

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

In the Matter of the Appeal of

GENESIS HOUSE

FILE NO. MUP-85-022(CU,V)
APPLICATION NO. 8500398

from a decision of the Director of
the Department of Construction and
Land Use on a master use permit
application

Introduction

The appellant exercised the right to appeal pursuant to the Master Use Permit Ordinance, Chapter 23.76, Seattle Municipal Code.

This matter was heard before the Hearing Examiner on May 23, 24 and 31, 1985. The record in this case remained open until noon, June 5, 1985, in order to allow preparation and filing of memoranda by the parties.

Parties to the proceedings were: Genesis House, represented by Glenn J. Amster of Hillis, Cairncross, Clark and Martin, P.S.; the Department of Construction and Land Use (DCLU) represented by Gordon Crandall, Assistant City Attorney; and Friends of Madrona (FOM), a non-profit corporation, represented by Peter Eglick.

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

After due consideration of the public hearing and other evidence of record, and subsequent to a visual inspection by the Examiner on the evening of May 28, 1985, after notice to the parties in the hearing, and out of presence of any interested party, the following shall constitute the findings of fact, conclusions and decision of the Hearing Examiner on this appeal.

Findings of Fact

1. With regard to the State Environmental Policy Act of 1971 (SEPA) and Chapter 25.05, Seattle Municipal Code, the action proposed in this subject application has been determined by the responsible official to be categorically exempt pursuant to the provisions of WAC 197-11-800.

2. The applicant/appellant in this case, Genesis House, initially proposed to occupy this subject property with 30-35 adult drug abuse patients, 10-15 dependent children of those patients and two live-in staff members. In no event would the total number of residents exceed 55. Additional staff people would be on-site during daytime work hours. At the hearing, Genesis House stated its intention eventually to occupy the site with only 36 residents. No more than 30 of the residents would be adult drug abuse patients; up to 4 residents would be dependent children of the patients and there would be two live-in staff people. The application on file in this case seeks a variance with respect to the number of residents who may live at the site, Seattle Municipal Code Sections 23.40.20, 23.44.20, and a conditional use permit so as to allow operation of a special residence in a single family zone, Seattle Municipal Code Sections 23.44.18, 23.44.20. Finally, a waiver is requested with respect to the number of on-site parking spaces otherwise required at a special residence. Seattle Municipal Code 23.44.20(D)(1).

3. DCLU denied the variance because "(a) structure housing 55 residents is not reasonably compatible in scale with the other residences in the area". The Department stated that waiver of the

off-site parking would be appropriate because of limitations on car use to be placed on patients by the applicant. The conditional use permit was denied because of the perception that neighborhood crime will increase because of the type of person to be treated at the site if the permit were to be approved. The analysis of the Department on this point states:

"to the extent that the perception of this threat negatively affects the neighborhood improvement activity, the proposal would be materially detrimental to the public welfare and injurious to property in the vicinity"

4. The decisions of DCLU are dated April 22, 1985. Timely appeal was made by Genesis House and the hearing in this case followed.

5. Genesis House operates a drug treatment facility. It is a not-for-profit corporation organized and existing under the laws of the State of Washington. The corporation has no members; its Board of Directors elects itself. There were, as of the time of the hearing, 25 members of or positions on the corporation's Board of Directors.

6. Genesis House proposes to operate a drug treatment facility, often referred to as a "halfway house", on the eastern half of the city block located between 34th and 35th Avenues and Cherry and James Streets in the City of Seattle.

7. The existing property contains 36,000 sq. ft. and it is located in an area zoned SF 5000. There are 12 lots platted on the property.

8. A nursing home was operated on the property until May 2, 1983. It provided care and housing for up to 60 individuals. The buildings which were used for that purpose are still in place.

9. The property is located in the Madrona neighborhood of Seattle. This neighborhood consists primarily of single family homes. It extends, in general terms, from Lake Washington on the east to Martin Luther King, Junior, Way on the west; and from Yesler Way on the south to Howell Street/Lake Washington Boulevard on the north. To the south is the Leschi neighborhood and to the north is Madison Park.

10. From the testimony at the hearing the Madrona neighborhood presents stark contrasts. Many of the residents are extremely wealthy individuals who live in large homes which have been extensively remodeled in the past decade or so. Some of these homes have expansive views of dormant volcanos, glacial ice and lake water. These homes, in some instances, have fair market values in excess of \$300,000. These homes, generally speaking, are located east of 34th Avenue. Another segment of the community is not so affluent. While many of these individuals own their own homes, they have not been able to afford the extensive renovation evident in the eastern reaches of the neighborhood. The Examiner's inspection of the property and adjacent area supports the evidence that it is truly in a transition area: within a few blocks of the property, to the east, "gentrification" seems well established. That process has only tentatively begun where the subject property is located and further westward.

11. In the Madrona neighborhood there are two central commercial areas. One is located adjacent to the subject property at 34th and Cherry and another at 34th and Union. The commercial hub at 34th and Union is more extensively developed. Businesses in these

two areas consist primarily of small stores and services. During the 1960's businesses abandoned the area because of racial strife and unrest in the community. New business ventures have only begun to appear in the neighborhood within the past six years.

12. Madrona has one of the highest reported crime rates of any neighborhood in Seattle. Crime has not decreased with the increase of renovation and rehabilitation of homes in the area.

13. Friends of Madronna (FOM) is a not-for-profit corporation formed in response to the Genesis House application for master use permit. It has raised a significant amount of money to oppose the application and its members have been able to obtain letters from neighborhood residents opposing the application as well as signatures on petitions to the same effect. FOM is not a party in this case, rather it is an intervenor on the side of DCLU. The total number of members of Friends of Madrona is unknown.

14. The buildings on the subject property appear, from the outside, to be in remarkably good repair. Windows are boarded, but it is evident that the structures have been maintained since the nursing home closed in May, 1983. The buildings are linked to an auxiliary generator located in a service structure on the property. The buildings themselves contain appropriate wiring, fire safety devices and other mechanical/life safety systems appropriate for congregate care facilities. The owners of the property are Herbert Hanset and his wife. Mr. Hanset operated the nursing home for about 20 years and closed it because of increasing health, safety and financial regulation of the nursing home industry. The buildings were constructed before WW I. The two larger buildings on the property were used for residential purposes. These buildings are three stories in height and much larger than any of the surrounding single family homes. The service building is located on the northern end of the lot; it is placed close to the western boundary of the property. The buildings pre-date the current zoning map and its predecessor. While the nursing home operated, it was a legal non-conforming use. The owners, Mr. and Mrs. Hanset, have had the property listed with a commercial broker since 1983. No effort has been made to sell the property for residential development. Further, the past use of the property and existing congregate care structures have been emphasized in marketing efforts.

15. At the southerly end of the lot there is a cement retaining wall adjacent to James Street. A small retaining wall appears on the subject property itself approximately 100 ft. from James Street. The property is entered by a one lane drive which forms a 90 degree arc from the Cherry Street side on the north to the 34th Avenue side on the east. There is no alley in the block. A dense hedge, at least 10 ft. tall, surrounds the property on all but the west side. Because of the hedge, it is difficult to find the property without knowing its exact location in the neighborhood. The hedge also serves to shield the large structures from view. The grounds show some maintenance, although the vegetation is winning, in some theatres, the perpetual war by perceived order against photosynthetic overpopulation. There does not appear anything about the property which would prevent its development into single family homes with the exception of the structures existing on it.

16. Across 34th Avenue from the property, at its intersection with Cherry Street, are two small apartment buildings which are legal, nonconforming uses.

17. On 34th Avenue, between James and Cherry there is room for only one lane of traffic. The rest of the street is taken up with on-street parking. Parking is a problem in the neighborhood. Most parking spaces are occupied around the clock.

18. Genesis House sponsors treatment of persons with drug dependency problems in a residential setting. It now operates a halfway house in the University District of the City of Seattle. The present facility will have to be abandoned as of July 1, 1985, because it does not meet boarding house requirements. This facility provides treatment for up to 23 adult patients.

19. As part of its treatment regimen, Genesis House will allow certain patients to bring dependent children into the residence as it does now at its University District facility. This preserves the family unit during treatment; it is especially meaningful to female patients as it provides an incentive to the patients who obtain full treatment, it keeps the children out of foster care situations and it provides a family environment in which treatment is better provided. In its revision of the applications at issue, see Finding 2, supra, Genesis House reduced the number of adult patients it said it would treat by about 17 percent; the number of children to be on the premises was reduced by about 75 percent.

20. Jeff Bott is the Executive Director of Genesis House. He was formerly the Director of Family House, a residential drug treatment facility on Queen Anne. Mr. Bott was in that position from 1978 through May, 1983, when he left Family House with several of its board members over a policy dispute with the operators of Family House. Until December, 1983, Mr. Bott and these dissident former directors of Family House sought to establish a drug treatment program utilizing family treatment. They were unable successfully to establish such a program without a place to do business. They found, in essence, that they were the horse but were without a cart. During this time, Mr. Bott and his colleagues were operating under the name of the Family Alternative. As part of their effort to establish a program, Family Alternative representatives searched for suitable properties.

21. In approximately December, 1983, the eight or nine Family Alternative members effectively merged into or became the Board of Directors of Genesis House. Mr. Bott was then hired as Executive Director of Genesis House. The former director of Genesis House had recently resigned and the program was in need of a transfusion of talent, money and management. The current Board of Genesis House is dedicated, competent and business-like. There is no reason to expect these attributes to change. The Genesis House program is competently managed; it is highly structured and is reviewed frequently by the Department of Social and Health Services. When it authorized purchase of the property, the Board was aware of the nature of the zone in which it was located and the permits required in order to allow operation of its proposed special residence.

22. Before December, 1983, Genesis House permitted certain of its patients to obtain methadone drug therapy at clinics located off its premises. However, after the Family Alternative people came to Genesis House they changed the treatment therapy employed at Genesis House: it became Genesis House policy not to use or allow use of drugs in treatment of substance abusers. There is no credible evidence which permits the inference that drug use occurs at or near the present Genesis House site, nor is there any evidence that users, sellers or possessors of drugs visit, approach or remain near the present Genesis House facility in the University District.

23. Genesis House staff employs a mode of treatment loosely described as "confrontation therapy". This sort of treatment was used by Family House at its Queen Anne facility and continues in use at that same facility under management of Seadrumar. Confrontation therapy consists of staff people and perhaps other patients confronting a single patient with his or her failures in therapy. It may involve yelling and use of profanity. Use of confrontation therapy was described as "state of the art" in drug abuse treatment.

24. Genesis House obtains its patients from the criminal justice system and from self-referral. The criminal justice involvement may come by way of pre-trial diversion or probation. Since the Washington Determinant Sentencing Act came into effect in 1984, the proportion of criminal justice system referrals has declined. By the end of calendar year 1985, Genesis House will obtain only half of its patients from the criminal justice system. The current primary source of funding for Genesis House is a contract with the Department of Social and Health Services. That funding will cease if Genesis House is not operating a licensed congregate care facility by July 1, 1985.

25. Treatment at Genesis House may require from 10 to 24 months. At least 70 percent of the people who enter the program for treatment are not able successfully to complete the program. Individuals who leave the Genesis House program before successful completion of treatment are known as "splits". They leave the program with or without notice to the Director of their desire to do so. When splits leave the program they do not have any money nor do they have access to their own cars because the program does not allow them to have cars during their treatment in the program. The people who split a drug treatment program leave the area in which it is located and return to family or their former homes and do not remain in the area in which they were treated.

26. In the event a person leaves Genesis House who was referred to it through the criminal justice system, the applicant will notify the "split's" probation officer, the sentencing judge and, if necessary, the prosecutor. In addition, the police will also be notified.

27. A former judge of the King County Superior Court, Hon. William C. Goodloe, testified that he referred criminal defendants in his court to Genesis House. Until his election to the Supreme Court of the State of Washington, Justice Goodloe would frequently inspect Genesis House and other drug treatment facilities in King County. In his opinion, Genesis House and its predecessor, Family House, operated state of the art drug treatment facilities. Justice Goodloe and William Quick of the Department of Social and Health Services (DSHS) testified that the success ratios enjoyed by Family House are well within the range of success rates reported by other residential drug treatment programs in Washington state.

28. An attorney now in private practice testified that in his earlier practice with the public defender he would urge placement of clients in drug treatment facilities although he personally regarded such facilities as a "scam". This fails to persuade the Examiner that drug treatment facilities, as a whole, do not perform a vital service. To the contrary, Justice Goodloe testified that these facilities are of vital importance in the criminal justice system and in our society as a whole because of the lack of any other formal settings for individuals who wish to leave drug abuse and drug dependency. The high failure rate of Genesis House and other residential treatment centers is due to the lack of motivation of a large number of patients enrolled in such facilities to endure treatment over a long period of time.

29. There was no evidence that any alleged or proven criminal activity occurred at or near the current Genesis House facility located in the University District. Similarly, there was no evidence that any alleged or proven criminal conduct occurred at or near the Family House facility on Queen Anne.

30. The evidence demonstrated to the Examiner that persons who live closest to residential drug treatment facilities have no real substantive complaint about the facilities or about the effect of these facilities on property values, residential characteristics or stability in the neighborhood. Byron Ellis, who lives on Queen Anne adjacent to what was formerly the Family House treatment facility

now operated by Seadrunar, testified that he had no qualm about having his six year old child play with other children living at the treatment center. He testified that he was the manager of an apartment complex in which he lived and that he never received any complaint about the treatment facility. This witness also testified that he would not raise rent if the treatment facility were to move away and that he has made no adjustments in rent because of the location of the facility. Mr. Ellis testified that 30 to 50 people lived at the facility including 7 to 13 children. Similarly, the business manager of University Congregational Church, located adjacent to the current Genesis House facility in the University District, testified that he has never heard of a problem regarding the Genesis House patients or staff. This witness also testified that the church deals with the staff of Genesis House on a regular basis and that Genesis House children are enrolled at a pre-school in the church.

31. There was testimony presented by one witness that he formerly lived near the Family House treatment facility on Queen Anne. This witness testified that he sometimes heard yelling from the residence. However, the perceived irritation was apparently not enough to cause this witness or his family to make complaints to anyone.

32. Because of the previous use of the property, the failure of either DCLU or FOM to present any empirical evidence that property values will suffer because of Genesis House and because of the evidence of Genesis House through Mr. Mulhair and Exhibit 14, the Examiner concludes there would not be a decline in property values in the Madrona neighborhood if a drug treatment center operated by Genesis House is located on the property.

33. Feelings about the Genesis House project in the Madrona community run high. The vast majority of letters received by the Office of the Hearing Examiner and the Department of Construction and Land Use with respect to this application object to location of the facility in the Madrona community. This was also true with respect to individuals who spoke during the public comment portions of the hearing. Many of the public comment speakers stated that the nursing home which formerly operated on the property housed no more than 15 patients and that a facility for 55 would be an insult to the community. Both DCLU and the former operator of the nursing home stated that up to 60 individuals were cared for at the nursing home at any one time. The primary concerns of the residents of the Madrona area have to do with housing values and potential increase in crime. There is no doubt that the community is redeveloping.

34. The Examiner finds it inconsistent to believe that the perception of crime will lower property values in the Madrona area when this same neighborhood has one of the highest crime rates in the City of Seattle. The actual crime rate has not thwarted redevelopment of business districts or rehabilitation of homes in the area.

35. If the property were developed with twelve single family residences, it is reasonable to expect that a minimum of 40 people would reside on it. The claim by FOM and its witnesses that the community simply cannot absorb the number of people proposed by applicant is simply not credible with its claim that the property could better be developed with single family homes.

36. The portion of the Madrona community in which the property is located is in transition. The fears and concerns of neighbors and other people in the community seem to stem more from the abstract fear of location of a large number of drug abusers in a treatment environment in the neighborhood as opposed to specific complaints about the way Genesis House does business or manages its affairs.

37. There are no special residences located within 600 ft. of the property nor would Genesis House increase the number of special residences located within a one half mile radius to more than six.

38. There is no evidence that glare from lights on the property or by the residences would affect the neighborhood or any adjacent property. Odor would likewise not be a problem.

39. The structures cover about 16 percent of the property.

40. Patients at Genesis House are not allowed to use or have access to cars. Staff people would use cars to get to work at Genesis House. Visitors to the facility, friends, family and persons supervising the treatment of patients would in most circumstances, arrive and leave by car. Genesis House owns and operates two vehicles. The property is located near public transit to downtown Seattle.

41. No variance relief for a special residence in a Single Family zone has been granted for more than 30 beds since adoption of the current land use code. Existing residential drug treatment facilities within single family zones typically have less than twelve beds.

42. Genesis House can operate its proposed program for one year with only 25 patients; thereafter, a minimum of 30 will be required for long term operation at a positive cash flow.

Conclusions

1. With respect to establishment of a special residence as an administrative conditional use, the requirements of Seattle Municipal Code, Section 23.44.20 must be met. These requirements are denominated as development standards.

2. The criteria for adequate dispersion of special residences set out at Seattle Municipal Code 23.44.20(A) are met. The lot line of the proposed facility will not be within 600 ft. of the lot line of any other special residence nor would it increase the number of special residences located within a half mile radius to more than five.

3. The maximum number of residences permitted by Seattle Municipal Code 23.44.20(B) is fifteen persons including staff. Relief from this provision of the Code is sought by way of variance, to be discussed infra.

4. Bulk and siting requirements are set forth at Seattle Municipal Code Section 23.44.20(C)(2). The special residence in this application will not be expanded and may be established in what would otherwise be a nonconforming structure. The existing structures cover less than 35 percent of the property.

5. Off-street parking is required because of the requirements of Seattle Municipal Code 23.44.20(D)(1). In light of the amended application put forth by Genesis House, the Code requires six parking spaces for adult residents, four for staff and two for vehicles operated by the applicant. The applicant plans to provide ten off-street parking spaces. Waiver of the parking requirements is authorized under Seattle Municipal Code 23.44.20(D)(1). Waiver is appropriate in this case because residents will not be allowed to keep cars at the facility. Further, public transit demonstrates that residents and staff could avail themselves of bus service instead of relying on private passenger car travel. Waiver of the requirements of Seattle Municipal Code 23.44.20(D)(1) is proper.

6. Noise and odors are regulated by Seattle Municipal Code 23.44.20(E). There is no evidence that excessive odors would come from the property if the permits were to be granted. Noise from the project could be of concern in light of the practice of confrontation therapy by Genesis House. The requirements of the Noise Control Ordinance, Seattle Municipal Code 25.08, seem adequate to deal with this potential problem if it in fact exists. However, the Examiner is persuaded that noise is not a substantial factor sufficient to justify denial of relief under this provision of the Code.

7. Landscaping of a special residence is governed by Seattle Municipal Code 23.44.20(F). The existing hedge effectively screens the property on three sides and reduces or eliminates the appearance of bulk of the existing building on the property.

8. Light and glare are not an issue in this case within the meaning of Seattle Municipal Code 23.44.20(G).

9. The final factor governing an administrative conditional use has to do with the possibility of material detriment to the community. Seattle Municipal Code 23.44.18(C). DCLU earlier denied the permit in this case because of the perception of threats to the neighborhood shared by residents of the neighborhood. It was felt by DCLU that Genesis House would be materially detrimental to the public welfare and injurious to property in the vicinity because of these perceptions. This Examiner does not believe that perceptions of threats alone can justify governmental action adverse to this private applicant. Were that the case, City agencies would have to defer to prejudices harbored by portions of our population who fear entry of minorities into neighborhoods. See In re: Northgate Plaza Homeowner's Association, et al.; MUP-84-036. The Examiner is not persuaded that there is any credible evidence that property values will decline in the Madrona community or any part of it because of this application. The persuasive evidence is to the contrary.

10. Because of the preceding conclusions, the Examiner concludes that an administrative conditional use permit should have issued at least with respect to an application for no more than 15 residents.

11. Criteria for variances are found at Seattle Municipal Code 23.40.20. FOM argues that the number of residents in a special residence cannot exceed fifteen, Seattle Municipal Code 23.44.20(B), and that relief by way of variance cannot be allowed. This claim was advanced at the start of the hearing by way of a Motion to Dismiss made by FOM. The number of residents is clearly stated at Seattle Municipal Code 23.44.20 to be a development standard. Therefore, variance relief may be appropriate. See also In re: University Park Preservation Committee, MUP-82-063, cf. In re: Northgate Plaza Homeowners Association, MUP-84-036.

12. FOM claims that "hardship", as that term is used at Seattle Municipal Code 23.40.20, must relate only to the condition of a subject property. Martel v. Vancouver, 35 Wn.App. 250 (1983). The Examiner believes that hardship of an applicant may appropriately be considered under Seattle Municipal Code 23.40.20(C)(4). Hardship because of conditions peculiar to or inherent in the property are addressed at Seattle Municipal Code Section 23.40.20(C)(1).

13. An unusual condition applicable to the subject property is the existence of the large residences on it. This condition was not created by the owner or the applicant. That the land itself is suitable for development into single family lots does not preclude consideration of structures on the property as a hardship confronting the owner or applicant. See, e.g., O'Neill v. Philadelphia Zoning Board of Adjustment, 120 A.2d 901 (1956). If the land use

code were strictly applied in this case, the applicant would be deprived of rights possessed by other property owners in the zone: establishment of a special residence pursuant to requirements of Seattle Municipal Code Section 23.44.20.

14. The request is for a variance to permit 36 residents, likely the lowest number which the applicant can sustain in an economical manner over the long run although 25 residents would be feasible for a period of one year. However, the variance relief, as currently requested, would in effect be a special privilege unique to this applicant. This is because of the size of the property; similar parcels are simply not to be found within the vicinity of the proposed facility. While other property owners may seek to develop their properties as special residences under the criteria of Seattle Municipal Code Section 23.44.20, those properties are single family residences which could not tolerate development beyond the maximum of fifteen beds permitted without variance by Seattle Municipal Code 23.44.20(B). The applicant would operate, if its application were approved in full, the largest special residence in a single family zone in the City of Seattle. A variance for no more than a total of 25 residents would be appropriate, subject to conditions set out, infra.

15. The variance requested in this case will not be materially injurious to property and improvements in the zone. See Conclusion 9. Consideration of the public welfare is also required by Seattle Municipal Code 23.40.20(C)(3). This, in turn, requires analysis of whether the program offered by the applicant serves a legitimate need and, if so, whether the project is consistent with single family housing.

16. The Examiner is persuaded that residential drug treatment is a necessary means to ending substance abuse. That a large number of people cannot motivate themselves to complete the program offered by Genesis House or other residential drug treatment facilities does not negate the success which attends those who do complete the program. This success is measured by the personal accomplishment of the individual who no longer needs to rely on drugs in order to cope with life; it is also measured by the message this individual sends to the people who continue to rely on drugs. This message is that effort and commitment work as well as or better than chemicals.

17. It is the policy of this City "to preserve and maintain the physical character of Single Family Residential Areas...." Seattle Municipal Code Section 23.16.02(A). Part of that policy requires "diversity in housing opportunities..." Id. With respect to special residences, this means that they "shall be designed to be reasonably compatible in scale and appearance with other residences in the area..." Id. This policy, in turn, is reflected in the criteria for establishing a special residence in a single family zone. Seattle Municipal Code Section 23.44.20. The Examiner believes that the scale of this application is simply too great for a single family zone. The property could be developed into separate residences with a population possibly exceeding the number of beds in this proposal. That would mesh with the City policy of "Residential use by one household...as the principal use in Single Family Areas...". It would be unreasonable to create a new special residence of 36 beds in a single family zone. Such a project, if approved, would be the largest special residence in a single family zone in this City. A maximum of 25 beds is appropriate, taking into consideration the size of the property balanced against the strong City policy in favor of growth of single family residential opportunities.

18. Literal and strict application of the Land Use Code will cause hardship to the applicant. Without a variance, applicant likely cannot continue to operate. However, the City policies in favor of expanding single family residential opportunities override any hardship to the applicant.

19. The variance relief requested would be inconsistent with the Land Use Policies and Land Use Code. See Conclusions 17 and 14, supra. Variance for a maximum of 25 residents would be appropriate.

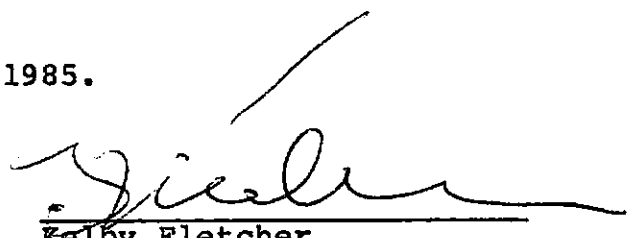
20. The following conditions shall attach for a variance for no more than 25 residents including staff:

- A. Within twelve months after a master use permit is issued consistent with this opinion, applicant shall elect to its Board of Directors a number of Madrona neighborhood residents equal to no less than 30 percent of the total number of positions on the Board. Of that number, at least 67 percent shall be persons whose names shall be proposed by the Madrona Community Council, or, if said Council shall fail to propose such names in a timely fashion, intervenor Friends of Madrona shall propose a like number of names.
- B. The variance approved herein shall not be transferrable.
- C. Applicant shall not offer or sponsor treatment or therapy with or by drugs or chemicals other than those prescribed by a licensed health care professional for the treatment and cure of diagnosed physical maladies.
- D. Patients shall not be permitted to operate cars or trucks on or within two miles of the property provided that patients may operate vehicles, not exceeding two in number, owned by Applicant.

Decision

The decisions of DCLU with respect to denials of conditional use permit and variance relief are reversed; a variance is granted for no more than 25 beds and residents total, subject to condition set forth at Conclusion 20, above.

Entered this 18th day of June, 1985.


Kelby Fletcher
Hearing Examiner Pro Tempore

Concerning Further Review of Hearing Examiner Final Decisions On Master Use Permits

The decision of the Hearing Examiner in this case is final and is not subject to reconsideration except to correct errors on the ground of fraud, mistake, or irregularity in vital matters. Any request for judicial review of the decision must be filed in King County Superior Court within fourteen days of the date of this decision. Seattle Municipal Code Section 23.76.36(B)(11).

If the Superior Court orders a review of the decision the person seeking review must arrange for and bear the cost of preparing a verbatim transcript of the hearing, but will be reimbursed if successful in court. Instructions for preparation of the transcript are available from the Office of Hearing Examiner, 400 Yesler Building, 5th Floor, Seattle, Washington 98104.