

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

SEATTLE POLICE DEPARTMENT

FILE NO. S-79-035

from a determination of the
Superintendent of Buildings

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

Introduction

The appellant, Seattle Police Department, filed an appeal from a decision of the Superintendent of Buildings (Superintendent) to issue a use permit for property at 5342 Roosevelt Way 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: the appellant, represented by Sergeant Hill; the Superintendent, represented by Joyce Kling; and the permit applicant by Mr. Sferra.

This matter was heard before the Hearing Examiner on December 10, 1979.

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 conclusion shall constitute the decision of the Hearing Examiner on this appeal.

Findings of Fact

1. The property in question is located at 5342 Roosevelt Way N.E. in a Community Business (BC) zone.

2. An application for a use permit to establish a counseling center on the premises was filed on November 2, 1979. Counseling offices are permitted in the BC zone. The building had previously been used without a permit as a massage parlor.

3. Notice of the issuance of the use permit was published on November 6, 1979 and a timely appeal was filed on November 15, 1979.

4. The appellant alleges that the premises are used as a front for prostitution activities and that no use permit should be granted since it is in fact not a legal counseling center. The appellant presented documents (Appellants' exhibits 1A and B through 6A and B) to show that the identity of the persons who operated and worked in the massage parlor are the same as those listed for the counseling offices.

5. Section 25.2 provides that the Superintendent shall issue a use permit if he is satisfied that the plans conform to the requirements established in subsection (c).

Conclusions

1. The Superintendent is very limited in his review of a use permit. Basically, the plans are reviewed to determine compliance with the Zoning Code. On their face neither the plans nor the proposed use would indicate any violation of the Zoning Code. Therefore, the Superintendent's determination is held to be correct.

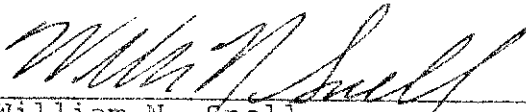
2. The appellant has failed to meet its burden and overcome the presumption of the correctness of the Superintendent's determination.

3. The record also shows that there maybe some basis for the suspicion of the police that the counseling center is only a front for illegal activities but no definitive evidence was produced on this point. Under the existing Zoning Code standards and the evidence presented there is no legal basis for denying the application.

Decision

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

Entered this 12th day of December 1979.



William N. Snell
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).