

**INTERPRETATION OF THE DIRECTOR
PURSUANT TO TITLE 23 OF SEATTLE MUNICIPAL CODE**

In the Matter of)	
)	
the Use of the)	Interpretation
)	
Property at)	No. 13-010
)	
7740 – 24 th Avenue NE)	3016696

Background

This interpretation was requested by attorney Melody B. McCutcheon on behalf of her client University Preparatory Academy (UPA), which is interested in purchasing the subject property (referred to here as the “Church property”) from the Friends Memorial Church. The property is partly in a single family zone and partly in a multifamily zone, and is located in the Ravenna neighborhood of northeast Seattle. UPA owns the property at 8000 – 25th Avenue NE, which is 2.51 acres in size and is developed with their existing private school. They are considering the purchase of the subject parcels to enable construction of additional UPA school facilities. While institutions are permitted in both the SF 5000 and LR1 zones by Administrative Conditional Use, Seattle Municipal Code (SMC) Section 23.44.022.D.3 limits institutions in Single Family zones to 2½ acres in some cases.

UPA presents the following questions for interpretation:

1. Is the 2½-acre lot size limit for institutions in Single Family zones applicable to the portion of the church property in the Lowrise (multifamily) zone?

2. Does the 2½-acre provision apply to the single-family zoned portion of the church property if it is developed with non-residential structures?

Findings of Fact

1. The Church property is addressed in Department of Planning and Development (DPD) records as 7740 – 24th Avenue NE, and contains four property tax parcels (King County Parcel Numbers (KPN) 318660-0650, 6422410-0006, 642410-0011, and 642410-0012). The first parcel abuts 24th Avenue NE and NE 80th Street. It is zoned SF 5000 (Single-Family Residential, with a minimum lot size of 5000 square feet) and is developed with a church and daycare facilities.



The second parcel, zoned LR1 (Lowrise 1 Multifamily Residential), abuts NE 80th Street and is developed with an accessory church building. The final two parcels abutting 25th Avenue NE are zoned SF 5000 and are developed with a parking lot. The majority of the property is zoned SF5000, with a portion located in the LR1 zone. The entire property is shaded on the map to the right, which is based on the Geocortex land use maps maintained by DPD.

2. The portions of the Church property located in the SF 5000 zone are developed with a church building, daycare facilities, and a parking lot. According to King County records, the church was originally constructed in 1949. Permission was granted to establish a daycare facility within the existing church building, remove portions of the existing parsonage and establish the use as an accessory office, and to demolish an existing residence and construct an accessory parking lot under Seattle Building Permit No. BN50071, issued November 20, 1974. Permission was granted to enlarge the parking lot under Seattle Building Permit No. 559529, issued September 15, 1975. According to King County records the accessory structure located on the LR1 portion was originally constructed in 1946 as a retail store. Permission was granted to alter and convert the existing store to an educational youth center accessory to the church under Seattle Building Permit No. BN43367, issued March 15, 1972. Work authorized by Permit No. BN43367 was never completed, and the existing structure remained in place as a storage building.
3. The UPA property is addressed in Department of Planning and Development (DPD) records as 8000 - 25th Avenue NE, and is 2.51 acres in size. It is located across NE 80th Street and to the northeast of the Friends Memorial Church property.
4. According to the request for interpretation filed by Ms. McCutcheon, UPA is considering purchasing the subject property to enable the construction of additional educational facilities.

5. Private schools are defined and regulated as institutional uses in the Seattle Land Use Code. In Single Family zones, they are permitted as an Administrative Conditional Use by Section 23.44.022.D.3. Section 23.44.022 provides in part as follows:

“A. Institutions Identified. The following institutions may be permitted as conditional uses in single-family zones:

Community centers
Child care centers
Private schools
Religious facilities
Libraries
Existing institutes for advanced study
Other similar institutions

The following institutions are prohibited in single-family zones:

Hospitals
Colleges
Museums
Private clubs
Vocational schools

* * *

D. General Provisions.

1. New or expanding institutions in single-family zones shall meet the development standards for uses permitted outright in Sections 23.44.008 through 23.44.016 unless modified elsewhere in this subsection or in a Major Institution master plan.

* * *

3. Institutions seeking to establish or expand on property that is developed with residential structures may expand their campus up to a maximum of 2 1/2 acres. An institution campus may be established or expanded beyond 2 1/2 acres if the property proposed for the expansion is substantially vacant land.”

Section 23.44.022.E-N lists various development standards for institutions in Single Family zones, including but not limited to dispersion, bulk and siting, height limits, and parking/loading berth standards.

6. In Lowrise zones, per Section 23.45.504.A and Table A for 23.45.504, institutions that meet the development standards of the zone are permitted outright, and institutions that do not meet all development standards of the zone are permitted as an administrative conditional use.¹
7. Section 23.44.002 Applicability of Provisions states, “This chapter details those authorized uses and their development standards which are or may be permitted in the three (3) single-family residential zones: SF 9600, SF 7200 and SF 5000.”
8. Section 23.45.502.A Scope of Provisions states, “Chapter 23.45 establishes regulations for the following zones: Lowrise 1 (LR1); Lowrise 2 (LR2); Lowrise 3 (LR3); Midrise (MR) (references to Midrise zones include the Midrise/85 (MR/85) zone unless otherwise noted); and Highrise (HR).
9. The current Seattle Comprehensive Plan, first adopted in 1994, sets forth long term policies and goals for the City of Seattle. The Land Use Element in Chapter 2 includes policies for the Single Family and Multifamily zones. Single Family policy LU65 provides as follows:

Control the location, scale, access and development standards of institutions and facilities in single-family areas in order to reduce negative impacts such as noise, traffic and parking problems and protect Seattle’s single-family housing stock through a conditional use or master planning process that considers:

1. Concentration of institutions of facilities
2. Bulk and siting
3. Traffic and parking
4. Demolition of residential structures
5. Height and scale

10. Former Section 23.16 of Title 23 contained adopted policies that pre-dated the current Comprehensive Plan. Under former Section 23.16.002.A the adopted policies for Institutions and Facilities in Single Family Zones provided as follows:

Demolition of Residential Structures: Residential structures, including those modified for non-residential use, shall not be demolished for facility or institution establishment, expansion or parking unless a need has been demonstrated for the services of the institution or facility in the surrounding community and no other practical alternative site is available. It is the intent through this standard to preserve housing in single family residential areas and permit conversion or demolition of housing only as a last resort when the public benefits clearly outweigh the loss of housing.

¹ Footnote 1 to Table A for 23.45.504 provides in part: “Institutions meeting development standards are permitted outright; all others are administrative conditional uses pursuant to Section 23.45.506.”

11. No policies or legislative history was discovered in City records that directly explains or discusses the basis of the 2½-acre maximum area for institutions on property developed with residential structures. No policies or legislative history was discovered that discusses establishment or expansion of institutions on property developed with non-residential structures, as opposed to vacant land.

Conclusions

1. Sections 23.44.002 and 23.45.502.A of the Seattle Land Use Code clearly state that the provisions of their respective chapters only apply within their respective zones. (See Findings of Facts Nos. 7 and 8.) None of the provisions in Section 23.44.022, including the 2½-acre provision, applies to portions of the subject property located in the LR1 zone. Thus, the portion of the Church property in the LR1 zone would not be counted towards the 2½-acre maximum area standard for an institution in a Single Family zone, if added to the UPA campus.
2. The plain language of Section 23.44.022.D.3 limits the size of an institutional campus to 2½ acres only if the subject site is developed with residential structures. The Church property is not developed with residential structures, but with a church building and accessory non-residential structures. The second part of Section 23.44.022.D.3 allows an institutional campus to either be established or expanded beyond 2½ acres if the property proposed for the expansion is substantially vacant. (See Findings of Fact Nos. 2 and 5). Subsection D.3 is silent as to whether it applies to property that is developed with non-residential structures and is not substantially vacant.
3. The Church property is already developed with an institutional use. It is clear that the first sentence of Section 23.44.022.D.3 does not prevent UPA from expanding beyond 2½ acres and onto the subject property because it is not developed with residential structures. The second part of the provision, requiring land to be substantially vacant in order for a campus to exceed 2½-acres, does not address the situation here, where the structures are non-residential. Based on current and historic policies dating back to 1983 and the adoption of Title 23, the clear policy intent behind the limitation on campus size when residential structures are present is to discourage the demolition of residential structures that could otherwise provide housing within the City. (See Findings of Fact Nos. 9 and 10.) If the two sentences in Section 23.44.022.D.3 are read together and the long-standing policy intent behind limiting institutional expansion is considered, it is reasonable to conclude that institutions may expand beyond 2½-acres provided that the land is *either* occupied by non-residential structures *or* is substantially vacant. This conclusion is reinforced by the absence of any policy statement addressing expansion or establishment of institutions on land developed with non-residential structures. (Finding of Fact No. 11.)

4. While expansion of the UPA private school use onto the Friends Memorial Church property is not prevented by the applicable regulations of the Land Use Code, an ACU review is required to expand the UPA use to the subject property even though it is already developed with an institutional use. Conversion of a religious facility to a private school is considered a change of use from one type of institution to another in a Single Family zone and therefore a conditional use review is required.

DECISION

If added to the UPA campus, the portion of the Church property in the LR1 zone would not be counted towards the 2½-acre maximum size standard for an institution in a Single Family zone. The portion of the Church property in the SF 5000 zone also would not be counted towards that limit, as it is not developed with residential structures.

Entered this 24th day of April, 2014.

(Signature on File)
Samantha Updegrave, Senior Land Use Planner
Department of Planning and Development