

BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In the Matter of the Appeals of

LISA PARRIOTT, ET AL.
and SEATTLE GREEN SPACES COALITION,

from a decision issued by the Director,
Department of Construction and Inspections.

Hearing Examiner Files:
MUP-16-019 & MUP-16-020

Department Reference:
3024037

OWNER'S LIST OF WITNESSES
AND EXHIBITS

COMES NOW the property owner Nehem Properties LLC ("Nehem"), who intends to call the following witnesses and introduce the following exhibits, but reserves the right to not call one or more of these witnesses and not introduce one or more of these exhibits as Nehem determines to be appropriate at the hearing.

I. WITNESSES

1. David G. Graves. Mr. Graves is a Senior Land Use Planner with the City of Seattle Department of Construction and Inspections ("SDCI") who authored the code interpretation that is being appealed. He is expected to testify regarding the facts of this case and SDCI's interpretation and application of the "Historic Lot Exception," SMC 23.44.010.B.1.d. Mr. Graves is expected to testify for approximately 30 minutes.

2. Andrew S. McKim. Mr. McKim is a Land Use Planner Supervisor with SDCI. He is expected to testify regarding the facts of this case and SDCI's interpretation

OWNER'S LIST OF WITNESSES
AND EXHIBITS - 1

HELSELL
FETTERMAN
Helsell Fetterman LLP
1001 Fourth Avenue, Suite 4200
Seattle, WA 98154-1154
206.292.1144 WWW.HELSELL.COM

1 and application of the "Historic Lot Exception," SMC 23.44.010.B.1.d. Mr. McKim is
2 expected to testify for approximately 15 minutes.

3 3. William K. Mills. Mr. Mills is a Land Use Planner Supervisor with SDCI.
4 He is expected to testify regarding SDCI's interpretation and application of the "Historic Lot
5 Exception," SMC 23.44.010.B.1.d. Mr. Mills is expected to testify for approximately 15
6 minutes.

7 II. EXHIBITS

8 1. Nehem's request for opinion letter for 3038 39th Ave. SW, Seattle, WA
9 98116, including the attached exhibits.

10 2. SDCI's preliminary opinion letter dated January 5, 2016 for SDCI project
11 number 3022995.

12 3. SDCI's decision granting the historic lot exception for project number
13 3024037.

14 4. SDCI code interpretation number 16-006 for SDCI project number 3026248.

15 5. J. Walter Hainsworth's First Addition to the City of West Seattle plat map.

16 6. Sewer card for the J. Walter Hainsworth's First Addition to the City of West
17 Seattle.

18 7. Building permit dated July 15, 1930 for Lot A¹.

19 8. Sewer permit dated August 13, 1930 for Lot A.

20 9. Mortgage dated August 21, 1930 for Lot A.

21 10. Deed dated December 5, 1930 for Lot C².

22 11. Building permit dated December 12, 1930 for Lot C.

23 12. Sewer permit dated January 28, 1931 for Lot C.

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25 ¹ Lot A refers to the S 8 1/3 feet of Lot 15 and all of Lot 16.

² Lot C refers to the N 8 1/3 feet of Lot 14 and all of Lot 13.

- 1 13. Deed dated May 28, 1931 from Coulhart to Rose for Lot A and Lot B³.
2 14. Deed dated August 13, 1937 for Lot A and Lot B.
3 15. Survey of premises dated January 12, 2016.
4 16. SDCI opinion letter dated September 10, 2013 for project number 3015709.
5 17. SDCI opinion letter dated December 20, 2013 for project number 3016341.
6 18. SDCI opinion letter dated November 14, 2014 for project number 3018757.
7 19. 2015 overhead view of property (and surrounding area) from King County
8 Parcel Viewer website.
9 20. Each and every document listed by the Appellant in her list of exhibits dated
10 December 15, 2016.
11 21. Each and every document listed by SDCI in its list of exhibits dated
12 December 23, 2016.
13 22. All documents publicly available at <http://web6.seattle.gov/dpd/edms/> for
14 project number 3022995.
15 23. All documents publicly available at <http://web6.seattle.gov/dpd/edms/> for
16 project number 3024037.
17 24. All documents publicly available at <http://web6.seattle.gov/dpd/edms/> for
18 project number 3026248.

19 III. RESERVATION OF RIGHTS

20 The Owner reserves the right to present additional witnesses and exhibits and to
21 elicit additional testimony from the witnesses listed herein to rebut, impeach and respond to
22 testimony and exhibits presented by other parties in this matter.

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24 //

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³ Lot B refers to S 16 2/3 feet of Lot 14 and the N 16 2/3 feet of Lot 15.

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3 Respectfully submitted this 23rd day of December, 2016.

4

HELSELL FETTERMAN LLP

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By: s/ Brandon S. Gribben

8

Brandon S. Gribben, WSBA No. 47638

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Samuel M. Jacobs, WSBA No. 8138

Attorneys for the Owner Nehem Properties LLC

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OWNER'S LIST OF WITNESSES
AND EXHIBITS - 4

HELSELL
FETTERMAN
Helsell Fetterman LLP
1001 Fourth Avenue, Suite 4200
Seattle, WA 98154-1154
206.292.1144 WWW.HELSELL.COM

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on December 23, 2016, the foregoing document was sent for delivery on the following party in the manner indicated:

Lisa Parriott et al
c/o Alex Sidles
Peter Goldman
Washington Forest Law Center
615 2nd Ave, Suite 360
Seattle, WA 98104

☐ Via first class U. S. Mail
☐ Via Legal Messenger
☐ Via Facsimile
☒ Via Email pgoldman@wflc.org;
asidles@wflc.org

Andy McKim
SDCI
PO Box 34019
Seattle, WA 98124

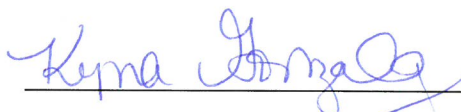
☐ Via first class U. S. Mail
☐ Via Legal Messenger
☐ Via Facsimile
☒ Via Email
andy.mckim@seattle.gov;
david.graves3@seattle.gov
crystal.torres@seattle.gov

David Graves

Crystal Torres

Hearing Examiner - Assistant
Tiffany Ku
City of Seattle
700 Fifth Avenue, Suite 4000
Seattle, WA 98104

☐ Via first class U. S. Mail
☒ Via Legal Messenger
☐ Via Facsimile
☒ Via Email
tiffany.ku@seattle.gov



Kyna Gonzalez, Legal Assistant

OWNER'S LIST OF WITNESSES
AND EXHIBITS - 5

HELSELL
FETTERMAN
Helsell Fetterman LLP
1001 Fourth Avenue, Suite 4200
Seattle, WA 98154-1154
206.292.1144 WWW.HELSELL.COM

EXHIBIT 1

3807 E. Jefferson Street
Seattle, Washington 98122

November 15th 2015

Andy Mckim, Bill Mills, and David Graves
Department of Construction and Land Use
700 5th Avenue
#2000
Seattle, Washington 98104

RE: Opinion Letter for 3038 39th Ave SW, Seattle 98116

Dear Mr. McKim, Mr. Mills, or Mr. Graves

I have a copy of the Warranty Deed for the above property for a purchase by my wife Hyun Ju and myself. I believe the property contains two separate historical lots with a home that resides completely on one of them. I will send you an electronic copy of the recorded deed once I get it back from escrow to satisfy any questions you may have with regards to its legal owner.

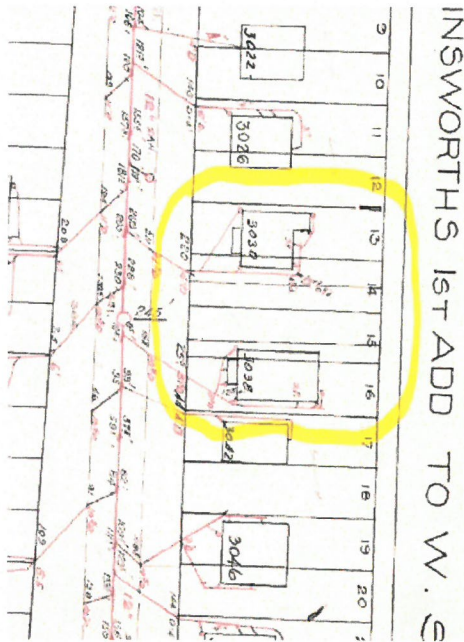
This is a formal request to determine if under the current Land Use Code that both historical lots exists and that they are both buildable.

Property Details

The property is at 3038 39th Ave SW The Property id is 3009800070 and the abbreviated legal description is: S 16 2/3 FT OF 14 & ALL 15-16 of Block 1 of Hainsworths J Walter Addition

Currently the property comprises of two historically plated lots and a portion of another (Lot B - The South 16 2/3 feet of Lot 14 and the North 16 2/3' of lot 15 TGW Lot A – South 8 1/3 feet of 15 & all of 16). The lots are Zoned Single Family 5,000, According to KC the lot is 6,365sqf. The portion of lot 14 is 16 2/3 ' by 95' and Lots 15&16 are both 25'x95'. Lot B is around 3,166sqf and Lot A is around 3,156sqf and the total for both lots are around 6,333sqf. The current home was built in July 1930 and it is two story with a basement. The total square footage of the home according to King County records is 1,320sqf with the main floor (foot print) being 1020sqf.

There is established parking pad on the east side of the home accessing the alley. Both Lots have access from both 39th Ave SW and from the alley to the East.



There is one single family home that rests entirely on Lot A and does in any way encroach onto Lot B. The permit to build this house called out the south 8 1/3' of lot 15 and all of lot 16. There is no physical evidence or permit history that indicates that there has ever been a principal structure that has straddled over the S 8' 1/3' of lot 15.

Permit, Deed, and Contract Sequence


- In December of 1913 Agnes conveyed to Coulthard all of Lots 13-16.
- In July of 19th 1930 Coulthard built the home at 3038 using a permit calling out the South 8 1/3' of 15 and all of 16. This clearly carved out Lot A carving it out of lots 13,14, and the north 16 2/3' of 15.
- In.
- That same year December of 1930 Coulthard also conveyed Lot 13 and the North 8 1/3 feet of 14 to Arkell. This I believe this legally created Lot B since Coulthard held back that portion in addition to Lot A that he already been established by building permit.
- In May 1931 Coulthard conveys both Lot A and B in one transaction to Rose
- In August 1937 Rose conveys both Lot A and B in one transaction to Costello
- In December 1937 there is some type of contract recorded where Costello calls out just Lot A while at the same time owning B. This further establishes the intent of the owner that lot A and Lot B were separate lots.
- No other permits were found
- Attached survey confirms that no principal structure crosses the boundaries between Lot A & B

Email from Andy McKim

I have also attached a copy of Andy McKim. This conclusion is consistent with his quick assessment of the deeds and permits.

If you have any questions please don't hesitate to contact me.

Respectfully

A handwritten signature in blue ink, appearing to read "Clifford Low". The signature is fluid and cursive, with the first name "Clifford" being more prominent than the last name "Low".

Clifford Low
Nehem Properties
(206)293-2233

Filed for Record at Request of
Hecker Wakefield & Feilberg, P.S.
Escrow Number: 2015390RH

Statutory Warranty Deed

Assessor's Tax Parcel Number(s): 300980-0070-03

THE GRANTOR George E. Manil, an unmarried individual for and in consideration of TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION in hand paid, conveys and warrants to Cliff Low and Hyun Ju Low, husband and wife the following described real estate, situated in the County of King, State of Washington.

The South 16 2/3 feet of Lot 14, and all of Lots 15 and 16, Block 1, J. Walter Hainsworth's First Addition to the City of West Seattle, according to the plat thereof, recorded in Volume 13 of Plats, page 45, records of King County, Washington.

Subject to easements, restrictions, reservations, covenants, and conditions of record as shown on attached Exhibit A, by this reference made a part hereof.

Dated November 12, 2015

George E. Manil

STATE OF _____ }
COUNTY OF _____ } SS:

I certify that I know or have satisfactory evidence that **George E. Manil**

the person who appeared before me, and said person acknowledged that _____ he/she
signed this instrument and acknowledge it to be his/her _____ free and voluntary act for the
uses and purposes mentioned in this instrument.

Dated: _____

Notary Public in and for the State of _____
Residing at _____
My appointment expires: _____

Deed 1913 Dec 15 Agnes Collins to Coulthard 13 to 16

.....
 D Dec 17-13 3-48
 Dec 15-13 @10
 Agnes Collins unsm woman
 TO
 Robert Coulthard and Mary Alice Coulthard huf

909161

865
 5-20
 12-13

rp ay and wr to ap fig dec r e in AC

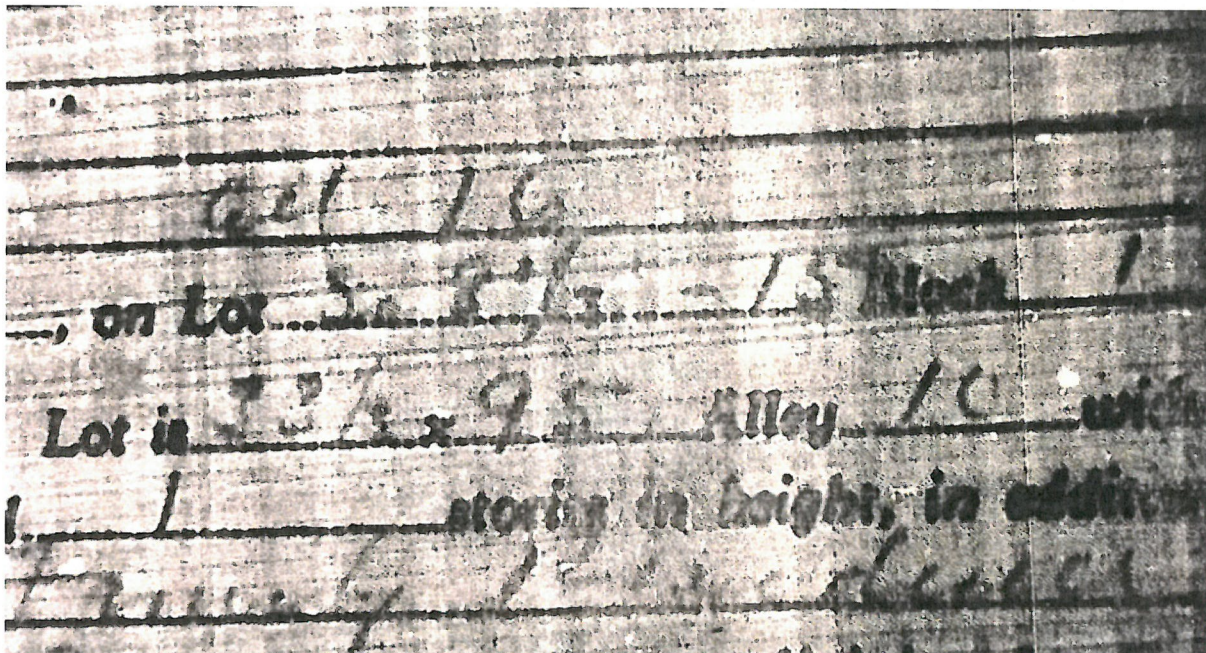
lots 13-14-15 and 16 in Bk 1 J S Mainworth's First Add to the
 C of S
 subj to 2 mtge aggregating \$450 also acmta mtg to noty over
 \$28 also accrued int amt to \$10
 H &
 Agnes Collins --

RCF -ec16-13 by Agnes Collins, unsm woman hf On A Westman RP 1
 and 1 S of S res at S (VS Sept 13-14)
 mail 6540 7th N &

.....

2-5

July 7th 1930 Building Permit 294395 to build 3038 39th Ave SW (Partial)



July 7th 1930 Building Permit 294395 to build 3038 39th Ave SW (Full)

OWNER'S CODE	BLDG. CODE	VOLUME	PAGE	DATE	TIME	BY	REMARKS
8-1-1-1							

Application is hereby made for permit to do the following work: Build Residence

for place of residence

on 39th Ave SW near 1st Ave SW

Alley 10' wide

PERMIT # 294395

Is 3038 39th Ave SW on Lot 8 x 1/2 = 15 Block 1

of 3038 39th Ave SW Addition. Lot is 33 x 95 Alley 10 wide.

Building will be 24 1 1/2 and 1 stories in height, in addition

to 1 basement. Occupancy will be Family Residence

No part of the building may be nearer than 25 feet 0 inches to any adjoining lot line.

The under side of the joists must be at least 7 inches above the ground.

Owner Robert Courtman Address 6512 1st Ave NW

Contractor _____ Address _____

Architect _____ Phone _____

(Owner) Robert Courtman

Application made July 7th 1930 By _____ His Authorized _____

Permission is hereby given to do the above described work, according to the conditions hereon and according to the approved plans and specifications pertaining thereto, subject to compliance with the Ordinances of the City of Seattle.

SUPERINTENDENT OF BUILDINGS

Permit issued 7-15 1930 By Thomas

REINFORCING STEEL MUST BE INSPECTED after placing and before covering.

BE SURE YOU ARE FULLY INFORMED ON THE BUILDING AND ZONING LAWS before beginning your work.

Report and recommendations: _____

ANS

Deed 1930 Dec 5 Coulthard to Arkell 13 & N 8 1-3 of 14

D Dec 5 30

Dec 5 30

\$10

2645909

Robert Coulthard and Mary Alice Coulthard hus and wf
to Sadie Arkell

fp oy and war to spflg des re sit inkew:

Lot 13 and the N 8 1/3 ft of lot 14, blk 1, J Walter Hainsworth's
First add to the city of West Seattle, vol 13 plat pg 45, recs
of kw

Robert Coulthard

Mary Alice Coulthard

kw Dec 5 30 by Robert Coulthard and Mary Alice Coulthard, hus and
wf bf J A Hokes up Wn res at s (MS Sept 15 34) ml f r Davis 2609 36th
sw

Deed 1937 Aug 5 Rose to Costello 16 2/3 feet of 14 and 15

D Aug 13 1937

2960015

Aug 5 1937 \$4550 \$2.50 lrs and st x

Marion Rose, and Benjamin Rose, hh, of the cs kw;
to John Costello and Anna Costello hus and wf
fp oy and war to sp fld in kw;

south 16 2/3 ft of lot 14, and all of lots 15 and 16, blk 1
J Walter Hainsworth's First add to the city of West S accordg to
plat thof recd in vol 13 of plats pg 45 recs of sd co

subj to a mtg to the Seattle Trust Company a wash corp asgd
to the Metropolitan Life Insurance Company, a NY Corp with a bel
stkl due to dt, incl accrued int in the amt of \$2261.00; this mtg
the purchrs assume and agree to pay accordg to the terms of sd mtg

Benjamin Rose

Marion Rose

kw Aug 5 1937 by Marion Rose, and Benjamin Rose hh bef Wm La
Mott, a p for wn res at s n s-ee Sept 25 1937
fld by sp 6324 40th ave sw

Contract 1937 Dec 13 Costello Lot 16 and S 8 & 1/3 lot 15

Modfn agrt Dec 13 1937

dt --

John and Anne Costello fp

add Metropolitan Life Insurance Company, NY n; corp sp
fp are the owners of fild in kew;

lot 16, and the so 8 1/3' of lot 15 blk 1 J Walter Hainsworth's
1st add;

sp is the owner -- sm as 155 above -- 2623877 --- \$1311.82
--- 6 1/2% per an fr 9-1-37 - --- \$30 or more per mth incl int at 5%--
Jan 1 1938 -- form down to: as swingally written

sp hby consents to the foregoing modifn

John Costello

Anne Costello

Metropolitan Life Insurance Company

by J D Craig, vice pres

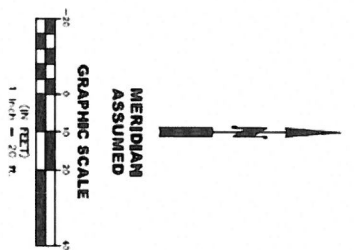
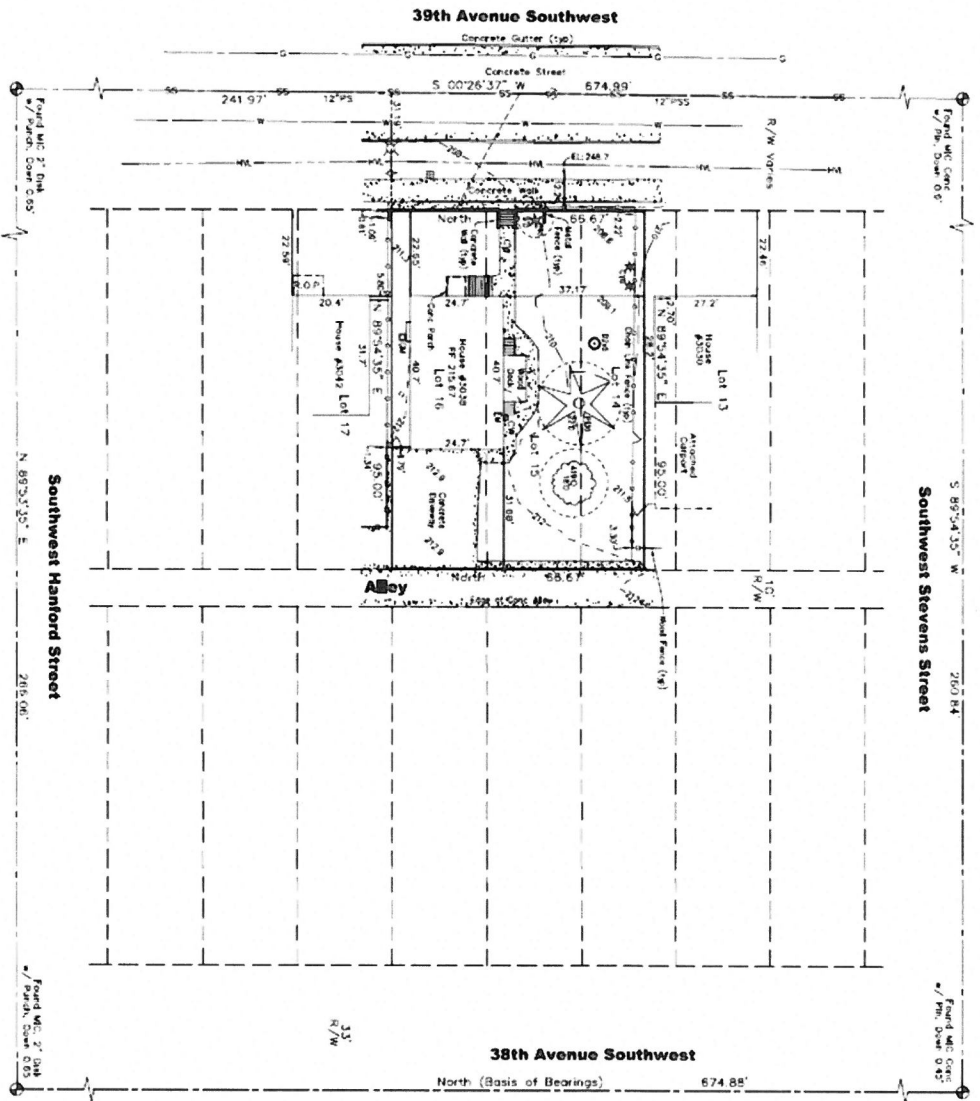
by John P Rogers, asst secy (corp sl)

kew Nov 17 1937 by John and Anne Costello bef L F Eahon sp
for wn res at s n s Apr 8 1940 fild by sti do

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✓

143
14 2977158 ✓



LEGAL DESCRIPTION

THE SOUTH 1/4 OF LOT 14 AND ALL OF LOTS 15 & 16, BLOCK 1, WALTER J. HANSMORTH 1ST ADDITION TO WEST SEATTLE ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 13 OF PLATS, PAGE 45, RECORDS OF KING COUNTY, WASHINGTON.

APN: 300880-0070

AREA = 6,333.7 SQUARE FEET

TREE DESCRIPTIONS

A Apple Tree (Fruis) CT Cypress (Compressed)
D Deciduous PI Pine (Fruis)

SURVEY NOTES

INSTRUMENT USED: SOKKIA SET 5 EDV
METHOD USED: FIELD TRAVERSE
APPROXIMATE POINT ACCURACY: ±0.05'
SURVEY MEETS OR EXCEEDS STATE STANDARDS PER WAS 332-130-0960.
MONUMENTS SHOWN HEREON WERE VISITED ON NOVEMBER 11, 2015.
THE INFORMATION SHOWN ON THIS MAP REPRESENTS THE RESULTS OF A SURVEY MADE ON THE INDICATED DATE AND IS NOT GUARANTEED BY THE SURVEYOR AS TO THE EXISTING CONDITION AT THAT TIME.
NO EASEMENTS, RESTRICTIONS OR RESERVATION OF RECORD WHICH WOULD BE DISCLOSED BY A TITLE REPORT ARE SHOWN.

VERTICAL DATUM - ASSUMED
CONTOUR INTERVAL - 2 FEET

SURVEY IN THE
SE 1/4, SE 1/4 SEC. 11 TWP. 24N., RGE. 3E., NW



TOPOGRAPHIC SURVEY

Clifford Low
3038 39th Avenue Southwest
Seattle, WA 98116

LANDSLIDE LAND SURVEYING, INC.
PO BOX 13064 HILL CREEK, WA 98002 PH: (206) 350-7100

DRAWN BY
BLU
CHECKED BY
HLP
PROJECT
15004
DATE
11/15/15

SHEET
1
OF
1

Email from Andy McKim

From: Andy.McKim@seattle.gov
To: mikerave@msn.com; William.Mills@seattle.gov
Date: Fri, 6 Nov 2015 16:27:43 -0800
Subject: RE: Question Legal lot

Hi, Michael.

Based on the facts you describe, I think there is a middle lot that can separately qualify as a building site, effectively carved off by the conveyance along with the two 1930 building permits, assuming no later permits for additions to the house to the south that might have reconsolidated that lot with the middle one. From the aerial photo, it doesn't look as if there was any addition that did that. The middle lot would be the north 16'8" of Lot 15 and the south 16'8" of Lot 14.

Andy McKim
Land Use Planner – Supervisor

From: Michael Ravenscroft [<mailto:mikerave@msn.com>]
Sent: Friday, November 06, 2015 4:03 PM
To: Mills, William; McKim, Andy
Subject: Question Legal lot

Hi Andy and Bill,

Trying to figure out if this fits under the new rules. The middle lot (North 16.7 ft of lot 15 and the south 16.7 ft of lot 14) is just under 3200 sf according to our calculations so we're aware of the rules under 3200 sf.

I wrote a chronology of the transfers at the bottom of the sketch but wanted to pass by you first to see get your take on whether its worth pursuing. If it looks like it has a possibility we'll submit the full package.

It appears the owner at the time, Courthan (not sure of correct spelling) owned lot 13-16. In July 1930 he permitted 3038 39th Ave SW on lot 16 and South 1/3 of lot 15. In December 1930 he sold off lot 13 and the North 1/3 of lot 14 to Arkell which immediately was built on (3030 39th Ave SW)

Our question is this: Does this leaves the North 16.7ft of lot 15 and the south 16.7 feet of lot 14 as a legal parcel?

Thanks for your time

Michael Ravenscroft 206-372-8151

EXHIBIT 2



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



City of Seattle, Department of Construction and Inspections
700 Fifth Avenue, Suite 2000
P.O. Box 34019, Seattle, WA 98124-4019

An equal employment opportunity, affirmative action employer. Accommodations for people with disabilities provided upon request.

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
Page 3 of 3

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 long horizontal stroke at the end.

David G. Graves
Senior Land Use Planner

DGG/Low

EXHIBIT 3



City of Seattle
Edward B. Murray, Mayor

Department of Construction and Inspections
Nathan Torgelson, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE SEATTLE DEPARTMENT OF CONSTRUCTION AND INSPECTIONS**

Application Number: 3024037
Applicant Name: Yueann Wu
Address of Proposal: 3036 39th Ave SW

SUMMARY OF PROPOSED ACTION

Land Use Application to allow a two-story, single family residence with attached two car garage.

The following approvals are required:

Special Exception - to allow development of a qualified lot less than 3,200 sq. ft. in area in a Single Family zone (SMC 23.44.010.B.3).

BACKGROUND

The subject property is located in the West Seattle Neighborhood on the east side of 39th Ave SW and south of SW Stevens Street. The property is zoned Single Family 5000 (SF 5000) and is surrounded by SF 5000 zoning as well. The City has determined that the property qualifies as a separate legal building site under exceptions to the minimum lot area requirement set forth in SMC 23.44.010.B.1 (Opinion letter dated January 5, 2016, under project 3022995).

The site includes an Exceptional Tree as defined in SMC 25.11. Removal of the tree has been identified in building permit application 6513178.

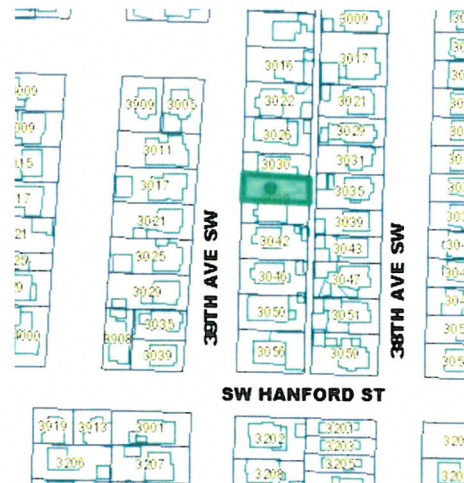
Removal of the tree will be reviewed under the building permit application.

Site and Vicinity

Site Zone: Single Family 5000

Nearby Zones: North: SF 5000
South: SF5000
West: SF 5000
East: SF5000

ECAs: There are no mapped ECAs.



Public Comment

The public comment period ended on June 22, 2016. Comments that raised issues within the scope of this review related to:

- Proposed location of windows in relation to privacy

Additional comments were received that are beyond the scope of this review and analysis per SMC 23.44.010.B.3.

ANALYSIS - SPECIAL EXCEPTION

The Land Use Code provides a Special exception review process for lots less than 3,200 square feet in area (SMC 23.44.010.B.3). A special exception Type II review as provided for in Section 23.76.004 is required for separate development of any lot with an area less than 3,200 square feet that qualifies for any lot area exception in subsection 23.44.010.B.1. The special exception application shall be subject to the following provisions:

- a. The depth of any structure on the lot shall not exceed two times the width of the lot. If a side yard easement is provided according to subsection 23.44.014.D.3, the portion of the easement within 5 feet of the structure on the lot qualifying under this provision may be treated as a part of that lot solely for the purpose of determining the lot width for purposes of complying with this subsection 23.44.010.B.2.c.
- b. Windows in a proposed principal structure facing an existing abutting lot that is developed with a house shall be placed in manner that takes into consideration the interior privacy in abutting houses, provided that this provision shall not prohibit placing a window in any room of the proposed house.
- c. In approving a special exception review, additional conditions may be imposed that address window placement to address interior privacy of existing abutting houses.

Review and analysis of the information provided by the Applicant demonstrates compliance with the provisions regulating review for lots less than 3,200 square feet.

The structure on the lot has a proposed depth of 63 feet with a 66.67 foot wide lot and as such, does not exceed two times the width of the lot.

The applicant provided a window study and privacy analysis for the adjacent properties located at 3026 39th Ave SW and 3022 39th Ave SW. The proposed window placement in relation to the adjacent neighbor's windows are located strategically to minimize overlapping views and maintain privacy for adjacent residencies. Based on the window study privacy analysis and public comments, it appears that windows in the proposed principal structure have been located in a manner to address interior privacy of existing abutting homes.

Public comments identified abutting windows across from proposed roof deck, however, the applicable criteria do not address outdoor gathering areas or roof decks in relation to window locations on abutting lots.

The proposal has been reviewed and complies with provisions regulating development on qualified lots under 3,200 square feet under SMC 23.44.010.B.3.

DECISION – SPECIAL EXCEPTION

The proposed Special Exception is **GRANTED**.

CONDITIONS OF APPROVAL

None.

Crystal Torres, Land Use Planner
Seattle Department of Construction and Inspections

Date: October 6, 2016

CT:rgc
3024037.docx

IMPORTANT INFORMATION FOR ISSUANCE OF YOUR MASTER USE PERMIT

Master Use Permit Expiration and Issuance

The appealable land use decision on your Master Use Permit (MUP) application has now been published. At the conclusion of the appeal period, your permit will be considered “approved for issuance”. (If your decision is appealed, your permit will be considered “approved for issuance” on the fourth day following the City Hearing Examiner’s decision.) Projects requiring a Council land use action shall be considered “approved for issuance” following the Council’s decision.

The “approved for issuance” date marks the beginning of the **three year life** of the MUP approval, whether or not there are outstanding corrections to be made or pre-issuance conditions to be met. The permit must be issued by Seattle DCI within that three years or it will expire and be cancelled. (SMC 23-76-028) (Projects with a shoreline component have a **two year life**. Additional information regarding the effective date of shoreline permits may be found at 23.60.074.)

All outstanding corrections must be made, any pre-issuance conditions met and all outstanding fees paid before the permit is issued. You will be notified when your permit has issued.

Questions regarding the issuance and expiration of your permit may be addressed to the Public Resource Center at prc@seattle.gov or to our message line at 206-684-8467.

EXHIBIT 4

**BEFORE THE HEARING EXAMINER
CITY OF SEATTLE**

In the Matter of the Appeal of

Lisa Parriott

From a decision issued by the Director, Seattle
Department of Construction and Inspections

**Hearing Examiner File:
MUP-16-019 (SE)**

**SDCI Interpretation No. 16-006
(SDCI Project No. 3026248)**

Background

Lisa Parriott, a property owner adjacent to the property addressed as 3036 39th Ave SW, has requested this interpretation. The Seattle Department of Construction and Inspections (SDCI) has issued a letter to the owner of the subject property expressing the opinion that the parcel at 3036 39th Ave SW is a legal building site, separate from the property addressed as 3038 39th Ave SW. The question for interpretation is whether the parcel qualifies as a separate legal building site under the Historic Lot Exception to minimum lot area requirements in the Seattle Land Use Code.

Findings of Fact

1. The property in question is addressed in SDCI records as 3036 39th Ave SW. According to records maintained by SDCI, the property is described as the South 16 $\frac{2}{3}$ feet of Lot 14 and North 16 $\frac{2}{3}$ feet of Lot 15, Block 1, J. Walther Hainsworth's 1st Addition to West Seattle. For convenience, this property is referred to as "Parcel B" in this interpretation. Parcel B is not developed with any structure.
2. Parcel B is currently held in common ownership with the property to the south, which is the site of the house addressed as 3038 39th Ave SW. That property, referred to in this interpretation as "Parcel A," is described as the South 8 $\frac{1}{2}$ feet of Lot 15 and Lot 16, Block 1, J. Walther Hainsworth's 1st Addition to West Seattle. Parcels A and B are both in an area zoned SF 5000: Single-Family Residential, with a general minimum lot area requirement of 5,000 square feet. Parcels A and B each have an area of approximately 3,167 square feet, based on their platted dimensions. Neither of these parcels, individually, meets the general minimum lot area requirement of the zone.
3. Several exceptions to the minimum lot area requirement are provided in the Land Use Code, at SMC 23.44.010.B. A copy of that section is appended to this interpretation and incorporated in these findings.
4. Based on research performed when the minimum lot area standards were revised in 2014, an estimated 44 percent of lots in SF 5000 zones have areas less than 5,000 square feet. Of the eleven other lots on the block front that includes Parcels A and B, all but one are less than 5,000 square feet in area.

5. By letter to the Department received November 18, 2015, the property owner, Clifford Low, requested a determination that Lot B qualifies as a separate legal building site. On January 5, 2016, SDCI issued a legal building site letter to Mr. Low, with the preliminary opinion that Lot B qualifies as a separate legal building site through application of the Historic Lot Exception, pursuant to SMC 23.44.010.B.1.d.
6. Prior to July 1930, Robert and Mary Alice Coulthard owned lots 13, 14, 15 and 16 of Block 1, J. Walther Hainsworth's 1st Addition to West Seattle. For convenience, this property is referred to as "the original Coulthard property."
7. Permit No. 294395, issued July 15, 1930, allowed the Coulthards to construct a residence with a basement garage accessed from the alley. The permit identified the building site as Lot 16 and the South 8 ½ feet of Lot 15. That property, which is Parcel A, comprised the southern one-third of the original Coulthard property. None of the permit records for the existing house on Lot A include Parcel B as part of the development site of that house.
8. On December 5, 1930, the Coulthards conveyed Lot 13 and the North 8 ½ feet of Lot 14 to Sadie Arkell. That property was the northern one-third of the original Coulthard property. Permit No. 297240, issued December 12, 1930, allowed Ms. Arkell to construct a residence addressed as 3030 39th Avenue SW. The permit identified the building site as Lot 13 and the North 8 ½ feet of Lot 14. No permit records for the house addressed as 3030 39th Avenue SW describe Parcel B as part of the legal building site for this house.
9. There are no permits discovered in SDCI records that include Parcel B as a part of a site description. The Coulthards maintained ownership of Parcels A and B until conveying them to Marion and Benjamin Rose on May 5, 1931.
10. Abstracts of title maintained by SDCI show that Parcels A and B have been in common ownership since at least 1930, when the Coulthards owned both lots. On August 8, 1937, the Roses conveyed to John and Anne Costello the South 16 ¾ feet of Lot 14 and all of Lots 15 and 16 (both Parcels A and B). On September 9, 1942, the Costellos conveyed to Jack F. and Ella M. Butler the South 16 ¾ feet of Lot 14 and all of Lots 15 and 16 (both Parcels A and B). The Butlers held this property until 1965.
11. City of Seattle Sewer card 6664, started in 1928, shows parcel lines that delineate Parcel B as separate from Parcel A and the house at 3030 39th Ave SW. City of Seattle Sewer Plat 6664, entered in 1931, includes a line separating the north 16 feet of Lot 15 from Parcel A.
12. The City first adopted a process for short subdivision of land in 1972, by Ordinance No. 101027. Prior to that time, property was effectively divided simply by deed, when a portion of a larger lot was sold, or by building permit, when a portion of a larger lot was called out in a legal description on a permit.
13. Seattle's zoning codes have included minimum lot area standards for single-family zones since Ordinance 81476 was adopted in 1952. Exceptions for historic lots of record were provided from the start. Records associated with a 1953 amendment (Ord. 82114) reflect that the intent of the exception was to protect the investments of parties who had acquired and set aside a parcel, with the expectation that it could be separately developed.

14. Two policies in Seattle's Comprehensive Plan specifically relate to minimum lot area requirements for Single Family zones:

LU66 Use minimum lot size requirements to maintain a low-density residential environment while reflecting differences in development conditions and the densities and scale of housing in various single-family residential areas.

LU67 Permit exceptions to minimum lot size requirements to recognize building sites created in the public records under previous codes, to allow the consolidation of very small lots into larger lots, to adjust lot lines to permit more orderly development patterns, and to provide housing opportunity through the creation of additional buildable sites which are compatible with surrounding lots and do not result in the demolition of existing housing.

Conclusions

1. Under Section 23.44.010.B.1.d, there are three types of public records that are relevant to determining whether property qualifies for the historic lot exception. These records are deeds, plat records, and building permits. Parcel B contains only portions of platted lots, and therefore does not qualify as a separate building site based on platting. According to SMC 23.44.010.B.1.d.1), "a lot is considered to have been established as a separate building site by **deed** if the lot was held under separate ownership from all abutting lots for at least one year" (emphasis added) There is no evidence that Parcel B was held under separate ownership from all abutting lots for at least one year.
2. Since neither platting nor deed records apply to Parcel B, the public records that determine whether it qualifies for the historic lot exception are the building permit records. Building permits were issued in 1930, five months apart, for houses on the south one-third and the north one-third of the original Coulthard property. Neither of those permits included the middle one-third, Parcel B, in the site descriptions. It is SDCI's determination that Parcel B was established as a separate building site based on the building permits issued for the adjacent lots, which did not include Parcel B as part of either development site. The limits placed on lots held in common ownership under Section 23.44.010.B.1.d.1 only apply to historic lots created by deed. Therefore, the fact that Lot B was held in common ownership with Lot A is irrelevant.
3. The Historic Lot Exception does not require that we determine the subjective intent of the Coulthards, but it does require that we consider whether the public records reflect that Parcel B was treated as a separate building site. When the owners built their house on the southern portion of their property, they could just as easily have included Parcel B, or even the entirety of the original Coulthard property, in the site description. However, a portion of the property was consciously and deliberately omitted from the site description. By calling out only Parcel A, the owners effectively carved off the remainder of the property. The only logical reason for doing this was to preserve that remainder for separate development.
4. Less than five months later, the northern one-third of the original Coulthard property was sold and a permit was issued for a house on that property. Again, Parcel B was excluded, and thus preserved for separate development.

5. In 1930, there was no formal process for short subdivision of land. The Coulthard property was split into three equal pieces, as a matter of public record, using the processes available at that time, which included describing portions of the original property in building permits. While not a record used for determining legal building sites, the sewer card (started in 1928) and sewer plat (entered in 1931) of this street also reflect that Parcel B was contemplated as a separate site, consistent with the Department's conclusion under the Historic Lot Exception.
6. It has been argued that the fact that Parcels A and B have continued to be held together over the years, through multiple conveyances, should now disqualify Parcel B for separate development. But the Historic Lot Exception is very clear about what actions cause a lot of historic record to cease to qualify. If a portion of a principal structure is built over a lot line onto the parcel, or the parcel is otherwise used to meet a development standard for a neighboring house, it will no longer qualify for the exception. If the parcel is used to meet a parking requirement for a neighboring house, it will not qualify unless that parking requirement is met elsewhere. Continued common ownership of two abutting parcels, or conveyance of those parcels together, are not listed as factors that would cause the exception to cease to apply. There is no evidence that Parcel B has ever been developed with any structure related to the house on Parcel A, or used to meet parking requirements or other development standards associated with improvements on Parcel A. In short, subsequent to the actions in 1930 that first established Parcel B as a separate lot in the public record, there have been no actions that would cause it to cease to qualify for the Historic Lot Exception.
7. It has also been argued that the purchase price for Parcels A and B together, in recent transactions, is not consistent with an expectation that these parcels are separate legal building sites. Again, this is not listed as a factor to be considered under SMC 23.44.010.B.1.d.

Decision

The property described as the South 16 ⅔ feet of Lot 14 and the North 16 ⅔ feet of Lot 15 (Parcel B) is a separate legal building site based on the Historic Lot Exception, pursuant to SMC 23.44.010.B.1.d. The original Coulthard property was effectively subdivided into three equal lots, as reflected by the 1930 building permits, which called out the north one-third and the south one-third of that property, both excluding the middle one-third (Parcel B). No subsequent actions have caused Parcel B to cease to qualify for the exception, based on the code standards. Parcel B qualifies for development as a separate legal building site.

Entered this 9th day of December, 2016.



David Graves, Senior Land Use Planner
Department of Planning and Development

EXHIBIT 5

J. Walter Hainsworth's

First Addition

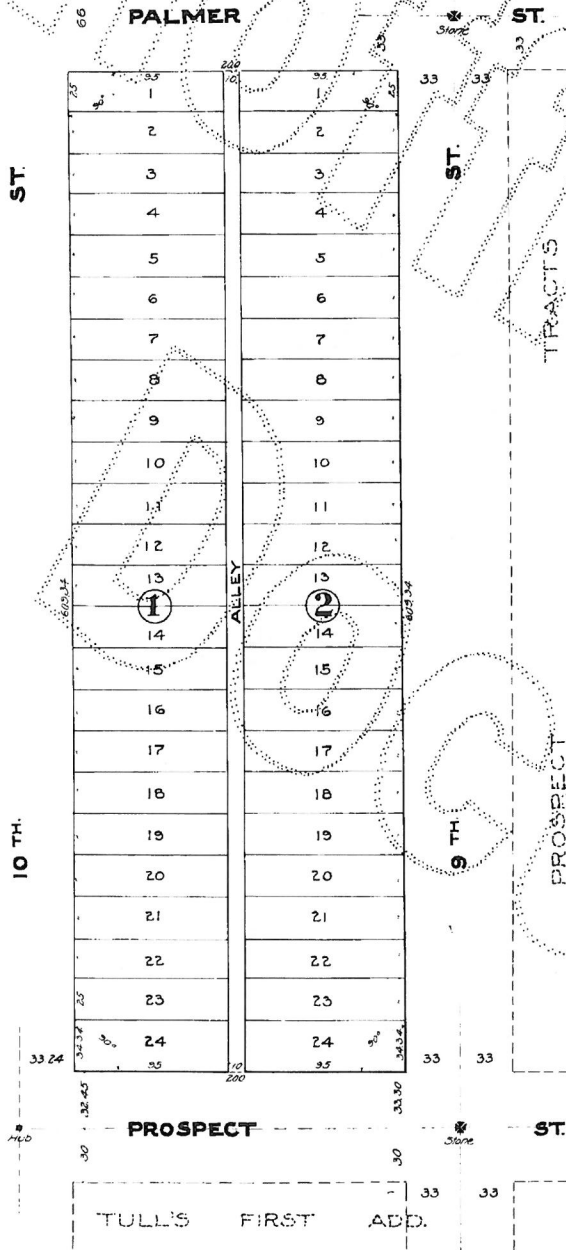
TO THE CITY OF WEST SEATTLE

June 1906

GARDNER & GARDNER
ENGINEERS

SCALE: 50' = 1"

PROSPECT TRACTS



DESCRIPTION

This plat embraces Block 14 of the Prospect Tracts.
All distances are as shown on this plat in feet.

DEDICATION

Know all men by these presents, that we, J. Walter Hainsworth and Anita J. Hainsworth, husband and wife, owners in fee simple of the land hereby platted, hereby declare this plat and dedicate to the use of the public forever all streets and alleys shown thereon.

In witness whereof we have hereunto set our hands and seals this 25th day of June A.D. 1906.

Signed and sealed in the presence of
Daniel Landon
James Landon
J. Walter Hainsworth
Anita J. Hainsworth

ACKNOWLEDGMENT

State of Washington
County of King

This is to certify that on this 25th day of June A.D. 1906, before me, a Notary Public, in and for the State of Washington, duly sworn and commissioned, personally appeared J. Walter Hainsworth and Anita J. Hainsworth, his wife, to me known to be the individuals described in and who executed the foregoing instrument and acknowledged to me that they signed and sealed the same as their free and voluntary act and deed, for the uses and purposes mentioned therein.

Given under my hand and seal the day and year above written

Daniel Landon

Notary Public, residing in Seattle.



Examined and approved this 23rd day of June A.D. 1906.

Albro Gardner Engr.

Approved by the Mayor and the City Council of the City of West Seattle by Ord. No 143 this 23rd day of June 1906.



Attest
W. G. Dickinson Mayor
City Clerk

403568

Filed for record at request of J. Walter Hainsworth Jun 29, 1906, at 1 min past 2 P.M. and recorded in Vol 13, Page 45 of Plats, Records of King County.

By J. P. Agnew
County Auditor
Deputy

Approved August 22, 1906
By Board of County Commissioners

EXHIBIT 6

60664



NO. OF PAGES 10/11/11

N

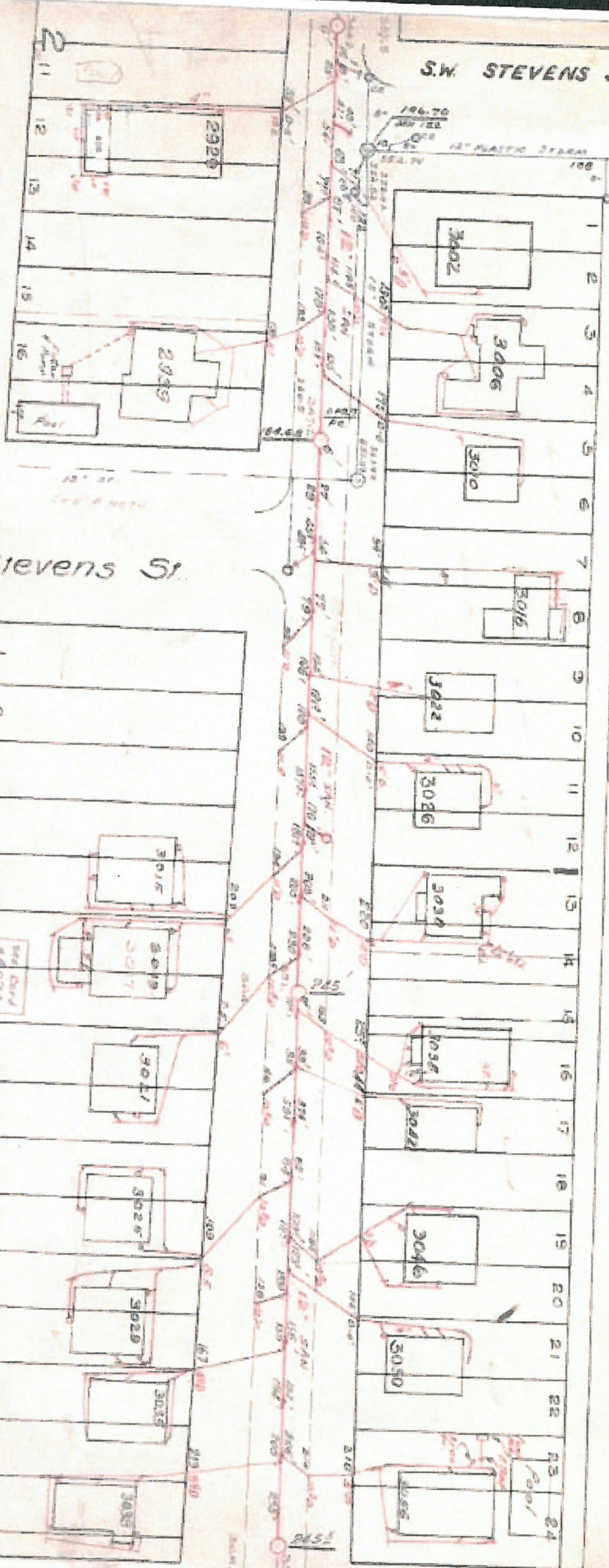
39TH AVE. S.W.

Rubber Gasket Pipe Only

J. WALTER HAINSWORTHS 1st ADD TO W. S. 1/3-45

S.W. STEVENS ST

S.W. Hanford St.



BANNER TRACT TO W. SEATTLE AVE.
W. Stevens St.

SK20 L/D 2945 P. 54, 55 & 56

STEVENS 200
777-A00
040 100116

EXHIBIT 7

OWNER'S NAME	DATE	DEPT. NAME	STREET	CITY	STATE	ZIP	PERMIT NO.	DATE
84.000							90	10

Application is hereby made for permit to do the following work: Build Road

for place
garage on place
last

PERMIT # 29439K

is 3038 37 Ave S on Lot 3038-95 Block 1
 (Member) (Owner)

of 1000 sq ft Addition. Lot is 3038-95 Alley 10 wide.
 Building will be 24 x 17 and 1 story in height, in addition
 to 1 basement. Occupancy will be Family Residence

No part of the building may be nearer than 10 feet 0 inches to any adjoining lot line.

The under side of the joists must be at least 1 inches above the ground.

Owner Robert Courtland Address 6527 C NW

Contractor _____ Address _____

Architect _____ Phone _____

(Owner) Robert Courtland

Application made 7-15 1930 By _____

His Authorized _____

Permission is hereby given to do the above described work, according to the conditions hereon and according to the approved plans and specifications pertaining thereto, subject to compliance with the Ordinances of the City of Seattle.

SUPERINTENDENT OF BUILDINGS

Permit issued 7-15 1930 By Theresa

REINFORCING STEEL MUST BE INSPECTED after placing and before covering.

BE SURE YOU ARE FULLY INFORMED ON THE BUILDING AND ZONING LAWS before beginning your work.

Report and recommendations:

INDEX

ANS

EXHIBIT 8

14th Ave. SW

CONTRACTOR

V.H. Ely

PLAT AND PERMIT NO.

D-167

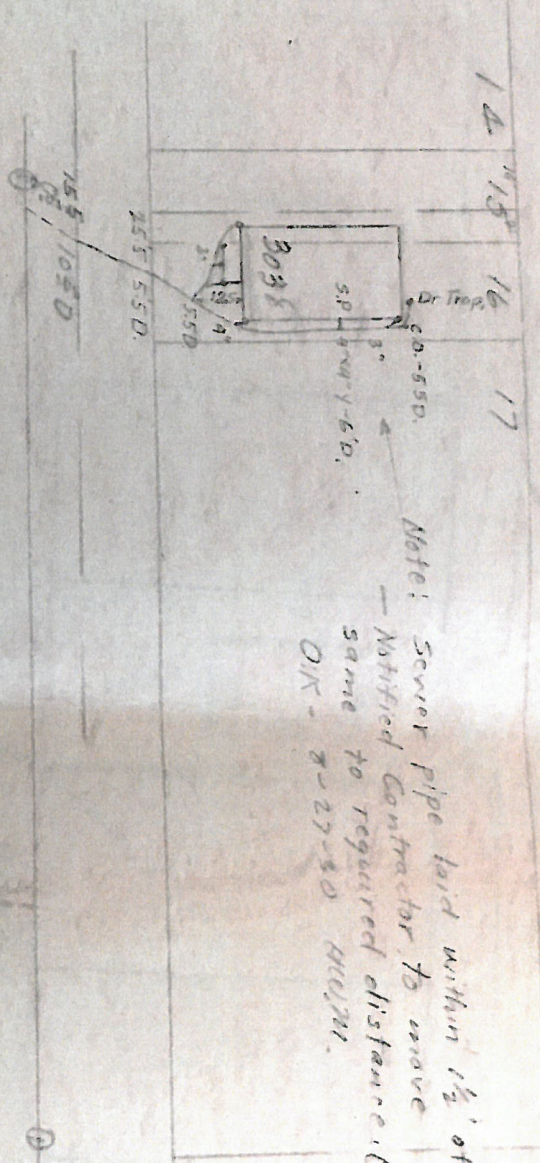
EASEMENT NO.

39th Ave. SW

39th Ave. SW

1

14 18 16 17



Note: Sewer pipe laid within 1 1/2' of bldg.
- Notified Contractor to move
same to required distance (2 1/2')
O.K. - 8-27-30 H.C.M.

39th Ave. SW

2455

W. Hanford St

AUG 28 1930

5.5' or Concrete Wall (reference to Outf)

(reference to First Floor)

Main to Property Line 4' from Property Line to Building 2'

Distance W. E. to Pt. Line 25.5' Distance, Van Hole to Bldg. Line 12'

Building Located To Scale

Kind of Pipe-Concrete

V.H. Clay

Inst. Eng. Entered on Card. Date

4-20-31

I HEREBY CERTIFY THAT THE ABOVE CONNECTION HAS BEEN MADE AS SHOWN:

By

H. H. Ely

Inspector

DATE

8-26-30
8-27-30

**FOR
SIDE SEWER PERMIT
OUTSIDE O INSIDE O REPAIRS O**

CARD NO. _____

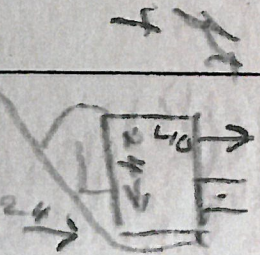
CONTRACTOR J H Ely PERMIT NO. 167
STREET and old lot 15
AVENUE LOT NO. 812-16
BLOCK NO. 1

CONTRACTOR J H Ely PERMIT NO. 167
STREET and old lot 15
AVENUE LOT NO. 812-16
BLOCK NO. 1

CONTRACTOR J H Ely PERMIT NO. 167
STREET and old lot 15
AVENUE LOT NO. 812-16
BLOCK NO. 1

NAME ADD. 9110 Foster Avenue North Place to work on the

ALLEY



6-8 mch

24

DATE _____

D ISSUED.

DEPOSIT, \$

Approved: _____
E. F. CHASE, Sewer Maint. Eng.
DATE 8-13-30

Approved: _____
E. F. CHASE, Sewer Maint. Eng.
DATE 8-13-30

BY

BY

EXHIBIT 9

MAug 21 30

4-05

2623877

Aug 21 30

Robert Coulthard and Mary Alice Coulthard hwf
to Seattle Trust Company a Wncorp

fp mtge to sp the flgdes re sitinkew:

S 8-1/3 ft of lot 15 and all of lot 16, blk 1, J Walter Heinsworth's
First add to the city of West Seattle, vol 13 platpg 45 recs of sd co

tsp\$2900 ned with int thonet 6 1/2% ps until maturity, pable semly on
the 1st of Sept and Mch of eayr andprinable\$85 on Sept 1 33, and a
like amt onthe 1st of ea Mch andse t thaf untilend inc Mch 1 45, and
the bal of adprin sum then remaining, tgw int on Sept 1 45, with
int from maturity at 12% ps

Privilege is reserved of paying this loan in full on Sept 1 33 or on
any int payt dt thaf by giving 60 days written notice

bal sa--28 2586063---ins \$3160---

Robert Coulthard
Mary Alice Coulthard

kew Aug 21 30 by Robert Coulthard and Mary Alice Coulthard hwf bf
Earl E Wilson np Wares at \$(NSMch 8 32) ml sp

EXHIBIT 10

D Dec 6 30

Dec 8 30

\$10

1488
265
2645909

Robert Coulthard and Mary Alice Coulthard hus and wif
to Sadie Arkell

fp ey and war to spflg des re sit inksw:

Lot 13 and the N S 1/3 ft of lot 14, blk 1, J Walter Hainsworth's
First add to the ex city of West Little, vol 13 platpg 45, recs
of kcw

Robert Coulthard
Mary Alice Coulthard

kew Dec 8 30 by Robert Coulthard and Mary Alice Coulthard. E and
wf bf J A Rokes up Unres at s (NS sept 15 34) ml f r davis 2609 38th
sw

EXHIBIT 11

CITY OF SEATTLE - DEPARTMENT OF BUILDINGS

APPLICATION AND BUILDING PERMIT

OWNER'S VALUE	BLDG. DEPT. VALUE	CITY OF SEATTLE'S	BLDG. DIST.	USE DIST.	AREA DIST.	HEIGHT DIST.	PLANS FILED	LOT OR FRONT
\$ 2,500		Frame	4	1	A		YES NO	40 70

Application is hereby made for permit to do the following work: Build Residence

per plan filed

At 3030 37 SW, on Lot 8 1/2 - 14, Block 1

of Hammer Addition. Lot is 3 1/2 x 45 Alley 10 wide.
Building will be 2 1/2 stories in height, in addition
to 1 basement. Occupancy will be 12 persons.

No part of the building may be nearer than 5 feet inches to any adjoining lot line.

The under side of the joists must be at least 1 1/2 inches above the ground.

Owner S. A. Smith Address 37 37 49 SW

Contractor _____ Address _____

Architect _____ Phone _____

Application made 12 12 19 30 By (Owner)

Permission is hereby given to do the above described work, according to the conditions herein and according to the approved plans and specifications pertaining thereto, subject to compliance with the Ordinances of the City of Seattle.

Permit issued 12 12 19 30 By Superintendent

REINFORCING STEEL MUST BE INSPECTED AND PLACING AND CURE MONITORED.
BE SURE YOU ARE FULLY INFORMED OF THE BUILDING AND ZONING LAWS BEFORE BEGINNING YOUR WORK.

Report and recommendations:

EXHIBIT 12

SEWER PLAT

CARD NUMBER

6664

B. Du Brulle
3030 - 39th S.W.

CONTRACTOR

Haus Pedersen PLAT AND PERMIT NO.

D 1105

EASEMENT NO.



W Stevens St

39th S.W.

Property Line 4' or Concrete Wall (reference to Curb)
Building 8' (reference to First Floor)
Trade from Main to Property Line 6' from Property Line to Building 22'
Distance M. H. to Pt. Line 220 Distance, Man Hole to Bldg. Line 218

Kind of Pipe—Concrete
Building Located
Via, Clay

I HEREBY CERTIFY THAT THE ABOVE CONNECTION HAS BEEN MADE AS SHOWN:

Entered on Card. Date 4-20-31

By R. A. D. R.

Inspector. DATE 1-26-31
1-28-31

City of Seattle

OF STREETS AND SEWERS
ENGINEER'S OFFICE

APPLICATION

FOR
SIDE SEWER PERMIT
OUTSIDE O INSIDE O REPAIRS O

CARD NO. _____

EASEMENT NO. _____

Organ Da Services

CONTRACTOR

W. Pedersen

PERMIT NO.

1105

13030. 39 SW

STREET
AVENUE LOT NO.

13 + Port of 14

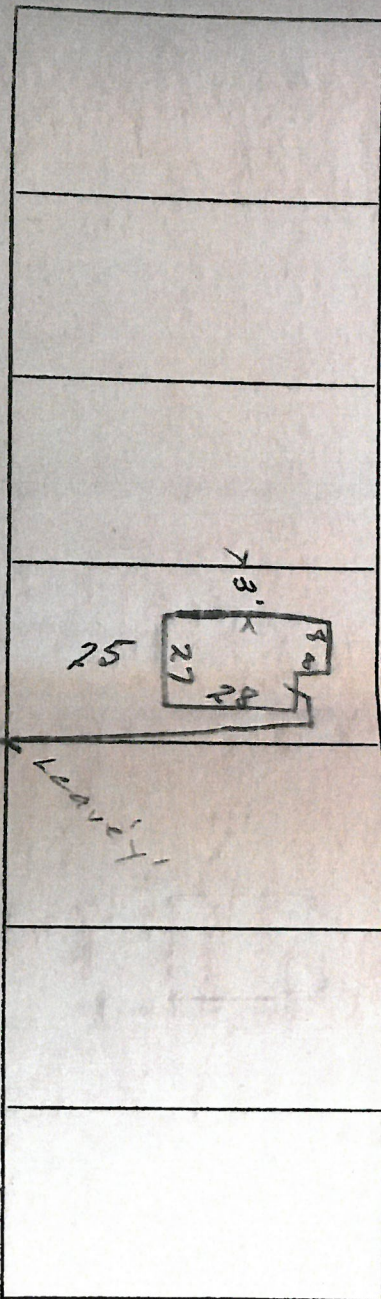
BLOCK NO.

1

NAME ADD.

Wainwright 1st

ALLEY



Hampford

39 SW

arch

--	--	--	--	--	--	--	--	--	--

WORK ORDERED ISSUED

DATE

DEPOSIT, \$

Approved:
E. F. CHASE, Sewer Maint. Eng.

DATE *1-19-31* BY *W. A. S.*

EXHIBIT 13

....
D Fld Aug 5 1931

May 28 1931 \$10

Robert Coulthard and Mary Alice Coulthard, h&f
to Marion Rose, wife of Benjamin Rose

7p cy and verr to sp the fare sit in Kew

2691455

1499
593

3 16-2/3 ft of Lot 14 and all of Lots 15 and 16 in b k 1 of
J Walter Hainsworth's First Add to the C of West Seattle acc to
plat thof rkd in Vol 13 of Plats pg 45 rkds of sd county
Subj to tht otn mtg dtd Aug 21 1920 tap of \$2000 and int in favor
of UTC rkd under Aud File No. 2623377 rkds of sd county wch grantee
assumes and agrees to pay

Robert Coulthard

Mary Alice Coulthard

Kew May 28 1931 by Robert Coulthard and Mary Alice Coulthard, h&f
bef Frank A Potter n p for sw res at S n s Sept 9 1934(M1
Benjamin Rose 3038 39th SW)

...

EXHIBIT 14

D Aug 13 1937

2060015

Aug 5 1937 \$4550 \$2.50 lrs and st x

Marion Rose, and Benjamin Rose, hh, of the es kw;
to John Costello and Anna Costello hus and wf
fp oy and war to sp fdid in kw;

1749
477

south 16 2/3 ft of lot 14, and all of lots 15 and 16, blk 1
J Walter Hainsworth's First add to the city of West 5 accordg to
plat thof recdd in vol 13 of plats pg 45 recs of sd co

subj to a mtg to the Seattle Trust Company a wash corp asgd
to the Metropolitan Life Insurance Company, a NY Corp with a bal
stkl due to dt, incl accrued int in the amt of \$2281.80; this mtg
the purchrs assumeand agree to pay accordg to the terms of sd mtg

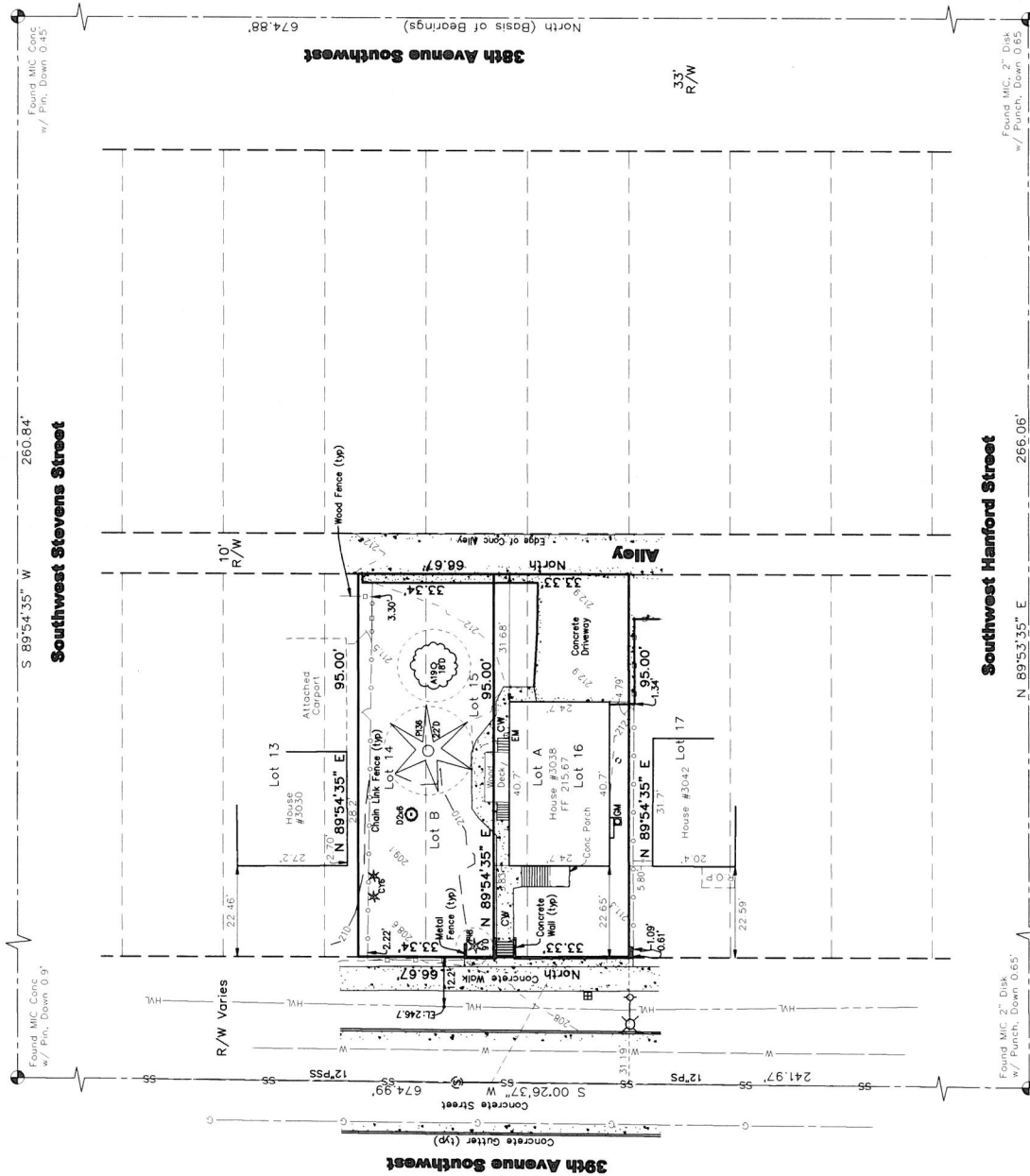
Benjamin Rose

Marion Rose

kw Aug 5 1937 by Marion Rose, and Benjamin Rose hh bef Wm La
Mott, a p for wn res at s n s-ee Sept 25 1937
fld by sp 6324 40th ave sw

.0

EXHIBIT 15



**MERIDIAN
ASSUMED**

GRAPHIC SCALE



LEGAL DESCRIPTIONS

LOT A -

THE SOUTH 8 1/3 (8.33) FEET OF LOT 15 AND ALL OF LOT 16, BLOCK 1, WALTER J. HAINSWORTH 1ST ADDITION TO THE SEATTLE PLATS, RECORDS IN VOLUME 13 OF KING COUNTY, WASHINGTON.

LOT B -

THE SOUTH 16 2/3 (16.67) FEET OF LOT 14 AND THE NORTH 16 2/3 (16.67) FEET OF LOT 15, BLOCK 1, WALTER J. HAINSWORTH 1ST ADDITION TO WEST SEATTLE PLATS, RECORDS IN VOLUME 13 OF PLATS, PAGE 45, RECORDS OF KING COUNTY, WASHINGTON.

APN: 300980-0070

TREE DESCRIPTIONS

- A Apple Tree (Pyrus) CY Cypress (Cupressus)
- D Deciduous PL Pine (Pinus)

SURVEY NOTES

INSTRUMENT USED: SOKKIA SET 5 EDM
METHOD USED: FIELD TRAVERSE

APPROXIMATE POINT ACCURACY: ±0.05'

SURVEY MEETS OR EXCEEDS STATE STANDARDS PER WAC 332-130-030.

MONUMENTS SHOWN HEREON WERE VISITED ON NOVEMBER 11, 2015.

THE INFORMATION SHOWN ON THIS MAP REPRESENTS THE RESULTS OF A SURVEY MADE ON THE INDICATED DATE AND CAN ONLY BE CONSIDERED AS THE GENERAL EXISTING CONDITION AT THAT TIME.

NO EASEMENTS, RESTRICTIONS OR RESERVATION OF RECORD WHICH WOULD BE DISCLOSED BY A TITLE REPORT ARE SHOWN.

VERTICAL DATUM - ASSUMED
CONTOUR INTERVAL - 2 FEET

SURVEY IN THE

S.E. 1/4, S.E. 1/4 SEC. 11 TWP. 24N., RGE. 3E., W.M.



TOPOGRAPHIC SURVEY

Clifford Low
3038 39th Avenue Southwest
Seattle, WA 98116

EMERALD LAND SURVEYING, INC.
PO BOX 13984 MILL CREEK, WA 98082 PH: (206) 369-7198

DRAWN BY:	SHEET
HMM	1
CHECKED:	OF
BLE	1
PROJECT:	
15034	
DATE:	
1/12/16	

EXHIBIT 16



City of Seattle

Department of Planning and Development

Diane M. Sugimura, Director

September 10, 2013

Clifford Low
3807 East Jefferson Street
Seattle WA 98122

RE: 1207 NW 73rd Street, Opinion Letter; Project No. 3015709

Dear Mr. Low:

You have asked for a letter stating whether a portion of the property at 1207 NW 73rd Street in Seattle qualifies for development as two separate legal building sites according to the standards of Seattle's Land Use Code. The property at that address consists of Lots 1 and 2, Block 15, Ballard Park Addition. This property is currently held as a single tax account, King County Assessor's Parcel No. 046100-3830. The property is 50' by 100', and has an area of approximately 5,000 square feet. There is a house on the western 40 feet of the property, and a detached garage on the eastern 60 feet. You have asked whether the eastern 60 feet may be developed as a separate legal building site.

The property is in an SF 5000 zone, where the general minimum lot area requirement is 5,000 square feet. The code provides a number of exceptions to that standard. One of those exceptions, at Section 23.44.010.B.1.d of the code, extends to certain lots established as separate building sites as reflected in City or County records prior to July 24, 1957, including full platted lots or parcels established as separate building sites in other public records such as deeds and permits. Some limitations apply: To qualify, a lot must have an area at least 50 percent of the minimum generally required in the zone, i.e. 2,500 square feet in an SF 5000 zone. If two lots are under common ownership and developed with a single structure extending onto both or requiring both to meet a development standard, they generally cannot qualify for separate development, however they may qualify as a result of removal of a minor feature such as a deck or eaves, containing no interior floor area. For the purpose of determining whether a lot is needed to meet a development standard for a neighboring building, we consider the less restrictive standards, between the current standards and those in effect when the building was built. If a portion of one lot has been used to meet the parking requirement for a principal structure on the other, the parking requirement for that structure must be met on the same lot as the structure in order for the other lot to qualify for separate development. If lots are or have recently been under common ownership and a portion of the property is in one of several specified environmentally critical areas, including steep-sloped areas, separate development may be allowed only if the development won't intrude on the critical area or required buffer. (No part of the property you have asked about is mapped as an environmentally critical area.)

I have reviewed the materials you have provided and our records relating to this property. Abstracts of title maintained by the City reflect that Lots 1 and 2 have always been held, in their entirety, under

common ownership. The house on the property was built in 1930 under Permit No. 291927, which described the site as the west 40 feet of Lots 1 and 2. The detached garage was built in 1963 under Permit No. BN-14044. In 1965, Permit No. BN-22640 authorized enclosure of an existing porch and construction of a new concrete porch. Both permits from the 1960s included Lots 1 and 2 in their entirety in the site description. It appears likely that the porch enclosure and new porch were on the east side of the house. The small addition did not require the east 60 feet of the property to meet any yard requirement. The current lot coverage limit as applied to the west 40 feet would allow coverage of 1,300 square feet of that 2,000-square-foot parcel, and the existing structures are well under that. In short, none of the permits issued for the property reflect any expansion of the structure that might have required the inclusion of east 60 feet as a part of the building site. If the west 40 feet of the property can be recognized as the site of the existing house, the garage is not required to meet the parking requirement for that house, both because the house includes a basement garage, and also because Section 23.53.015.B.5 provides that no parking is required for lots under 3,000 square feet in area with no alley access.

Under the interim standards for small lots adopted last summer, the lot area exception for historic lots no longer applies to lots under 2,500 square feet in area. In this case, the west 40 feet of the property, called out on the original permit for the house, has an area of only 2,000 square feet, and the portion you seek to separately develop has an area of 3,000 square feet. The question raised by this request is whether separate development of the east portion is precluded by the fact that the remainder, the west portion, has an area less than 2,500 square feet. However, we have concluded that the 3,000-square-foot parcel that you have asked about meets the current language of the lot area exception, and qualifies for separate development.

The east 60 feet of Lots 1 and 2 may be segregated and developed as a separate building site on this basis. The remaining portion, the west 40 feet of Lots 1 and 2, with a lot area of 2,000 square feet, is nonconforming with respect to the minimum lot area requirement, so the existing house on that property will be subject to the standards for nonconforming structures.

This letter represents my opinion based on the facts available to me and based on current code language, which is subject to change. As you know, the City is in the process of revising the lot area exceptions that apply in Single Family zones. I hope this information is helpful to you. If you have further questions, please email me at andy.mckim@seattle.gov, or call me at (206) 684-8737.

Sincerely,



Andrew S. McKim
Land Use Planner – Supervisor

cc: Richard C. Flynn

EXHIBIT 17



City of Seattle

Department of Planning and Development

Diane M. Sugimura, Director

December 20, 2013

Dave Biddle
2701 California Ave SW, Suite 208
Seattle WA 98116

RE: 4043 and 4045 California Avenue SW, Opinion Letter; Project No. 3016341

Dear Mr. Biddle:

You have asked for a letter affirming that a portion of the property at 4045 California Avenue SW qualifies for development as a separate legal building site. The property consisting of Lots 30 and 31, Block 4, J. Walter Hainsworth's Second Addition to West Seattle is currently held as a single tax account, King County Assessor's Parcel No. 301030-1055. However, a portion of the property consisting of the east 36 feet of Lot 30 and the south 5 feet of the east 36 feet of Lot 31 was the subject of a separate building permit in 1955. The question raised is whether this effectively subdivided the property, so that the remainder of the property may now be redeveloped as a separate building site.

The property is currently in an LR3 RC zone: Lowrise-3 Multifamily Residential, with a Residential-Commercial Overlay. Although a density limit applies in this zone to certain types of residential development, there is no minimum lot area requirement. Lots 30 and 31 are each 25' by 115', so the total area of the property is 5,750 square feet.

Three small houses were built on the rear portion of Lots 30 and 31 in 1927. In October, 1927, Permit No. 271416 was issued for the middle house, then addressed 4043 California Avenue SW. The site description on that permit included both Lots 30 and 31. The same month, Permit No. 271759 was issued for the southernmost house, then addressed 4045 California Avenue SW. The legal description included only Lot 30. Finally, in November, 1927, Permit No. 272127 was issued for the northernmost house, then addressed 4041 California Avenue SW. The site description on that permit included only Lot 31. The completed middle house received its final inspection in November, the northern house received its final inspection in December, and the completed southern house received its final inspection in January, 1928. These three houses were under construction more or less concurrently, with one of them straddling the lot line between Lots 30 and 31. Despite the differing site descriptions on the permits, we would conclude, as of completion of the third house, there were then three legal residences on a single building site consisting of Lots 30 and 31. (The property was then in a B-C zone, a Business District where the standards did not preclude multiple houses on a single lot.) Abstracts of property transactions maintained by the City indicate that Lots 30 and 31 were under common ownership when these houses were built, and have remained under common ownership, in their entirety.

Dave Biddle
December 20, 2013
Page 2


In 1955, still under B-C zoning, a commercial building (store and office) was built under Permit No. 433819. The site description on that permit included only the east 36 feet of Lot 30 and the south 5 feet of the east 36 feet of Lot 31.

The City did not adopt a formal process for review and approval of short plats until 1972. In 1955, a property could be effectively divided by obtaining a permit for separate development of a portion of that property. We conclude that the 1955 permit for the commercial structure achieved this. I have found no subsequent permit that may have had the effect of recombining the parcels.

In conclusion, we recognize the parcel developed with the commercial structure – the east 36 feet of Lot 30 and the south 5 feet of the east 36 feet of Lot 31 – as a legal building site, and the remainder of Lots 30 and 31 as a separate legal building site, which may legally be separately redeveloped.

This letter represents my opinion based on the facts available to me and based on current code language, which is subject to change. I hope this information is helpful to you. If you have further questions, please email me at andy.mckim@seattle.gov, or call me at (206) 684-8737.

Sincerely,



Andrew S. McKim
Land Use Planner – Supervisor

EXHIBIT 18

3018757
11/14/14



City of Seattle

Edward B. Murray, Mayor

Seattle Department of Planning and Development

Diane M. Sugimura, Director

November 14, 2014

Clifford Low
C & H Funding LLC
3807 – East Jefferson Street
Seattle, WA 98122

RE: 3605 SW Willow Street: Opinion Letter

Dear Mr. Low:

By letter to this Department received September 24, 2014, you have requested a determination that the West half of Lot 17, Block 5, Fauntleroy Crest Addition, qualifies as a separate legal building site. The West half of Lot 17 is presently under common ownership with the East half of Lot 17, which is developed with a single family residence addressed as 3605 Southwest Willow Street. A detached accessory garage is also developed on the property and appears to straddle the East and West halves of Lot 17.

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.

The West half of Lot 17 is in an area zoned SF-5000: Single-Family Residential, with a minimum lot size of 5000 square feet. The West half of Lot 17 is about 63 feet wide by 75 feet deep, with a total area of about 4,725 square feet. The West half of Lot 17 thus does not meet the minimum area requirement, but it appears to qualify for one of the exceptions to minimum area provided in the Code. SMC Section 23.44.010.B.1.d, the "Historic Lot Exception," provides in part that a lot may be developed if it has an area of at least 2,500 square feet and was established as a separate building site prior to 1957 by 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.

According to our records, permission was granted to build a garage on Lot 17 in its entirety under Seattle Building Permit No. 254855, issued March 18, 1926. Permission was then granted to build a residence per plans on the East ½ of Lot 17 under Permit No. 273540, issued January 13, 1928. Permit No. 273540 further notes "existing res. to be converted to garage." Although the permits are not entirely clear, it appears that the garage constructed under Permit No. 254855 may have been used as a temporary residence while the main house was constructed and then converted back to a garage. No more recent permits have been discovered for the subject property in our records.

When the house addressed as 3605 Southwest Willow Street was constructed in 1928, the Seattle Zoning Code required a 3-foot side yard between the west side of the house and the lot line between the east and west halves of Lot 17. It appears from the aerial photos maintained by this Department that the 3-foot side yard has been provided, but you will need to provide a survey with your application for a building permit for the West ½ of Lot 17 to verify the location of the existing house. Assuming the side yard standard is met, the permit history shows that the East and West halves of Lot 17 were established in the public records as separate building sites by Permit No. 273540 in 1928.

The existing detached garage does appear to straddle the common lot line between the East and West halves of Lot 17. This structure must be moved or demolished in order to separately develop the West ½ of Lot 17. Since the garage provides parking for the existing house on the East ½ of Lot 17, you will also need to show that the parking for the existing house has been relocated to the East ½ of Lot 17 as part of an application to separately develop the West ½ of Lot 17. Subject to relocation of the parking and providing a survey that clarifies the location of the existing house, the West ½ of Lot 17 qualifies as a separate legal building site under the exception to minimum lot area in SMC Section 23.44.010 B.1.d, based on building permit records predating 1957.

In your letter to this Department, you have further asked for information whether the West ½ of Lot 17 would be considered the "last developable lot" on Southwest Willow Street for the subject block in question. This is a standard applied by Seattle Public Utilities (SPU) and this Department is not able to offer an opinion as to how a standard applied by SPU would apply to the subject property. However, an opinion as to the number of other potential undeveloped lots can be offered. Under the Land Use Code definition of "block" at Section 23.84A.004, the subject block comprises the two facing block fronts on the north and south sides of Southwest Willow Street between 36th Avenue Southwest, to the east, and 37th Avenue Southwest, to the west. On that block, in addition to the West ½ of Lot 17, there are four developed lots: 6760 37th Avenue Southwest and 6757 36th Avenue Southwest, to the north across Southwest Willow Street; 6900 37th Avenue Southwest directly to the west of the subject lot; and 3605 Southwest Willow Street on the East ½ of Lot 17 directly east of the subject site. No other developed lot on the block appears to have sufficient area to be divided into two

Clifford Low
November 14, 2014
Page 3


separate building sites, and there are currently no undeveloped lots other than the West ½ of Lot 17.

Southwest Willow Street is open and improved, and it satisfies the street access requirement of the Land Use Code for the property you have asked about.

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.

If I may be of any further assistance, please call me at 684-8738.

Sincerely,

A handwritten signature in black ink, appearing to read "William K. Mills". The signature is fluid and cursive, with the first name "William" and last name "Mills" clearly distinguishable.

William K. Mills
Land Use Planner Supervisor

WKM/Low

EXHIBIT 19

