



City of Seattle

Edward B. Murray, Mayor

Department of Construction and Inspections

Nathan Torgelson, Director

January 5, 2016

Clifford Low
3807 E. Jefferson St.
Seattle, WA 98122

RE: 3038 39th Avenue SW: Legal Building Site Letter (Project No. 3022995)

Dear Mr. Low:

By letter to this Department received November 18, 2015, you have requested a determination that the property described as the South 8 1/3 feet of Lot 15 and Lot 16 (hereinafter Lot A) and the South 16 2/3 feet of Lot 14 and North 16 2/3 feet of Lot 15 (hereinafter Lot B), Block 1, Hainsworth J Walther Addition to West Seattle, qualify as separate legal building sites. An existing house addressed as 3038 39th Ave SW exists solely on Lot A. Lot B is vacant.

In order to qualify as a legal building site under the Land Use Code (Title 23 of the Seattle Municipal Code), a lot must meet the minimum lot area requirement for its zone or else qualify for one of the codified exceptions to that requirement. If a lot is vacant, no portion of that lot may have been used to meet development standards for a structure on an adjacent lot. Finally, the lot must have street access meeting Code standards.

Lots A and B are in an area zoned SF 5000: Single-Family Residential, with a minimum lot size of 5,000 square feet. According to your letter and consistent with the platted dimensions, the total area of Lots A and B together is 6,333 square feet. If divided into Lot A and Lot B as described above, Lot A and Lot B would each have an area of approximately 3,166 square feet. Neither Lot A nor Lot B meet the minimum area requirement of the Land Use Code. Lot A and Lot B do not meet the minimum area requirement, but, as explained further below, appear to qualify for one of the exceptions to minimum area provided in the Code.

An exception to the minimum lot area requirement known as the "Historic Lot Exception" is provided in Section 23.44.010.B.1.d. This exception provides that a lot may be developed if it was already in existence, has an area of at least 2,500 square feet, and was established as a separate building site in the public records prior to July 24, 1957 by deed, platting or building permit, and no portion of the lot has been used to meet development standards for any house on a neighboring lot held in common ownership. The area of Lots A and B is over 2,500 square feet, as required for the exception, but in order to qualify, it must be shown that Lot A and Lot B, as currently configured, were treated as separate building sites in the public records prior to 1957, and further, that no principal structure on Lot A extends onto Lot B or uses it to meet a development standard such as a yard requirement. Based on a review of our records the property described as Lot B appears to separately qualify for an exception to



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minimum area under Section 23.44.010.B.1.d. While Lot B does not meet the lot area requirement, it does meet the requirements of the Historic Lot Exception and qualifies as a separate legal building site.

Hainsworth J Walther Addition to West Seattle was first platted in 1906. Lot B, the South 16 and 2/3 feet of 14 and the North 16 and 1/3 feet of 15, does not qualify for the Historic Lot Exception on the basis of platting, since it is only a portion of the original platted Lots 14 and 15. While Lot B has an area exceeding 2,500 square feet, the property must also have been established as a separate building site in the public records prior to 1957 on the basis of either building permit history or deed records. An original building permit for the structure on Lot A has been discovered in our records, but there is no indication that any permits were issued for Lot B.

Permit No. 294395 was issued to Robert Coulthard on July 15, 1930 to construct a residence with a basement garage accessed from the alley on Lot 16 and the South 8 and 1/3 feet of Lot 15. This building permit created Lot A – the location of the house. The available permit records suggest that Lot B was not included in the development site of the adjacent residence. It can reasonably be inferred that Mr. Coulthard had an expectation that the remainder of the property, not called out in Permit No. 294395, could later be separately developed. If the intent had been for Lot B to serve simply as a yard, it would have been included in the legal description of the house on Lot A. Therefore, Lot B qualifies as a legal building site, established by the permit issued for Lot A.

The title history maintained by this Department in microfiche records of abstracts of title show that Lots A and B have been in common ownership since at least 1930. Robert Coulthard originally owned Lots 13 – 16. On December 12, 1930, Coulthard conveyed to Arkell Lot 13 and the North 8 and 1/3 feet of Lot 14. Coulthard maintained ownership of the South 16 and 2/3 feet of Lot 14, Lot 15 and Lot 16 (both Lots A and B). On May 5, 1931, Courtland conveyed to Rose the South 16 and 2/3 feet of 14 and all of 15 and 16 (both Lots A and B). On August 8, 1937, Rose conveyed to Costello the South 16 and 2/3 feet of 14 and all of 15 and 16 (both Lots A and B). On September 9, 1942, Costello conveyed to Jack F. and Ella M. Butler the South 16 and 2/3 feet of 14 and all of 15 and 16 (both Lots A and B). The Butlers held this property until 1965.

While there is no deed before 1957 showing a conveyance of Lot B independent of other contiguous property, the permit to build on Lot A does not include a description of Lot B. It is therefore concluded that Lot B was maintained in its current configuration for the purpose of potential future development as a separate building site. Based on this reasoning, we conclude that the South 16 and 2/3 feet of Lot 14 and the North 16 and 2/3 feet of Lot 15 (Lot B) qualifies for an exception to minimum lot area under Seattle's Land Use Code and can be developed as a separate building site.

Therefore, according to code, Lot A and Lot B qualify as separate legal building sites. Thirty-ninth Avenue Southwest is SW is open and improved, and satisfies the street access requirement of the Land Use Code.

The position set forth in this letter represents the preliminary opinion of the Department. This opinion is subject to administrative challenge, at any time up until issuance of a building permit, through the Land Use Code interpretation process.

Clifford Low
January 5, 2016
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If I may be of any further assistance, please contact me at David.Graves3@seattle.gov or (206) 615-1492.

Sincerely,

A handwritten signature in black ink, appearing to read "David G. Graves". The signature is fluid and cursive, with a large initial "D" and "G".

David G. Graves
Senior Land Use Planner

DGG/Low