

## FINDINGS AND DECISION

### OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

CONCERNED COMMUNITY MEMBERS OF  
CROWN HILL COMMITTEE

FILE NO. MUP-84-080(W)  
APPLICATION NO. 8401902

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

#### Introduction

Appellant, the Concerned Community Members of Crown Hill Committee, Susan Ambler, chair, appeals the decision of the Director, Department of Construction and Land Use, to issue a declaration of non-significance and conditionally approve the proposal of the Arbor Housing Associates for property at 8538 Mary Avenue Northwest.

The appellant exercised its 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 December 3, 1984.

Parties to the proceedings were: appellant with its presentation coordinated by Richard Bertolin; the Director represented by Leslie Lloyd, land use specialist; and the applicant, Arbor Housing Associates, represented by Susan Jones, attorney at law.

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

After due consideration of the evidence elicited during the public hearing, the following shall constitute the findings of fact, conclusions and decision of the Hearing Examiner on this appeal.

#### Findings of Fact

1. Arbor Housing Associates applied for permits to demolish two single family residences and construct a 15 unit apartment building for low income, handicapped persons. The Director issued a declaration of non-significance (DNS) and imposed a landscaping condition. Appellant filed its appeal.

2. The site of the proposed building is an 84 by 130 ft. lot on the east side of Mary Avenue Northwest located one block east of 15th N.W. and one half block north of N.W. 85th Street. Two small, vacant single family residences are now on the site.

3. Community Psychiatric Clinic formed the applicant, a non-profit corporation, to sponsor the apartments. A Department of Housing and Urban Development loan would be obtained for construction and Section 8 funds would subsidize rents. The 15 to 20 residents of the units would be persons associated with Community Psychiatric Clinic programs who are chronically mentally ill but are ready for semi-independent or independent living situations.

4. The subject site is located in a block with mostly single family houses of one and two stories. It faces, across Mary, a bank drive-in facility, single family house and super-market parking lot. The commercial development along 15th Avenue N.W. is generally one story in height. Some buildings, though low, are very large. Within view of the subject site is another building of greater height than three stories. (Exhibit 10.)

5. A four unit building, part of the scattered-site housing program for low income families is located on a 65 ft. lot in the same long block front. Two other single family residences to house persons who are or have been mentally ill are to be located at 8022 Jones N.W. and 8002 10th N.W. about 12 and 10 blocks away, respectively. The Northwest Treatment Center for Alcohol/Drug Abuse is located approximately one block northeast of the subject site.

6. The environmental checklist shows an alteration in the current use of the land from single family to multifamily, which would be in conformity with current zoning; an increase in population; and a slight increase in parking demand.

7. The Director concluded in his analysis and decision for the DNS that the impacts described in the environmental checklist are not expected to be significant.

8. The Director relied on the applicant's experience at other facilities, that the car ownership would be one car for 16 residents, for his conclusion about the demand for parking from the facility. At Mental Health North the ownership, for residents in single family facilities, is six cars for 20 residents, at Highline there are four cars for 25 residents and at other Community Psychiatric Clinic facilities there is one car for 16 residents. The data provided would suggest it is possible that ownership may be greater than one car for 16.

9. The four spaces to be provided on the site are to accommodate residents, guests and visiting staff.

10. There is no evidence that parking on-street is in short supply.

11. Mary Avenue N.W. has a sidewalk and curb on one side only.

12. Section 23.54.20.B requires one parking space per four units of low income housing for the disabled. One parking space per dwelling unit is required where the units are not for special populations.

13. The proposal includes 4,893 sq. ft. of open space not utilized for driveway. Only 3,290 sq. ft. of open space is required.

14. The proposal includes setbacks which are generally greater than required, i.e., side yards averaging 10 and 20 ft. where an average of 9 ft. is the requirement, rear yard of 35 ft. where 10 ft. is required and the required 20 ft. front yard.

15. The height of the structure would be 35 ft.

16. The two bedroom units in the building are to have a net of 607 sq. ft. of area, the one bedroom units 540 sq. ft. and the efficiency units 402 sq. ft.

17. Up to 8 non-related adults could occupy each of the two single family residences on the subject site.

### Conclusions

1. The decision of the Director is to be given substantial weight, Section 23.76.36.B.6, and the burden of producing evidence to overcome that weight is on the appellant. In an appeal of a DNS the appellant would have to prove that the Director was wrong in finding no significant adverse impact and that there are probable impacts of the proposal which would cause more than a moderate impact on the environment. Norway Hill v. King County Council, 87 Wn.2d 267 (1976).

2. The two areas of concern cited in the appeal letter are the adequacy of off-street parking for the use and the scale of the proposed building. At hearing, witnesses also addressed population density. Other concerns, discussed at hearing, cannot be addressed in the context of the SEPA decisions which is the only source of the Office of the Hearing Examiner jurisdiction in the case. Those concerns involved effect of children in the neighborhood, the type of tenants and perceived over-concentration of low income and treatment facilities.

3. While it is likely that the four parking spaces to be provided may not accommodate all parking needs, the likely impact was not shown to be more than moderate since parking can readily be found on-street. Further, the impact from the scale of the proposed development was not shown to be greater than moderate. Though the single family homes are smaller, there are buildings of similar or greater scale nearby. Finally, the concern about density was both that the residents would not feel comfortable in the interior and outdoor space available and the neighborhood would be overcrowded. As to the size of the units and outdoor amenity, SEPA is designed to assess impact from the proposal on the environment. So long as code (housing, land use, fire, etc.) requirements are met, the City is not in the position to judge the desirability of the accommodations. As to the effect of added population on the area, there was no showing that the additional people, if any, would overtax schools or other public facilities.


4. The appeal letter asks that the building be scaled down and be required to have adequate parking. Reasonable mitigating measures may be imposed as conditions for adverse environmental impacts clearly identified in the DNS based on policies adopted pursuant to SEPA. Section 25.05.660. Given the small degree of impact, measures contemplated by appellant would not be reasonable. Moreover, no SEPA policies were cited which would allow a condition requiring fewer units or restricting the number of residents.

6. For those reasons, appellant has failed to prove that the Director's decision is erroneous.

### Decision

The decision of the Director is affirmed.

Entered this 13<sup>th</sup> day of December, 1984.

  
M. Margaret Blockars  
Deputy Hearing Examiner

Concerning Further Review

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any request for court review must be filed with the Superior Court pursuant to Chapter 7.16, RCW, within 14 days of the date of this decision. Seattle Municipal Code Section 23.76.36(B)(11). Should such request be filed, instructions for preparation of a verbatim transcript are available at the Office of Hearing Examiner. The appellant must initially bear the cost of the transcript but will be reimbursed by the City if the appellant is successful in court.