

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

TOM MARIER FOR THE
LAURELHURST OIL CO.

FILE NO. S-80-013

from a determination of the
Superintendent of Buildings

The appeal is DENIED and the Findings and Decision
of the Superintendent of Buildings are AFFIRMED.

Introduction

Tom Marier for the Laurelhurst Oil Company, appellant, filed an appeal of the Superintendent of Buildings' decision to deny a use permit for a key-card dispensing facility considered to be a service station by the Superintendent for property at 4550 Union Bay Place N.E.

The appellant exercised its right to appeal pursuant to Section 25.40 of the Zoning Ordinance (86300, as amended).

Parties to the proceeding were: Tom Marier for Laurelhurst Oil Company, appellant, and Greg Borba for the Superintendent of Buildings.

This matter was heard before the Hearing Examiner on March 27, 1980.

For purposes of this decision, all section numbers, unless otherwise indicated, refer to the Zoning Ordinance (86300, as amended).

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

Findings of Fact

1. The subject property is located at 4550 Union Bay Place N.E. in a General Commercial (CG) zone.
2. The Laurelhurst Oil Company operates a bulk station, as defined by the Zoning Ordinance, on the subject property. It has applied for permits to install additional tanks and construct a pump island. The purpose of the installations is to sell fuel to retail customers through an unmanned, automated system activated by key cards and code.
3. The Superintendent of Buildings determined that the proposed use would be classified as an automobile service station which is permitted in the CG zone as a conditional use.
4. "Automobile service station" is not defined in the Zoning Ordinance.
5. "Bulk station" is defined at Section 3.03 as:

Any installation for the storage, handling and selling of flammable liquids or oils, from which such liquids or oils are sold at wholesale or distributed to retail stations or private storage by tank trucks.

6. The appellant does not intend to offer the services traditionally associated with an automobile service station however many service stations no longer offer the traditional services.

7. The dispensing facility would furnish gasoline or other fuels to customers for their automobiles which would be directly transferred from the dispenser into automobile fuel tanks for immediate consumption. Customers would include any person who has applied for and been issued a card by appellant.

Conclusions

1. The Superintendent's determination is to be regarded as prima facie correct. Section 25.44. That means that there is a presumption on appeal that it is correct unless found by a preponderance of the evidence that is in error. Allison v. Department of Labor and Industries, 66 Wn.2d 263 (1965).

2. The structure of the Zoning Ordinance is such that each use must be classified as one of the uses specified in the code. The proposed use clearly does not come within the code's definition of "bulk station" because the sales would not be wholesale and the manner of distribution would be direct rather than to retail stations or for storage. The appellant did not show the use to better fit any other use specified in the code. There, the determination of the Superintendent must be affirmed.

Decision

The appeal is DENIED and the Findings and Decision of the Superintendent of Buildings are AFFIRMED.

Entered this 1th day of April 1980.

M. Margaret Klockars
M. Margaret Klockars
Deputy Hearing Examiner

Notice of Right to Appeal

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any appeal to the Superior Court should be filed within 20 days of the date of this decision. Vance v. Seattle, 18 Wn.App. 418 (1977).