) was represented by John C. McCullough, Courtney A. Kaylor and Katie Kendall, attorneys-at-law; and the Director of the Department of Planning and Development (Director) was represented by Stephanie Haines, Land Use Manager. The record was held open through August 11, 2015 for submission of written closing statements by the parties and the Examiner’s site visit.

On August 13, 2015, Respondents Swedish Cherry Hill and Sabey filed a motion to strike a reply to the Respondents’ Joint Response Brief. That reply, written by Dean Paton on behalf of Patrick Angus and other CAC members, was not filed with the Examiner until August 19, 2015.

Reply memoranda were due on August 11, 2015. The CAC member reply was untimely, and it is stricken.

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 and reviewed the site, the Examiner enters the following findings of fact, conclusions and decision on the appeals.

Findings of Fact

1. The Swedish Medical System consists of numerous primary care clinics, five community hospitals, and two regional medical centers - First Hill and Cherry Hill. Swedish Medical Center Cherry Hill ("Swedish Cherry Hill") is a specialized center focusing on cardiovascular and neuroscience services.

Site and Vicinity

2. Swedish Cherry Hill is addressed as 500 17th Avenue and is located east of downtown on an approximately 13.33-acre site in the Squire Park neighborhood. The campus is bounded on the north by East Cherry Street, on the south by East Jefferson Street, on the west by 15th Avenue, and on the east by single-family residential development that fronts on 19th Avenue.

3. The Swedish Cherry Hill property slopes down significantly from east to west and slightly from north to south. The underlying zoning is a mix of Single-Family 5000 ("SF 5000") and Lowrise ("LR") 3.

4. Property to the northeast, east and south of the campus is zoned SF 5000 and developed primarily with single-family residences, with some multifamily residential and small commercial uses. Property to the north is zoned LR3 and LR1, and contains a mix of multi-family and office uses along East Cherry Street, and a mix of multi-family and single-family uses north of East Cherry Street. To the west across 15th Avenue is the eastern boundary of the Seattle University campus and major institution overlay ("MIO") and the eastern boundary of the 12th Avenue Urban Center Village. West of Seattle University is the Swedish First Hill MIO. The UW/Harborview MIO is within one-half mile to the southwest, and Garfield High School and the King County Youth Services Center are nearby.

Current MIMP

5. The current MIMP for Swedish Cherry Hill was approved in 1994, expired in 2009, and was extended by amendment to 2011. The MIO includes three height districts: MIO 65 on the west campus between 15th and 16th Avenues; MIO 105 on the central campus between 16th and 18th Avenues; and MIO-37 on the east campus, which consists of a half-block strip of property along the east side of 18th Avenue.

6. Swedish Cherry Hill owns approximately 60% of the land within the current MIO, having sold 40% of it in 2002 to Sabey, a for-profit development and property management company. Most Sabey holdings within the MIO are leased back to Swedish Cherry Hill, and the rest are occupied by companies that provide various outpatient services.

7. The existing campus building area is approximately 1.2 million square feet. Existing buildings and the one-story skybridge across 16th Avenue are identified in Figure A-3 on page 8 of the MIMP.

8. Primary access to Swedish Cherry Hill is via East Jefferson Street, the two-lane collector arterial at the southern border of the campus, and East Cherry Street, the two lane minor arterial at the northern border of the campus. These two roadways provide access to and from regional roadways such as Interstate 5 to the west. Parking and sidewalks are provided along both sides of both streets, and several bus routes operate on East Jefferson Street with a stop adjacent to the campus. Following Metro's consolidation of some routes, the only cross-town route that remains on East Jefferson Street is Route 3/4. Fifteenth, 16th and 18th Avenues, which intersect East Jefferson and East Cherry Streets in the vicinity, are all classified as local access streets.

9. Swedish Cherry Hill provides 1,510 paid off-street parking spaces, with 1,293 garage spaces and 217 surface spaces. The existing Transportation Management Plan ("TMP") includes a goal of reducing the number of employees who commute to work by single-occupant vehicle ("SOV") to 50 percent. That goal has not been met; the current SOV rate is 57 percent.

Master Plan Proposal

10. Swedish Cherry Hill has applied for a new MIMP to establish development potential for the next 20 to 30 years. The MIMP, Exhibit 1, would remain valid until Swedish Cherry Hill constructs the allowed square footage or seeks to amend the MIMP. The MIMP addresses the possible phasing of development at pages 62-63. The planned uses include hospital beds, clinic, research, education, hotel, long-term care, parking, and other supportive uses.

11. The MIMP states its objective as, "to provide flexibility as the medical center plans for the future while accommodating best medical practices and the needs of the neighborhood." MIMP at 49. As the MIMP was developed, Swedish Cherry Hill considered several alternatives to achieve its objective. All involved locating the entire development program at the Swedish Cherry Hill campus. Earlier alternatives had included expansion of the existing MIO boundaries and street vacations, neither of which were acceptable to the neighborhood.

12. The following MIO districts are proposed¹:

On the west campus, at 15th Avenue, the north and south portions of the block would remain at MIO-65, and the center portion would be increased from MIO-65 to MIO-160 conditioned down to 150 feet.

¹ See MIMP at 53.

On the central campus, the existing MIO-105 would be maintained on the north and most of the east sides and on the southwest corner; MIO-105 would increase to MIO-160 along the west side at 16th Avenue and toward the center; MIO-105 would remain at the entry plaza but be conditioned to 37 feet; and MIO-105 at the southeast corner would be reduced to MIO 65 and conditioned to 40 feet.

On the east campus, the existing MIO-37 would increase to MIO-50 conditioned to 45 feet for two sections of the half-block, and the remaining portions would retain MIO-37, with the center section conditioned to 15 feet.

13. Existing campus development includes a skybridge over 16th Avenue that connects the existing hospital to the parking garage. The MIMP proposes a two-story skybridge in approximately the same location.

Director's Review and Decision

14. Swedish Cherry Hill submitted a notice of intent to prepare a new MIMP to the Director on November 11, 2011, and began work with the Department of Neighborhoods in 2012 to assist with formation of a Citizens Advisory Committee. The Director issued a Determination of Significance on the MIMP pursuant to SEPA on March 7, 2013, requiring preparation of an EIS. A scoping meeting was held on March 21, 2013.

15. The Director published a Notice of Availability of the Draft Environmental Impact Statement ("DEIS"),² draft MIMP³ and public hearing on May 22, 2014. The Director held the public hearing on June 12, 2014, and the written comment period extended through July 6, 2014.⁴ On December 11, 2014, the Director published a Notice of Availability of the FEIS and final MIMP.

16. The Final Environmental Impact Statement ("FEIS") analyzed the no-build alternative and three build alternatives that involved variations in gross square footage and MIO heights. Swedish Cherry Hill has designated Alternative 12, which was added following comments on the DEIS, as the preferred alternative.

17. The net increase in building area under Alternative 12 would be 1.55 million square feet, for a total campus building area of approximately 2.75 million square feet at build-out.

18. On March 19, 2015, the Director issued a determination that the FEIS was adequate and an analysis and recommendation on the final MIMP, including recommended conditions to be imposed pursuant to SEPA and the Land Use Code.

² Exhibit 23.

³ Exhibit 22.

⁴ See Exhibit 4, FEIS Appendix D, for comments.

Appeals

19. The Appellants timely appealed the adequacy of the FEIS. The appeals raised issues concerning FEIS adequacy as to the discussion of alternatives and the following impacts: consistency with adopted plans and policies, including policies on human development; aesthetics/height, bulk and scale; aesthetics/views and shadows; transportation and parking; geology/topography; groundwater and stormwater (drainage); environmental health/noise; light and glare; air quality; public facilities; historic resources; and greenhouse gasses. The appeals also raised other issues that were dismissed prior to hearing.

20. Neither geology nor topography was included within the scope of the FEIS,⁵ and those issues will be dismissed. No evidence was presented in support of the following FEIS adequacy issues, which also will be dismissed: light and glare; air quality; public facilities; historic resources; and greenhouse gasses.

Consistency with Adopted Plans and Policies

21. The FEIS includes an extensive discussion of the relationship of the proposal to adopted land use plans in Section 3.3. The discussion reviews the land use framework within which a MIMP application is considered. For each alternative, it reviews the intensity of development, the proposed MIO height districts, and the proposed sky bridge and service tunnel. Subsection 3.3.4 consists of a lengthy analysis of the MIMP's consistency with the goals and policies of the Urban Village and Land Use Elements of the Comprehensive Plan ("Plan"). The FEIS observes that the Swedish Cherry Hill campus is surrounded by three urban villages/centers (Madison-Miller to the north, 23rd Avenue South at Jackson-Union to the east and south, and 12th Avenue to the west), but is not itself located within an urban village or urban center. This section also includes an analysis of the MIMP's consistency with applicable goals and policies in the Human Development Element. FEIS at 3.3-52 to -56. Subsection 3.3.4 concludes with an analysis of the MIMP's consistency with applicable goals and policies of the Central District Neighborhood Planning Area and the Swedish First Hill and Seattle University MIMPs. FEIS at 3.3-56 to -65. The FEIS concludes that the MIMP is consistent with some Plan goals and policies (e.g., UV-35, UV-39, LU-77 and -78, and the applicable major institution goals and policies), inconsistent with others (e.g., UVG-36, UV-38, and LUG-8 and -9), and that some policies do not apply to the MIMP.

22. Subsection 3.3.4 of the FEIS also addresses the proposed skybridge, which would be located in approximately the same location as the existing skybridge and is proposed to be translucent. It reviews the City's term permit process for skybridges, which are reviewed by the Seattle Design Commission and must be approved by the City Council in accordance with the criteria in SMC 15.64.050.C. The term permit process for a proposed "significant structure," i.e., service tunnel, is also discussed.

⁵ See Exhibit 20.

23. The analysis of impacts to adopted plans and policies notes that "density-related impacts of additional development, such as increased height, bulk and scale, increased noise, parking, increased traffic, and increased need for public services and utilities are addressed" elsewhere in Section 3 of the FEIS, and concludes that "[n]o significant unavoidable adverse impacts to land use have been identified," and "no mitigation measures specific to land use are required." Exhibit 3 at 3.3-74.

Aesthetics/Height, Bulk and Scale

24. Height, bulk and scale impacts are analyzed in Section 3.4 of the FEIS under "Aesthetics," as are view and shadow impacts. The FEIS explains that "the discussion of height, bulk and scale analyzes the relationship of potential massing of new Swedish Cherry Hill buildings to surrounding development in the vicinity of" the campus boundaries. FEIS at 3.4-1. The analysis sets out the SEPA policy context for analyzing height, bulk and scale impacts and includes a detailed recitation of the environment surrounding Swedish Cherry Hill. FEIS at 3.4-1 to -2.

25. The height, bulk and scale analysis includes photomontages prepared for each alternative from 12 different viewpoints and discusses and compares the impacts of each alternative from each viewpoint. FEIS at 3.4-6 to -43. These simulations include a graphic depiction of the proposed skybridge. FEIS at 3.4-41 to -42.

26. The FEIS also addresses potential mitigation measures. Swedish has proposed using building setbacks as one means of mitigating building heights, and the FEIS reviews the proposed setbacks for each alternative. FEIS at 3.4-46 to -49. At page 3.4-50, other potential mitigation measures are listed and include using design guidelines to design the buildings at the project stage;⁶ complying with the setback requirements for the underlying zone; using façade treatments, fenestration, articulation, building materials, and varying roof heights for consistency with existing architectural character; and further reducing heights.

27. The FEIS concludes that the height bulk and scale of Alternative 8, and the bulk and scale of Alternatives 11 and 12, "adjacent to the single-family residential block between 18th and 19th Avenues ... would be a significant unavoidable adverse impact." FEIS at 3.4-50.

Aesthetics/Views and Shadows

28. View and shadow impacts are also addressed under Aesthetics in Section 3.4 of the FEIS. Subsection 3.4.2 covers view protection. Within the context of the City's SEPA policy on public view protection, the FEIS describes existing public views of scenic routes and historic landmarks in the vicinity of the proposed MIMP and evaluates how development under the MIMP would affect those public views. The FEIS discloses that due to increased building heights, all build alternatives "would block some views of James Tower from adjacent streets. James Tower may be visible in the distance from the east ... but would not be visible from Seattle University.

⁶ The MIMP includes detailed design guidelines. FEIS Appendix H.

Views of James Tower may remain from some viewpoints to the south." FEIS at 3.4-52. The FEIS concludes that no significant unavoidable adverse impacts to public views were identified.

29. Subsection 3.4.4 of the FEIS addresses shadow impacts. It states the City's SEPA policy on shadow impacts, which is "to minimize or prevent light blockage and the creation of shadows on open spaces used by the public."

30. The no-build alternative and all build alternatives were modeled to determine the shadow impacts of the MIMP during three times of day on the Winter and Summer Solstices and on the Vernal and Autumnal Equinoxes. The results of the shadow study and the FEIS analysis of it are found at pages 3.4-57 to -110. All shadow figures include the skybridge. The FEIS discloses that shadow impacts would increase with any of the build alternatives, and that shadows will be longest during the winter months. It concludes that they would "be typical of an urbanizing area – one that is transitioning to more intensive development" and would not be expected to result in long-term significant adverse impacts. The FEIS notes that shadow impacts to the only nearby public space, Firehouse Park, already occur, and concludes that no significant unavoidable adverse impacts to public open space are anticipated." FEIS at 3.4-111 to -112.

Transportation

31. Transportation impacts are analyzed in Appendix C to the FEIS, the Transportation Technical Report, and in FEIS Section 3.7, which summarizes the information contained in Appendix C. The FEIS begins with the policy context for the discussion, reciting the City's SEPA policies on traffic and transportation and on parking. It then discusses existing conditions, identifying the street system, including major roadways and 43 affected intersections; campus access and service vehicle loading; pedestrian and bicycle transportation; transit and shuttle service; traffic volumes; traffic operations; traffic safety, including pedestrian and bicycle safety; and parking, including on-street and on-campus facilities and parking demand. FEIS at 3.7-4 to -15. The FEIS then analyzes the impacts of the no-build alternative and each build alternative on each transportation element. FEIS at 3.7.15 to -47.

32. The FEIS evaluates impacts on future traffic conditions in 2023 (short-term horizon) and in 2040 (long-term horizon). For all build alternatives, it assumes development of approximately 2.3 million square feet by 2023. It also assumes a 50 percent SOV rate for all alternatives, with the remaining 50 percent using other transportation options.

33. Proposed campus access points and circulation patterns are the same for all build alternatives. The number of access points on 18th Avenue would be reduced, but the proposed underground parking garage on that street would shift traffic so that more activity would be focused on the east side of the campus. Delivery volume would increase under all build alternatives, which could result in a larger deliveries, increased delivery frequency, changes to delivery hours, and longer periods that trucks remain in the loading area. The FEIS states that a more detailed evaluation of parking and loading access should occur at the project level "with the goal of analyzing 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." FEIS at 3.7-27, 3.7-40.

34. The FEIS also addresses Swedish Cherry Hill's request for fewer loading berths than the number required by Code in order to consolidate facilities. It states that in light of the range between the estimated future needs and the code requirement, "additional analysis at the project level will be required to more accurately assess operational needs and establish appropriate loading berth quantities and sizes." FEIS at 3.7-27. Because truck deliveries to the campus will increase, the FEIS recommends that deliveries be scheduled to minimize the impact on the adjacent street system and neighborhood. *Id.*

35. The FEIS finds that impacts on pedestrian and bicycle transportation are similar for all build alternatives. Under the proposal, the number of pedestrians on and around the campus is expected to increase. The MIMP proposes construction of a "health walk" around the campus, and a pedestrian connection is proposed through the campus at 17th Avenue. Further, where it bisects the campus, 18th Avenue has been identified in the Bicycle Master Plan as a potential neighborhood greenway. If constructed, the greenway would provide enhancements for pedestrians and bicyclists but could increase conflicts between bicycles and vehicular access to loading and delivery areas and to the proposed parking garage on 18th Avenue. The parking garage would reduce the number of curb cuts on 18th Avenue but would double the traffic coming into the area. The FEIS notes that the greenway is still in the planning stage, would not be studied until 2016, and lower volume streets, such as 19th Avenue, may be considered for it. FEIS at 3.7-28 to -29.

36. The FEIS analysis of impacts on transit service investigates available transit service within 1/2 mile of the campus, a 10-12 minute walk, and finds that the impacts are similar for all build alternatives. To determine the existing environment, the FEIS used 2013 data from King County Metro on average "boardings and alightings," as well as passengers continuing past the stop. Exhibit 4, FEIS Appendix C ("Appendix C") at C-14. It takes into account the fact that transit service cuts were expected in 2014, including the combining of Routes 3 and 4, which had each provided the highest service levels to the campus. Appendix C at C-37. That reduction has occurred. Routes 3/4, 64, 84, 193, and 303 serve the campus directly, with a stop in each direction along East Jefferson Street at 17th Avenue, although only the 3/4 operates all day.

37. The FEIS shows that there is transit capacity available to accommodate the projected increase in ridership at the Swedish Cherry Hill campus during the weekday AM and PM peak periods. Appendix C at C-63 to C-64, C-92. The FEIS states that as part of the Transportation Management Program ("TMP"), existing campus transit stops along East Jefferson Street should be enhanced to provide space to accommodate two buses in the loading zone, real-time information signage, and other measures. It assumes that Swedish's existing inter-campus shuttle service will continue and, as proposed in the TMP, will expand to include stops at the King Street Station, Westlake Mall and the Coleman Ferry Dock. The FEIS suggests that the shuttle service be expanded further in light of cuts to Metro transit service. FEIS 3.7-41 to -42.

38. The FEIS analyzes increases in traffic volumes and impacts to traffic operations resulting from each alternative. Weekday daily AM peak hour and PM peak hour trip generation associated with the build alternatives was estimated based on Swedish Cherry Hill's trip generation characteristics and expected increase in population. The process for projecting future trip generation is a population-based model and is illustrated on page C-14 of Appendix C. With Alternative 12, development in 2023 would add 198 new AM peak hour trips and 264 new PM peak hour trips. At buildout in 2040, new AM peak hour trips would reach 387 and new PM peak hour trips would reach 536. Appendix C at C-93. The FEIS explains at pages C-94 to C-98 how projected new trips were distributed. The trip generation analysis assumes a 50-50 mode split based on the base goal in the TMP.

39. The FEIS also analyzes the impacts of all build alternatives on traffic operations. The impacts of Alternative 12 are analyzed at pages 3.7-42 to -43 of the FEIS. Compared to the no build alternative, Alternative 12 would result in two additional intersections operating at LOS F and one fewer intersection operating at LOS E during the weekday AM peak hour, and four additional intersections operating at LOS F during the weekday PM peak hour. The FEIS provides details for these intersections (13th Avenue/E. Cherry Street, 15th Avenue/E. Cherry Street, 16th Avenue/E. Cherry Street, 14th Avenue/E. Jefferson Street, and 23rd Avenue/E. Yesler Way) at 3.4-43 to -44. Six other intersections are projected to operate at either LOS E or LOS F during either the AM or PM peak hour in both the no build Alternative and Alternative 12. Appendix C at C-100 to -101.

40. Because of the importance of the East Cherry Street and East Jefferson Street corridors, the FEIS also examines corridor operations. Due to capacity constraints, travel along James and East Cherry Street⁷ is already congested, and would remain that way in the no build alternative. FEIS at 3.7-23 to -24. Under Alternative 12, corridor operations would degrade slightly in 2023 along both James Street in the westbound direction during the AM peak hour and East Cherry Street in the westbound direction during the PM peak hour. Operations would degrade somewhat further at full buildout in 2040, and on James Street from 6th Avenue to Broadway, in the westbound direction, during the PM peak hour, travel times would increase by approximately three minutes. FEIS at 3.7-44 to -45.

41. The FEIS states that the study area has not experienced an unusually high level of accidents except at the James Street/6th Avenue intersection. Traffic volumes would increase under all build alternatives, particularly along East Jefferson and East Cherry Streets. This would make it more challenging for side-street traffic at unsignalized intersections to enter the traffic stream, and would increase the potential for conflicts between pedestrians and vehicles. Proposed pedestrian and bicycle enhancements and additional signalized intersections are suggested measures to mitigate these impacts. FEIS at 3.7-36 to -37.

42. Parking demand would increase under all build alternatives, with the preferred alternative producing an effective parking demand of 1,700 spaces in 2023 and 2,245 spaces in 2040. Swedish Cherry Hill proposes constructing new parking with each new development on the

⁷ East Cherry Street becomes East James Way west of 11th Avenue and then at Broadway, becomes James Street.

campus. The FEIS includes the results of a survey of on-street parking supply and utilization. Appendix C at C-28. The survey documented that some vehicles associated with Swedish Cherry Hill use on-street parking in the surrounding neighborhood. This would be expected to continue with or without MIMP approval unless action is taken to discourage it. Measures in the TMP would address this impact. FEIS at 3.7-45 to -47.

43. Mitigation measures for transportation impacts are addressed in the FEIS at 3.7-47 to -57. A primary mitigation measure is the TMP, which is addressed at length in the FEIS. The Director has recommended conditioning the first building permit approval under the new MIMP on achievement of the 50 percent SOV rate included in the existing TMP. The Director has also recommended that the SOV goal be reduced by one percentage point every two years to a maximum of 38 percent after 25 years. This would be a MIMP condition.

44. Numerous capacity and safety improvements are recommended as mitigation for transportation impacts at the project level, including a recommendation for traffic signals at three locations. FEIS at 3.7-53 to -55. The FEIS also recommends other mitigation measures that "will need to be defined at the project level when additional definition [of] the specific uses, building features, and City of Seattle planned improvements are known." These include mitigation related to general vehicular access, loading, the 18th Avenue greenway, and transit enhancements. FEIS at 3.7-55 to -57. Six of these improvements, including curb bulb-outs at five intersections and a traffic signal at the intersection of 16th Avenue and East Cherry Street, as well as contributions to planned bicycle facilities in two locations, are included in the Director's Recommendation as conditions to the MIMP. Exhibit 26 at 108.

45. The FEIS includes a mitigation sensitivity analysis to "understand intersection and corridor operations with a 38 percent SOV rate and implementation of the" capacity and safety improvements described in section 8.2 of Appendix C and noted in the preceding Finding. A 38 percent SOV rate would eliminate 80 trips during the weekday AM peak hour and 170 trips during the weekday PM peak hour. However, the corresponding reduction in traffic volumes would result in minimal improvements to the study intersection operations because "drivers come to and from the campus from several different directions with no corridor having a concentrated impact except those adjacent to the campus." FEIS at 3.7-57. Nonetheless, the FEIS concludes that the reduction in the SOV rate would improve travel times along James Street in the westbound direction, with most improvement seen during the weekday PM peak hour, which had been shown to be the most congested corridor operation. Reducing the SOV rate would also reduce parking demand by 200 to 270 vehicles. FEIS at 3.7-57.

46. The FEIS identifies increased traffic and congestion resulting from the MIMP as a significant unavoidable adverse impact.

Environmental Health/Noise

47. Noise impacts are reviewed in FEIS Section 3.2 and Appendix B. The noise assessment characterizes the site as "typical of a semi-urban residential setting. 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." Appendix B at 12.

48. Existing ambient noise levels were measured over a five-day period in eight different locations. Appendix B at 12-20. The assessment found that "sound levels in the vicinity ... are relatively high, often not dropping below code limits during daytime hours and occasionally remaining above nighttime noise limits as well ... These measurements ... indicate that most adjacent properties are affected by relatively high levels of noise from these typical urban sources." The assessment noted that, given urban growth patterns in Seattle, ambient noise levels would be expected to remain constant or increase slightly in the future. Appendix B. at 22.

49. In evaluating the noise impacts of the three build alternatives, the FEIS states that noise levels from increased development on campus would increase due to increased traffic volumes and noise from new parking locations, building mechanical systems, loading docks, solid waste and recycling collection or compaction equipment, emergency vehicles, and maintenance activities. It notes, however, that all construction and operational activities except emergency vehicles must meet Noise Ordinance requirements. FEIS at 3.2-7 to -8.

50. The FEIS lists potential mitigation measures for each operational noise source and notes those that must comply with Noise Ordinance limits. Concerning loading docks, in particular, the FEIS states that they are to be designed and sited "with consideration of nearby sensitive receivers and to ensure that noise from truck traffic to and from the docks and unloading activities would comply with the City noise limits," and that "restrictions should be implemented to limit noisy deliveries to daytime hours". FEIS at 3.2-8 to -9.

51. The FEIS found no significant unavoidable adverse noise impacts from operations under any of the build alternatives. FEIS at 3.2-9.

Groundwater and Stormwater/Drainage

52. The FEIS addresses the MIMP's impacts on groundwater in Subsection 3.9.1.2. It states that a geotechnical engineering design report was prepared in 1988, prior to construction of the East Tower, to assess subsurface site conditions. That report determined that soil conditions on the site are variable and include glacial till overlaying silty sand. Groundwater was found approximately 35 feet to 50 feet below the surface. The FEIS states that there are likely areas of perched groundwater on the site where site conditions prevent drainage. FEIS at 3.9-2 to -3. It notes that construction can alter subsurface soil conditions and create new pathways for groundwater. FEIS. at 3.9-7. The FEIS states as potential mitigation that for each future site-specific building, "a geotechnical report would be prepared ... [that] would identify subsurface soil and groundwater conditions and would include measures for mitigating any identified impacts." FEIS. at 3.9-13.

53. Impacts on stormwater are considered in Subsection 3.8.2.4. The FEIS states that "the storm drainage capacity on 23rd Avenue is known to be deficient," and notes that the existing system in

the area “is planned for improvement in the near future,” but that “[a]s development occurs ... stormwater infrastructure would be evaluated and improvements identified if needed.” FEIS at 3.8-12 to -13. The FEIS lists several mitigation measures to reduce or minimize potential impacts to stormwater, including low impact development, flow control measures, and water quality measures including those addressed in the City’s stormwater design guidelines. Use of other best management practices would depend upon site constraints and the amount of stormwater being treated. FEIS at 3.8-13 to -14.

Applicable Law

54. The adequacy of an EIS is reviewed under the “rule of reason,” which requires that decision makers be presented with “a ‘reasonably thorough discussion of the significant aspects of the probable environmental consequences’” of a decision. *Cascade Bicycle Club v. Puget Sound Regional Council*, 175 Wn. App. 494, 508-509, 306 P.3d 1031 (2013) quoting *Cheney v. Mountlake Terrace*, 87 Wn.2d 338, 522 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 (SWAP) v. Okanogan County*, 66 Wn.App. 439, 442, 832 P.2d 503 (1992).

55. 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. “[R]easonable is intended to limit the number and range of alternatives as well as the amount of detailed analysis for each alternative.” SMC 25.05.440.D.2.a. “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.” SMC 25.05.440.D.4.

56. An EIS is to “analyze significant impacts of alternatives including the proposed action, and discuss reasonable mitigation measures that would significantly mitigate these impacts.” SMC 25.05.440.E.1. “Only significant impacts must be discussed; other impacts may be discussed.” SMC 25.05.440.E.1.a ... The EIS need not analyze mitigation measures in detail”. SMC 25.05.440.E.3.c and 3.d.

57. The Swedish MIMP is referred to as a nonproject proposal. SMC 25.05.774 defines “nonproject” as “actions which are different or broader than a single site specific project, such as plans, policies, and programs.” “The lead agency 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.

58. The 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.2.a. “Subject to the overview policy . . . the decision-maker may condition or deny a project to mitigate the adverse impacts of substantially incompatible height, bulk and scale. Mitigation measures may include . . . 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; . . . iii. 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 25.05.657.G.

59. The 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....” Subject to the overview policy, the decision maker may condition or deny a project to mitigate land use impacts or achieve consistency with applicable land-use regulations or the goals and policies of Section B of the Comprehensive Plan. SMC 25.05.675.J.

60. The SEPA policy on view impacts states, in part, that “[i]t is the City’s policy to protect public views of historic landmarks . . . which, because of their prominence of location or contrast of siting, age, or scale, are easily identifiable visual features of their neighborhood . . . and contribute to the distinctive quality or identity of their neighborhood” SMC 25.05.675.P.2.b.

61. As noted above, the SEPA policy on shadow impacts states that “[i]t is the City’s policy to minimize or prevent light blockage and the creation of shadows on open spaces most used by the public...Areas outside of downtown to be protected are as follows: i. Publicly owned parks; ii. Public schoolyards; iii. Private schools which allow public use of schoolyards during non-school hours; and iv. Publicly owned street ends in shoreline areas.” SMC 25.05.675.Q

62. The 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.” Mitigation measures that may be applied to projects outside of downtown 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 provides that the City's Noise 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 (SMC Chapters 22.800 through 22.808) and Environmentally Critical Area regulations (SMC Chapter 25.09) effectively achieve mitigation of drainage impacts in most cases, but a project may be required to provide drainage control measures designed to a higher standard than the design storm specified in those regulations. Mitigation measures may include: "i. Reducing the size or scope of the ... project ... iii. Requiring landscaping, the retention of existing vegetation or revegetation of the site; [or] iv. requiring additional drainage-control measures or drainage facilities. SMC 25.05.675.C.

Conclusions

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

Alternatives

2. Several Appellants contend that the FEIS is inadequate because it fails to analyze an alternative that sites some of the proposed development in the MIMP at alternative locations, such as within the Swedish Medical Center First Hill MIO, or on property owned by Sabey within the Swedish Cherry Hill campus boundaries. However, SEPA requires that the FEIS examine only alternatives that could feasibly attain or approximate the MIMP's objectives. In this case, the objective is stated as, "to provide flexibility as the medical center plans for the future while accommodating best medical practices and the needs of the neighborhood." Swedish Chery Hill presented extensive testimony from the vice president of its Neuroscience Institute, as well as from physicians, that Swedish Cherry Hill is a Swedish/Providence center for tertiary and quaternary work in neurology, neurosurgery and heart and vascular medicine. It treats primarily acute and complex cases that require the on-site support of an extensive system of corresponding services, such as services from medical specialists in several related fields, and imaging, diagnostic laboratories, pathology, and rehabilitative services. There was no substantive evidence to the contrary. Nor was there evidence that the related facilities located on Sabey-owned property within the campus are not necessary parts of the medical center's objective. The evidence in this record supports the FEIS analysis of alternatives.

3. Appellant Squire Park argues that the Applicant and Department cannot claim that the MIMP is a non-project action under SEPA, requiring a less detailed evaluation in an EIS, but also take advantage of SEPA's allowance that an EIS for a private project on a specific site must evaluate

only “reasonable alternatives for achieving the proposal’s objective on the same site.” SMC 25.05.440.D.4. But a MIMP is a hybrid. It is a non-project action under SEPA, in that it is a plan that is broader than a single site specific project and, in fact, proposes many future site-specific projects. It is also a private proposal for numerous projects on a very large but specific location. Thus, under SMC 25.05.440.D, the FEIS was required to evaluate only reasonable alternatives for achieving the MIMP’s objectives on the Swedish Cherry Hill campus.

Consistency with Adopted Plans and Policies

4. Washington CAN and Squire Park challenge the FEIS’ analysis of the MIMP’s relationship to the “Urban Village Strategy” and Land Use Element in the Plan. They note that through those sections of the Plan, the City has directed growth to existing urban centers and villages, and argue that the growth proposed in the MIMP, which is outside of an urban village, is inconsistent with the Urban Village Strategy. The FEIS includes an extensive review of the Urban Village and Land Use goals and policies and, as the Appellants note, acknowledges the fact that the MIMP is inconsistent with some of them. Yet it also points out the policies in these sections of the Plan that expressly address the growth of major institutions outside urban centers and villages. For example, UV35 states that the area of the city outside urban centers and villages is to remain primarily residential and commercial “with allowable densities similar to existing conditions, *or as industrial areas, or major institutions.*” Emphasis added. And UV39 reads, “[a]ccommodate growth consistent with adopted master plans for designated major institutions located throughout the city.” The introduction to the major institution goals and policies, quoted in the FEIS, recognizes the inherent conflict between the Urban Village Strategy and accommodating the growth of major institutions:

Hospitals and higher educational facilities play an important role and Seattle. Institutions containing these facilities provide needed health and educational services to the citizens of Seattle and the region. They also contribute to employment opportunities and to the overall diversification of the city’s economy. However, when located in or adjacent to residential and pedestrian-oriented commercial areas, the activities and facilities of major institutions can have negative impacts such as traffic generation, loss of housing, displacement and incompatible physical development. *These policies provide a foundation for the City’s approach to balancing the growth of these institutions with the need to maintain the livability of the surrounding neighborhoods.*

FEIS at 3.3-40 to -41 (emphasis added). The major institution policies are implemented through the MIMP process spelled out in Chapter 23.69 SMC.

5. SMC 25.05.440.E.3.e requires that an EIS “[s]ummarize significant adverse impacts that cannot or will not be mitigated.” Washington CAN argues that because the MIMP is inconsistent with several of the Plan’s Urban Village and Land Use goals and policies, the FEIS is inadequate in concluding that the MIMP would not cause significant unavoidable adverse land use impacts. Washington CAN cites no authority for such a requirement, and the Examiner has found none. The FEIS analysis clearly shows where the MIMP is inconsistent with the Urban

Village Strategy – for both Urban Village and Land Use goals and policies – and where it is not. It presents a reasonably thorough discussion of the significant aspects of probable impacts on land use. Mitigation measures for the MIMP's density-related impacts are addressed under their specific topic headings in the FEIS.

6. Squire Park argues that the FEIS should have discussed the Plan's transportation policies that apply to areas within an urban village. SMC 25.05.440.E.3 states that the EIS shall "incorporate, when appropriate: e. A summary of existing plans (for example: land use, and shoreline plans) and zoning regulations applicable to the proposal, and how the proposal is consistent and inconsistent with them." However, because the MIMP is not located within an urban village or center, the policies cited by Squire Park need not be analyzed in the FEIS. This does not prevent the City Council from considering the transportation needs that may result from the growth anticipated for Squire Park both with and without the MIMP.

7. No argument was presented on the issue of the MIMP's impact on the Human Development goals and policies of the Plan, and it will be dismissed.

Aesthetics/Height, Bulk and Scale

8. All of the Appellants challenged the adequacy of the FEIS analysis of height, bulk and scale impacts, but Washington CAN presented the case on this issue. It argues that the FEIS is inadequate because it included no context for the MIMP's proposed setbacks at the campus exterior. However, the map at 3.4-3, and the photomontages at 3.4-11 through -45 give a reasonably clear picture of existing setbacks and landscaping along the streets at the campus exterior.

9. Washington CAN argues that its expert witness, Dr. Sutton, disagreed with the FEIS's conclusions that the proposed setbacks would provide adequate transitions to adjacent development. The Examiner did not see such conclusion in the FEIS. The FEIS includes a detailed review of the proposed setbacks at 3.4-46 to -49, but concludes at 3.4-50 that under all build alternatives, there would be greater height, bulk and scale impacts which would contribute to the overall increase in height and density in the Squire Park neighborhood, and that the bulk and scale of all build alternatives adjacent to the single-family residential block between 18th and 19th Avenues, would be a significant unavoidable adverse impact.

10. Washington CAN states that topography was not adequately addressed in the FEIS, but the Department's scoping decision removed topography as a topic for analysis. Washington CAN states that the FEIS failed to address "the need for walking pedestrians to get out of the way of runners because there would not be enough room by the sidewalk."⁸ However, testimony from the project architect credibly disputed the existence of this suggested impact. Washington CAN states that the FEIS is "grossly inadequate in assessing whether the setbacks allow for Swedish Cherry Hill to provide for landscaping, open space, and pedestrian amenities along sidewalk areas." But it is the MIMP, rather than the FEIS, that states what landscaping, what open space,

⁸ Washington CAN's Reply to Respondent 'Joint Response Brief at 4.

and what pedestrian amenities will be provided. Washington CAN also expresses concern over whether the CAC was confused about the minimum sidewalk width in the MIMP, but that is not a topic to be discussed in an EIS.⁹

11. Washington Can argues that the FEIS failed to identify or discuss the potential mitigation measures listed in the City's SEPA policy on height, bulk and scale, but those measures are quoted at the outset of the FEIS height, bulk and scale discussion. FEIS at 3.4-1. Further, the FEIS lists five potential mitigation measures for the MIMP's height, bulk and scale impacts, including additional setbacks and reductions in height. FEIS at 3.4-50. SEPA does not require more. SMC 25.05.440.E.3.

12. The FEIS presents a reasonably thorough discussion of the significant aspects of the MIMP's probable height, bulk and scale impacts, including potential mitigation measures.

Aesthetics/Views and Shadows

13. Several Appellants challenge the adequacy of the FEIS' analysis of impacts on public views. The only evidence of view impacts presented at hearing concerned views of the James Tower from private property and from some sidewalk locations. The FEIS discussed the proposal's impacts on both public and private views of the James Tower at page 3.4-52 and concluded that there would be no unavoidable significant adverse impacts on views. The Appellants have not shown that the FEIS is inadequate as to view impacts.

14. Appellants Squire Park and Concerned Neighbors allege that the FEIS failed to adequately analyze the proposal's shadow impacts. However, the FEIS includes a full shadow analysis of all alternatives as noted in Finding 30. It depicts shadow impacts on both public and private properties, and the FEIS concludes that while shadows would increase under all build alternatives, they would not be expected to result in long-term significant adverse impacts. The Appellants have not demonstrated that the shadow analysis was inadequate.

Aesthetics/Skybridge

15. Washington CAN contends that the FEIS does not disclose or analyze the adverse impacts of the skybridge. As noted above, the FEIS discusses the skybridge at 3.3-68 to -69. It observes that skybridges are permitted through a term permit process and quotes the Code provisions

⁹ The issues listed in this paragraph are addressed briefly. The Examiner notes that they were all raised for the first time in Washington CAN's Reply Brief, allowing the Respondents no opportunity to address them. "An issue raised and argued for the first time in a reply brief is too late to warrant consideration." *Cowiche Canyon Conservancy v. Bosley*, 118 Wn. 2d 801, 809, 828 P.2d 549 (1992) (citation omitted). In its Post-Hearing SEPA Brief, Washington CAN stated that it was incorporating into the brief all of Dr. Sutton's testimony. That is not equivalent to raising and arguing specific issues that might have been addressed in the testimony. *Hamilton v. State Farm Ins. 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). The Appellants have the burden of proving that the FEIS is not adequate and may not, through this tactic, shift the burden of proof to the Respondents.

governing the process, including the elements to be considered by the SDOT Director, the Seattle Design Commission, and the City Council.¹⁰ The FEIS states that the existing skybridge connects the parking garage with the patient floor of the hospital and that in the proposed MIMP, a medical clinic building would replace the parking garage, a new hospital building would replace the existing hospital, and the existing skybridge is proposed to be replaced by a two-level skybridge in the same location. It states, "Swedish is not seeking approval for the proposed skybridge ... at this time. A skybridge ... would be needed to connect patient and materials circulation between the new facilities. If deemed needed at the time of new development, Swedish would submit" an application for the term permit in accordance with Code requirements and Director's Rule 2-06. Testimony from the project architect indicated that the skybridge is very likely to be needed at some point in the future, and the FEIS explains the medical reasons for the skybridge at 3.3-69.

16. The FEIS shows the height, bulk and scale impacts of the proposed skybridge in the photomontages at 3.4-17 to -18, 3.4-20 to -21, and 3.4-41 to -42. It's shadow impacts are shown at 3.4-57 to -110, and the FEIS notes at 3.4-61 and -85 that the skybridge casts a narrow shadow onto 16th Avenue. The FEIS concludes that the skybridge "is not expected to significantly impact land use patterns in the immediate vicinity" of its proposed location. The impacts of the skybridge are analyzed to the extent they can be at this time.

17. Washington CAN argues that the failure to analyze all possible impacts of the skybridge at this point, before the skybridge, or the buildings it would connect have been designed, constitutes improper piecemealing under SEPA. However, phased review is expressly allowed by SEPA, which states that lead agencies are to "determine the appropriate scope and level of detail of environmental review to coincide with meaningful points in their planning and decision-making processes," and that phased review is appropriate when "[t]he sequences is from a nonproject document to a document of narrower scope such as a site-specific analysis". SMC 25.05.060.E.1 and E.3. That is the case here for the skybridge, as it is for the buildings that would likely be constructed on the campus at some point during the next 25 years. There is no piecemealing. The FEIS discussion of skybridge impacts is sufficiently thorough at this point in time.

Transportation

18. Most Appellants challenged the adequacy of the FEIS's analysis of transportation impacts, and transportation issues were briefed by Washington CAN,¹¹ Squire Park, and 19th Avenue

¹⁰ These include view blockage, introduction or interference with existing streetscape or other street amenities, impacts due to reduction of natural light, reduction of an effect on pedestrian activity at street level, effect on commerce and enjoyment of neighboring land uses, availability of reasonable alternatives, effect on traffic and pedestrian safety, the public benefit mitigation elements provided by the proposal, and other factors. SMC 15.64.050.C.

¹¹ Washington CAN again stated in its Post-Hearing SEPA Brief that it was incorporating, without argument or authority, the entirety of its traffic expert's testimony, and then raised for the first time in its reply brief specific issues from that testimony. The Examiner need not consider those issues. See authorities cited in note 8. However, they are addressed to the extent that they were briefed by other Appellants.

Block Watch. The Appellants argue that the FEIS analysis of transit capacity is inadequate, citing Washington CAN's traffic expert, Mr. Tilghman, who testified that the FEIS overestimated transit capacity. Mr. Tilghman stated that during the PM peak hour, the load factor for Route 3/4 is 1.44, i.e., 1.44 passengers for every seat, which he characterized as overcapacity. However Mr. Swenson, the transportation engineer who authored the transportation section of the FEIS and Appendix C, stated that he used a load factor of 1.44 in the FEIS, and that Metro does not consider that load factor to signal overcapacity. Mr. Swenson and Mr. Tilghman agreed that when a route reaches a load factor of 1.5, Metro investigates how to add capacity to it. Mr. Tilghman did not see how capacity could be increased, but Mr. Swenson testified to some opportunities for increasing capacity, such as increasing frequency of service, assigning larger buses to the route, and improving the campus stop to accommodate more and longer buses. More importantly, transit capacity is likely to change significantly over the 20-30 year life of the MIMP, and impacts on transit will be reevaluated with each project application. At this non-project level, the FEIS presents a reasonably thorough discussion of the MIMP's impacts on transit.

19. The Appellants claim that the FEIS contains an inadequate analysis of pedestrian and bicycle safety, but the document includes a reasonably thorough discussion of these impacts. Mr. Tilghman and Mr. Swenson agreed that pedestrian safety needs to be improved, and the FEIS proposes mitigation to do so, including signalization and bulb-outs. The Director has recommended that some of these measures, including the traffic signal at 16th Avenue and East Cherry Street that Mr. Tilghman recommended, be required prior to issuance of a certificate of occupancy for the first campus building.

20. The Appellants also claim that the FEIS does not adequately analyze MIMP impacts on the proposed 18th Avenue greenway. Although the greenway is not scheduled for study until 2016, the FEIS addresses it and attendant potential conflicts between traffic and bicycles and traffic and pedestrians. But as Mr. Swenson testified, potential impacts on the greenway, if it is approved and funded, can be identified with much more specificity as each project within the MIMP is evaluated. The FEIS presents an adequate discussion of impacts on the greenway to the extent they can be determined at this time.

21. Appellant Squire Park presented a witness who listed "pipeline" projects in addition to those included in the FEIS transportation analysis and asserts that the analysis is therefore inadequate. However, the analysis included projects that Department records showed were in the pipeline at the time the transportation study was completed. In any event, as Mr. Swenson testified, even if additional pipeline projects had been included in the study, they would have increased only the background traffic/existing conditions, which would not have affected the difference between the no build and the build alternatives. Further, Swedish Cherry Hill will be required to produce an updated traffic study with an updated list of pipeline projects with each master use permit application under the MIMP.

22. The Appellants contend that the FEIS fails to fully disclose and analyze the traffic congestion/delay impacts of the MIMP, but FEIS Section 3.7 and Appendix C give a very clear picture of the likely increase in traffic volumes attributable to the MIMP and the increased delays

at nearby intersections and corridors that are already congested. And as noted above, although the FEIS recommends a significant list of potential mitigation measures, it acknowledges that increased traffic and congestion are unavoidable significant adverse impacts of the MIMP.

23. Appellant 19th Avenue Block Watch claims that the FEIS failed to study transportation impacts at 19th Avenue, but those impacts are included in several Figures within Appendix C. Nor does the transportation analysis ignore traffic coming from the east, as alleged by Block Watch. Block Watch also states that traffic redirection, or "cut through traffic," was not considered. Mr. Swenson testified that this was because the model showed that traffic was not expected to divert to neighborhood streets. Nonetheless, the Director has recommended including in the MIMP a condition recommended by the CAC that addresses potential cut through traffic. Finally, Block Watch states that the MIMP's proposed Healthwalk is unsafe but does not cite any evidence in support of this claim.

24. The FEIS presents a reasonably thorough discussion of the significant aspects of the MIMP's probable transportation impacts and potential measures to mitigate them.

Environmental Health/Noise

25. Several Appellants challenged the adequacy of the FEIS's analysis of noise impacts, and this issue was briefed by 19th Avenue Block Watch. Block Watch presented testimony that noted differences between the potential mitigation for loading dock traffic and the potential mitigation for noise. A disparity in the discussions of potential mitigation for various impacts of a nonproject action does not render an FEIS inadequate.

26. The evidence presented did not show that the FEIS discussion of the MIMP's noise impacts was inadequate. And an extensive list of potential mitigation measures was included, such as designing and siting the docks with consideration for nearby sensitive receivers and to ensure that noise from truck traffic to and from the docks would comply with the Noise Ordinance, and restricting deliveries at docks close to residences to daytime hours. The FEIS presents a reasonably thorough discussion of the significant aspects of the MIMP's probable noise impacts and potential mitigation measures.

27. It appears from the briefing that Block Watch's concerns with noise impacts attributable to loading revolve around the lack of a "comprehensive acknowledgment that a Campus wide loading berth plan needs to be developed that addresses noise, traffic, parking, and air pollution from the steady stream of delivery trucks at all hours of the day." 19th Avenue Block Watch Response to Joint Closing Briefs at 4. Having reviewed the FEIS, the Director has included in the conditions for the MIMP a requirement for a campus-wide dock management plan. Exhibit 26 at 109-110.

Groundwater and Stormwater (Drainage)

28. 19th Avenue Block Watch challenges the adequacy of the FEIS analysis of drainage and presented testimony at hearing from a hydrogeologist describing soil conditions and preferred

mitigation measures based on the low permeability of the soil. That testimony is consistent with the FEIS discussion of soil conditions and groundwater.

29. The FEIS recommends additional site-specific review for each project application, including providing more detailed geotechnical groundwater and stormwater information, and Block Watch's hydrogeologist agreed that these drainage issues are best addressed at the project level.

30. The Director recommended a condition requiring the applicant to submit a geotechnical report identifying subsurface soil and groundwater conditions, including mitigation measures, for each site-specific building as part of the MUP application. 19th Avenue Block Watch and the Respondents disagree on what language should be included in the condition to address low impact development ("LID") techniques. The Respondents agree that at the project level, Swedish Cherry Hill should analyze the issue of whether low-impact development techniques are appropriate in light of site-specific conditions. Block Watch desires to include language that precludes selection of the most inexpensive solution identified for a specific site, as it may not be maintained, or may aggravate current drainage issues. These are valid concerns in light of the neighborhood's past experience. The Examiner's recommendation on the proposed MIMP includes a recommendation for the following revised condition:

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. Any proposal for LID facilities must include a plan for operation and maintenance of the facilities.

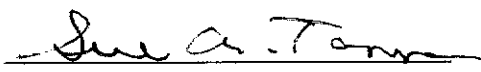
31. The FEIS presents a reasonably thorough discussion of the significant aspects of the MIMP's probable drainage impacts.

Decision

The appeal issues concerning the adequacy of the FEIS with respect to consistency with the Comprehensive Plan's Human Development policies, and FEIS analysis of light and glare, air quality, public facilities, historic resources, greenhouse gas, and geology/topography impacts, are **DISMISSED**.

The Director's determination that the FEIS issued for the proposal is adequate is **AFFIRMED**

Entered this 10th day of September, 2015.


Sue A. Tanner
Hearing Examiner