

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

In the Matter of the Appeal of

FRANK HUFF by MICHAEL GLANZ, ARCHITECT      FILE NO. MUP-82-018(V)  
APPLICATION NO. 81352-0498

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

Introduction

Appellant, Frank Huff, by Michael Glanz, architect, appealed the decision of the Director of Construction and Land Use (Director) to impose an access condition on a variance for property at 841 N.W. 49th Street.

The appellant exercised his right to appeal pursuant to the Master Use Permit Ordinance, Chapter 24.84, Seattle Municipal Code.

No correspondence or testimony was received in opposition to the application.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code, Title 24 (Ordinance 86300, as amended) unless otherwise indicated.

This matter was heard before the Hearing Examiner on April 15, 1982.

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. Huff Petroleum applied for a master use permit for its proposal to install 20 underground tanks for petroleum storage on property at 841 N.W. 49th Street. A variance is needed for the proposal to allow the tanks closer than 100 ft. to lots in an "R" zone. The Director granted the variance subject to two conditions. Appellant appeals the condition limiting truck access to the site to 9th Avenue N.W.

2. The subject property consists of two lots in the General Industrial (IG) zone on the south side of N.W. 49th Street. The lots to the west of the two are developed and used by Huff Petroleum. The next two lots to the east are in single family development, although IG zoned. The next and most easterly lot on the block front is in commercial usage.

3. The property across N.W. 49th from the subject site is zoned Duplex Residence High Density (RD 5000) except for the two most westerly which are in the IG zone. Five single family homes occupy the RD 5000 lots.

4. The applicant proposes to install twenty 10,000 gallon tanks underground on the subject property for storage of lubricating oil. The additional storage will decrease the frequency with which trucks visit the site since larger trucks carrying more oil can be used. A parking area, for which no variance is required, is to be located over the underground storage.

5. Sections 24.56.020 and 24.52.060E permit bulk stations in the zone when 100 ft. or more from any lot in an "R" zone. The subject property is within 100 ft. of parts of four lots in the RD 5000 zone across N.W. 49th Street so variance would be necessary from those provisions.

6. The conditions imposed by the Director involve landscaping and that "(a)ccess to the site by Huff trucks shall be via Ninth Avenue Northwest only and shall be limited to the hours between 6:00 AM to 10:00 PM." The purpose of the access condition is to maximize the protection of the RD properties from the IG use.

7. Eighth Avenue N.W. is a four lane arterial. Ninth Avenue N.W. is a two lane street with no stop signs at intersections except at N.W. 48th. That intersection is hazardous because of obstacles to clear view from vehicles heading north the short distance from Leary Way to the intersection and traffic from 8th Avenue N.W. using 48th as a connection with Leary Way.

8. The trucks serving the site may come from any direction. Access from and to the freeway is best to the north such as 50th and via 8th N.W. Using one farther south to travel Leary Way and then 9th Avenue would mean negotiating trucks through N.E. 45th traffic.

9. Truck traffic from other commercial enterprises in the area uses 8th Avenue N.W. A tow truck business west of the subject site uses N.W. 49th and trucks from the construction company to the south use it occasionally. Trailers are brought into Pittsburg Testing at the west end of the block via 49th.

10. Huff Petroleum trucks' normal pattern would be to enter the alley from 8th Avenue and leave the site on 49th to 9th. The incentive to use the alley is to avoid the backing maneuver which would be required if the site is entered from 49th.

11. Enforcement of the Director's condition would be on a complaint basis only.

12. Letters were received by the Director from residents of the area about risk of fire or explosion, devaluation of their property, odor, wear and tear on streets, and risk of spill. One letter was received by the hearing examiner with additional concerns about increase in noise, traffic, and parking congestion.

13. The proposed landscaped parking lot with underground storage tanks would be more compatible with residential use of the property across the street than many of the other uses permitted by the IG zoning.

14. The petroleum product to be stored has a high flash point and is not considered flammable nor explosive.

#### Conclusions

1. The Director's conclusions that the location of the property at the meeting point of IG and RD 5000 zoning is unique and creates hardship is correct. The variance requested is the minimum necessary for relief since the property's existing development does not allow for installation of the tanks any further away from the RD 5000 zoned properties.

2. The proposed development will result in fewer truck trips connected with the storage, remove some cars from the street, will not pose a health or safety risk and may be more desirable than other permitted uses of the site. Therefore, the variance to allow the storage within 100 ft. of the "R" zoned properties will not cause material detriment to the public welfare nor injury to other properties.

3. The appealed condition imposed by the Director does not appear to be necessary to mitigate any effect of the variance. The evidence shows that fewer trucks will use the street, not more. With the condition, greater hazard would be present from the use of 9th than from the use of an arterial and trucks would have to negotiate N.E. 45th which is not desirable. Further, the condition would be difficult to enforce. The Director's decision to grant the variance should be modified to eliminate the street restriction of Condition No. 2.

4. The variance would not conflict with the Comprehensive Plan.


#### Decision

The decision of the Director is modified and the variance is GRANTED subject to the following conditions:

1. The site shall be completely fenced as shown on corrected plans. The landscaping on the northerly side shall be increased to 4 feet in width as shown on corrected plans in the file. Landscaping shall be continuously maintained as required by Ordinance 90047 and 107678.

2. Access to the site by Huff trucks shall be limited to the hours of 6:00 a.m. to 10:00 p.m.

Entered this 28th day of April, 1982.

  
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 further appeal must be filed with the Superior Court within 14 days of the date of this decision. Vance v. Seattle, 18 Wn.App. 418 (1977); JCR 73 (1981). Should an appeal 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.