

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

In the Matter of the Appeal of

PAUL A. CARLSTEDT

FILE NO. S-78-004

from a ruling of the Superintendent  
of Buildings

The appeal is DENIED.

Introduction

Paul A. Carlstedt, the applicant/appellant filed an appeal from the ruling of the Superintendent of Buildings which determined that his application for a use permit for a self service car washing facility at 10552 Greenwood Avenue N. in a General Commercial (CG) zone would be denied.

The appellant exercised his right to appeal pursuant to Section 25.40, Ordinance 86300, as amended by Ordinance 104795.

Parties to the proceeding were: Paul A. Carlstedt, represented by his attorney George H. Luhrs, and Joyce C. Kling, Zoning Administrator, representing the Superintendent of Buildings, hereinafter Superintendent.

This matter was heard before the Hearing Examiner on February 1, 1978.

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. An application for a use permit was filed September 23, 1977. On September 27, 1977, a notice of intention to grant the permit was published. The applicant requested a formal interpretation as to whether a coin-operated self-service car wash is classified as an automobile laundry under the zoning code. The Superintendent concluded that it is encompassed within that definition and notice of that interpretation was published November 22, 1977. No appeal was taken from this interpretation. The Superintendent published notice of intention to deny the use permit January 24, 1978 and a clarification and withdrawal of intention to grant the permit was published January 26, 1978.

2. The proposal is for a coin-operated facility where the customer drives the car into a carport-type structure and washes the car with the water and hoses provided by the facility. The definition of automobile laundry provided by Section 3.02"A", Ordinance 86300, as amended, is "(a) structure designed and primarily used for washing cars by mechanical means and by movement through washing and drying stages." An automobile laundry is permitted in a CG zone when it is located 100 feet or more from any lot in an R zone.

3. In deciding that self-service car washes should be classified as automobile laundries, the Superintendent reasoned that because each serves the same function and some

structure is required even for the self-service facility, the difference is in degree so there should be no special distinction as to development standards.

4. The applicant contends that because the statute's definition of automobile laundry is specific and the car washing facility does not meet all of the specifications of the definition, in particular "by mechanical means" and "by movement through washing and drying stages" the appellant's car wash is excluded from the classification of automobile laundry.

### Conclusions

1. Zoning ordinances are not to be extended by implication to cases not clearly within the scope of the intended purpose where they operate to deprive an owner of a use of his or her property that would otherwise be lawful, however they "should be liberally construed to accomplish their plain purpose and intent." Standard Mining Development Corp. v. Auburn, 82 Wn2d 321, 326 (1973). Ordinance 86300 is designed in such a way that each zone provision sets out permitted uses. Some of the zone provisions also set out prohibited uses but those are usually to except those uses from an earlier general provision. If the definitions of permitted uses were strictly construed, as appellant argues they should be, the effect would be to restrict allowable uses thereby depriving owners of more uses of their property which would be contrary to the general rule of construction of zoning ordinances.

2. Since no definition in the code fits the car wash facility's specifications the Superintendent suggests that the result of excepting it from the automobile laundry classification would be to permit it only in the Heavy Industrial (IH) zone. To avoid such a result, any proposed use not exactly conforming to a defined use must be placed in a classification most closely resembling its characteristics and this seems to best carry out the purpose of the ordinance. Other possibilities for classification were suggested however none more closely resembled this facility and some required conditional uses or other restrictive conditions.

3. There is a general classification of retail business and services, first appearing in the Neighborhood Business (BN) zone, Section 14.21(b), and expanded upon in subsequent sections in which the subject use could conceivably be included. However, Section 25.44 of the ordinance requires that the decisions of the Superintendent are to be regarded as prima facie correct. That means that there is a presumption on appeal that it is correct unless it can be found by a preponderance of the evidence that it is in error. Allison v. Department of Labor and Industries, 66 Wn.2d 263 (1965). No such preponderance can be found.

4. Appellant argues that because the Superintendent considered similarity of functions rather than environmental effects the decision is incorrect. The example he cites of junk yards and activities excluded from that definition, to the contrary, goes to support the Superintendent's interpretation since those activities, which are likely to have a lesser environmental impact, are explicitly excluded from that definition.

5. The Superintendent acknowledged that the Building Department has not been consistent in its issuances of use permits for self-service car washes. Some change in the provision should be considered but until it is amended or the Superintendent formally adopts other interpretation the appropriate classification for the proposed facility is "auto mobile laundry" and the denial of the use permit on the

basis that a variance is required for such a use within 100 feet of a lot in a residential zone is correct.

6. With regard to the State Environmental Policy Act of 1971 (SEPA) and Ordinance 105735, the action proposed in this application is categorically exempt pursuant to the provisions of WAC 197-10-170.

Decision

The appeal is DENIED.

Entered this 14th day of February, 1978.

M. Margaret Klockars  
M. Margaret Klockars  
Deputy Hearing Examiner

Notice of Appeal

The decision of the Hearing Examiner in this case is the final administrative determination and any further appeal must be made to the courts.