

***Public Land for Affordable Housing:  
An Evaluation of a HALA Proposal in Seattle***

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# ***Public Land for Affordable Housing: An Evaluation of a HALA Proposal in Seattle***

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**Abstract:** Seattle is one of the fastest growing high-tech cities in the United States. Under the Washington State Growth Management Act, there is a finite urban land supply for housing development within the designated Urban Growth Areas. In return, Seattle's housing affordability is in crisis. The city of Seattle formed the Housing Affordability and Livability Agenda (HALA) task force in 2014 and it produced 65 recommendations for how the city can facilitate the construction of 20,000 affordable housing units and 30,000 market rate housing units over the next ten years. One of the recommendations (Strategy L.1: *Prioritize Use of Public Property for Affordable Housing*) proposes that the city revise its existing reuse and disposition policies for surplus and underutilized publicly-owned property to prioritize these properties for the construction of affordable multifamily housing. This thesis seeks to add to existing research by examining one question: *How feasible and effective would a policy be to prioritize the use of surplus and underutilized publicly-owned land for the development of affordable housing to meet HALA's growth target?*

Any program intended to address affordable housing concerns must be palatable, practical, and have a reasonable chance of producing positive results for all parties involved in order to succeed. This research presents a grounded theory study that uses both qualitative and quantitative measures to document the

complexity of the issues associated with using publicly-owned surplus and underutilized land for affordable housing development, including comparative case studies and Geographic Information Systems (GIS) land analyses. The feasibility and effectiveness of a revised property reuse and disposition policy is established using three development scenarios (low-build, medium-build, and high-build) for existing surplus and underutilized public land based on a buildable lands analysis. The research and its subsequent analysis provide a blueprint for understanding the challenges associated with housing development on public land. The conclusion of this research is that modifications to the city's existing reuse and disposition policies would present minimal-to-no additional costs to implement and could result in the development of between 495 and 4,450 affordable housing units, or between 2.5% and 22.25% of HALA's target for affordable housing units. The achievement depends on how aggressive the policies were enforced, but it would require robust political support from the city and creative development approaches to be most effective towards the development of more affordable housing.

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## List of Abbreviations

ACOE	Army Corps of Engineers
ACS	American Community Survey
AMI	Area median income
BCNPHA	British Columbia Non-Profit Housing Association
BLR	King County Buildable Lands Report
CEO	Chief executive officer
CLT	Community land trust
D+S	Dupre + Scott Advisors
DADU	Detached accessory dwelling unit
DCA	Seattle Comprehensive Plan 2035 Development Capacity Analysis
DLCD	Department of Land Conservation and Development (Oregon)
DOH	Division of Housing (Denver)
DOLA	Department of Local Affairs (Colorado)
DON	City of Seattle Department of Neighborhoods
FAR	Floor-area-ratio
FAS	City of Seattle Department of Finance and Administrative Services
FM	King County Facilities Management Division
GIS	Geographic Information Systems
GMA	Washington State Growth Management Act
GMPC	King County Growth Management Planning Council
HALA	Housing Affordability and Livability Agenda
HUD	United States Department of Housing and Urban Development

JTF	Joint Training Facility
KCC	King County Code
KCDA	King County Department of Assessments
LIHI	Low Income Housing Institute
MBA	Master Builders Association of King and Snohomish Counties
MOH	Mayor's Office of Housing (San Francisco)
MSA	Metropolitan statistical area
NHATP	British Columbia Non-Profit Housing Asset Transfer Program
OCP	Official Community Plan (British Columbia)
OFM	Washington State Office of Financial Management
OH	City of Seattle Office of Housing
OPCD	City of Seattle Office of Planning and Community Development
PDA	Public development authority
PMA	Property Management Area
PRHC	Provincial Rental Housing Corporation
RCW	Revised Code of Washington
READ	Real Estate Assets Department (San Diego)
REOC	Real Estate Oversight Committee
RES	Real Estate Services
RESS	King County Real Estate Services Section
ROW	Right-of-way
SCL	Seattle City Light
SDOT	Seattle Department of Transportation
SDHC	San Diego Housing Commission
SMC	Seattle Municipal Code
SPU	Seattle Public Utilities
SSD	Seattle School District
TIF	Tax increment financing
TOD	Transit-oriented development
ULC	Urban Land Conservancy
ULI	Urban Land Institute
VAHA	Vancouver Affordable Housing Agency
WAC	Washington Administrative Code

## Chapter 1: Public Land for Affordable Housing: An Evaluation of a HALA Proposal in Seattle

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### Introduction

The city of Seattle, Washington, is in the midst of a housing affordability crisis. Significant growth in a number of industries- particularly the information technology industry- combined with a finite amount of land made even more precious by the limited supply set by the state's Growth Management Act (GMA) have resulted in increasingly high rental housing rates and land supply and development costs. In November 2014, Seattle Mayor Ed Murray commissioned the Housing Affordability and Livability Agenda (HALA) task force, comprised of twenty-eight (28) members of public agencies, nonprofit housing developers, for-profit housing developers, and housing advocates, to produce recommendations for how the city can facilitate the construction of 20,000 new units of affordable housing and 30,000 new units of market-rate housing within the next ten years<sup>1</sup>. Among the 65 recommendations that the committee produced was Strategy L.1, "Prioritize Use of Public Property for Affordable Housing"<sup>2</sup>:

*Quality infill sites for multifamily development are both limited and costly in Seattle, especially in areas that are desirable for their location efficiency and access to amenities. The City and other public entities own **significant surplus and underutilized land** that should be evaluated as resources that could be used for the development of affordable housing although Seattle Comprehensive Plan goals, such as open space, should also be considered.*

*The City should work with other jurisdictions including the State of Washington, King County, Port of Seattle, Seattle School District and Sound Transit, to create an inventory of public properties and evaluate these to determine potential opportunities for affordable housing.*

*For City owned property, the City should mandate that surplus and underutilized properties that are suitable for housing development be prioritized for affordable housing. It should explicitly*

*allow the sale or lease of City-owned land at less than fair market value for affordable housing purposes, recognizing that this comes at a cost to other city needs and general funds.*

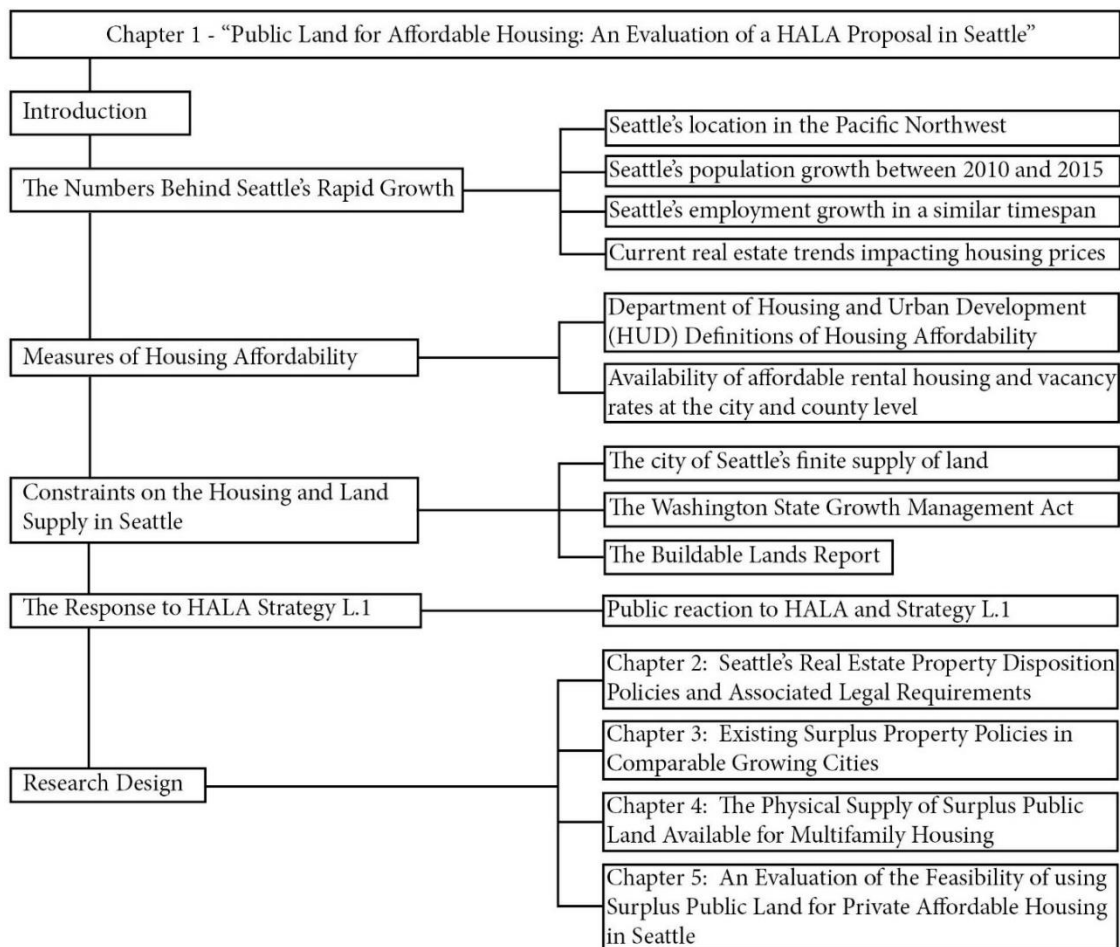
***When land is not suitable for housing development, the unrestricted proceeds from sale should be dedicated to affordable housing development.*** *The City should also create a mandate for the co-development of affordable housing in conjunction with new public buildings and investments such as community centers, libraries, public schools, and other institutions of learning.*

This thesis seeks to add to existing research by examining one question: *How feasible and effective would a policy be to prioritize the use of surplus and underutilized publicly-owned land for the development of affordable housing to meet HALA's growth target?*

There is political momentum in Seattle for the support of affordable housing development, but any program or policy intended to serve this need must be *feasible* and *effective* to be considered a worthwhile pursuit. In this context, *feasible* means that the program or policy is politically palatable, practical, and has a reasonable chance of producing positive results for all parties involved. *Effective* refers to the measure of how many affordable housing units could, theoretically, be developed compared to the number of housing units sought under HALA. This research presents a grounded theory study that uses both qualitative and quantitative measures to document the complexity of the issues associated with using publicly-owned surplus and underutilized land for affordable housing development. In this approach, an extensive data collection process on the subject or related subjects is conducted. Once a considerable saturation of each topic has been completed, the materials are categorized in order to develop a better understanding of the subject and a theoretical model of the process is constructed.

The purpose of this chapter is to provide context to understand not only how the city came to be in this housing affordability crisis, but what it actually means for housing to be “affordable.” First, the city’s recent population and employment growth are reviewed to provide context for why the demand

for housing has increased. Second, definitions for housing affordability are provided along with an examination of how “affordable” the city is by these standards for different groups of people, based on income and ethnicity. Next, factors impacting the supply of land available for new housing development are discussed, including the effect of the Washington State GMA on supply. This is followed by a review of King County’s Buildable Lands Report, a document required by the state to ensure that local municipalities have a sufficient supply of land for housing based on specific metrics. Finally, the political positions surrounding HALA Strategy L.1 are laid out, along with the research design that this thesis will follow for the subsequent five chapters to examine whether this particular strategy can be *feasible* and *effective* for addressing the housing affordability crisis facing the city. An outline of Chapter 1 can be found in **Figure 1.1** below.



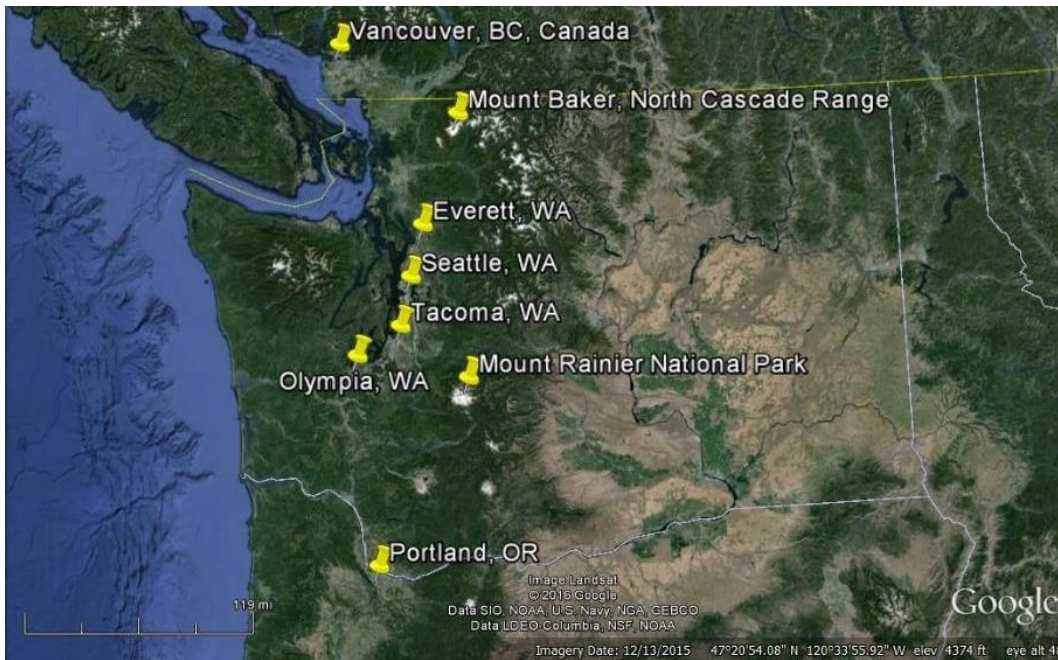
**Figure 1.1. Outline of Chapter 1**

## The Numbers behind Seattle's Rapid Growth

The City of Seattle, Washington, is located in western Washington state and the "Pacific Northwest" of the United States. It is central to two mid-sized Washington cities- Tacoma and Everett- and north of the state capitol, Olympia. It is located within a few hours' drive from two other major North America metropolitan areas in the Pacific Northwest- Portland, Oregon and Vancouver, British Columbia, Canada. Built on steeply graded land, the city overlooks Elliott Bay to the immediate west of its Central District and Lake Washington along the eastern coast, with the Cascade Range in the distance. On a clear day (which is not always a given), Mount Baker is visible to the north and Mount Rainier to the south. The city's location relative to the Pacific Northwest is shown in **Figure 1.2**. Unsurprisingly, Seattle has developed over time into a popular destination in the United States for both housing and employment. What might be more unexpected is how popular the city has grown in the last five years (2010 to 2015).

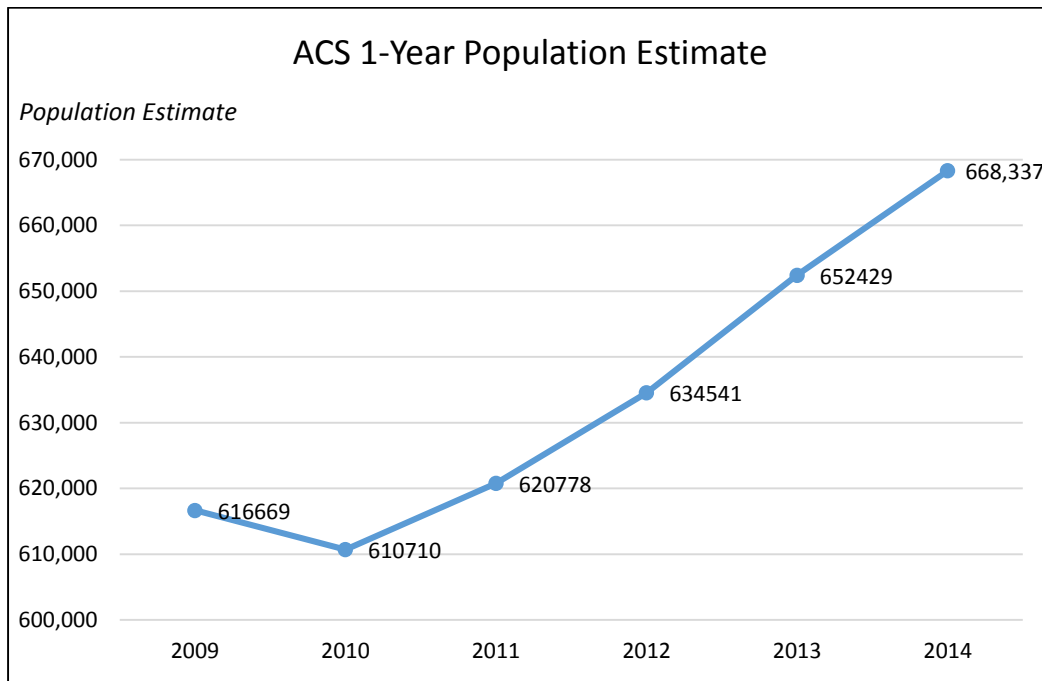
Seattle was the fastest growing city in the United States in 2013 (+2.8%)<sup>3</sup> as well as tied for third fastest growing city in 2014 (+2.3%)<sup>4</sup>. Beginning in 2010, population growth in the city outpaced the growth in the surrounding King County suburbs with each subsequent year<sup>5</sup>. The 2010-2014 American Community Survey (ACS) One-Year Estimates from the U.S. Census Bureau (Census) indicate that between 2010 and 2014, the city's population grew by approximately 9.4%, or 57,600± people<sup>6</sup> (see **Figure 1.3** for annual numbers). Employment trends in the region are just as favorable. Between 2009 and 2013, total employment in the city increased by 6.1% while the value of 2013 real estate transactions was estimated at \$25 billion, a 25% increase over the previous three years<sup>7</sup>. Much of the increase in employment has been facilitated by the tech industry, bolstered at the corporate level by the likes of Amazon and Microsoft but supported at the startup level as well. *Startup Seattle* reported that startup firms in the city raised over \$800 million in the first two quarters of 2015 alone<sup>8</sup>. The Seattle-Bellevue market also ranked 2<sup>nd</sup> in the country in high-tech growth in 2013 per commercial real estate firm Jones Lang LaSalle, Inc.<sup>9</sup>, though

it dropped to 8<sup>th</sup> in 2014 following an adjustment in its weighting system (behind San Francisco, CA at #1 and Denver, CO at #4)<sup>10</sup>.



Source: Google Earth (2015)

**Figure 1.2. Map of Seattle's Position in the Pacific Northwest of the United States<sup>11</sup>**

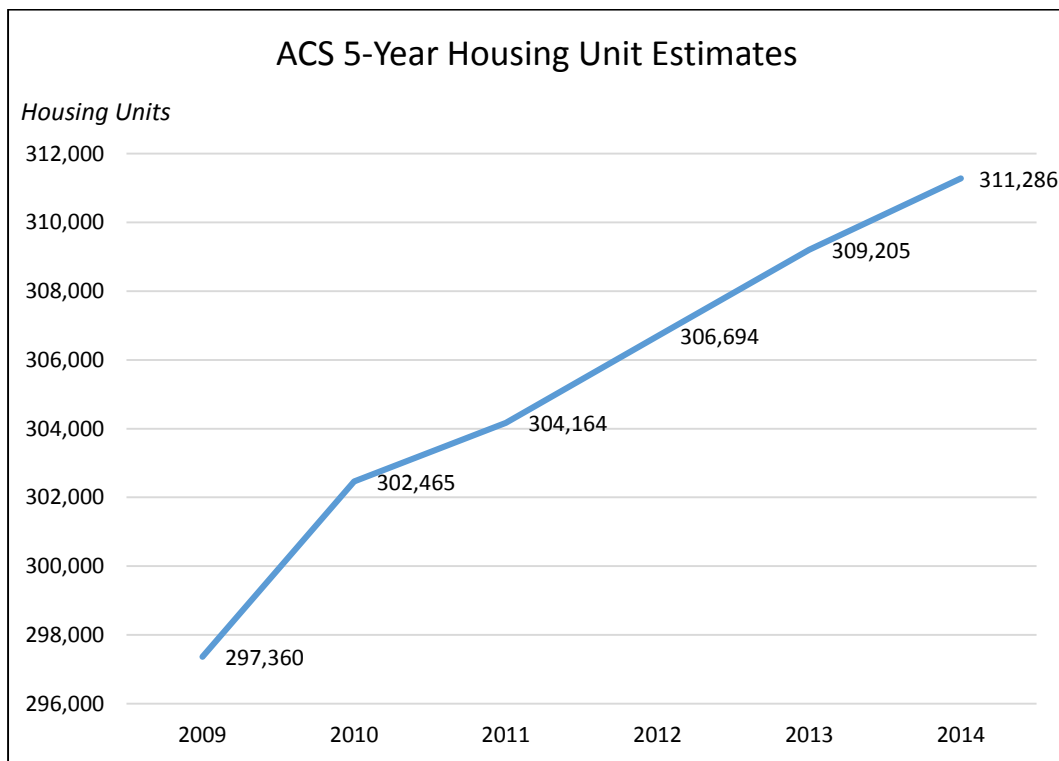


Source: U.S. Census Bureau, 2014 American Community Survey 1-Year Estimates

**Figure 1.3. ACS 1-Year Population Estimates for Seattle, Washington**

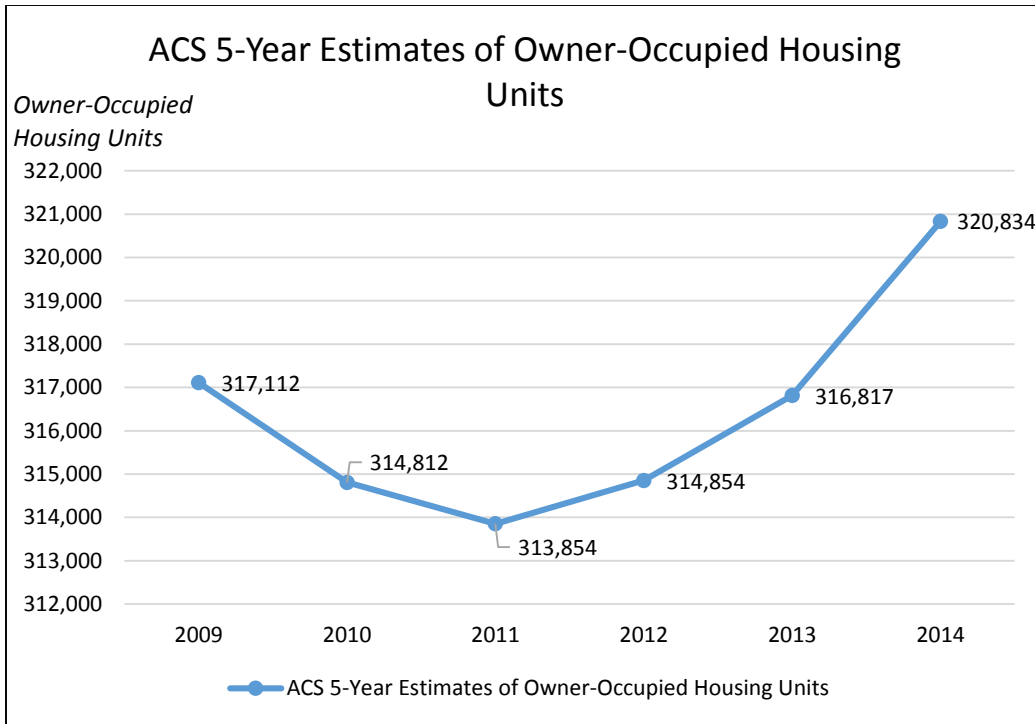


Population and economic growth are welcome trends for any city, but the increase in demand for housing that accompanied this growth has not caught up with actual housing growth. The Census ACS 5-year estimates for the number of housing units in Seattle indicate that between 2010 and 2014, the number of housing units only grew by 2.9%<sup>12</sup> (see **Figure 1.4** for annual housing unit estimates). The inability for housing construction to keep pace with population growth has been partially to blame for substantially raised prices for both rental and home ownership properties. The effect has been a dramatic increase in the number of Seattle residents that rent their housing units in lieu of owning them. **Figure 1.5** depicts how, according to the Census, the number of housing units that are owner-occupied has only increased by 1.2% between 2010 and 2014<sup>13</sup> while **Figure 1.6** illustrates how the number of housing units that are renter-occupied has increased by 15.3% in that same time frame<sup>14</sup>.



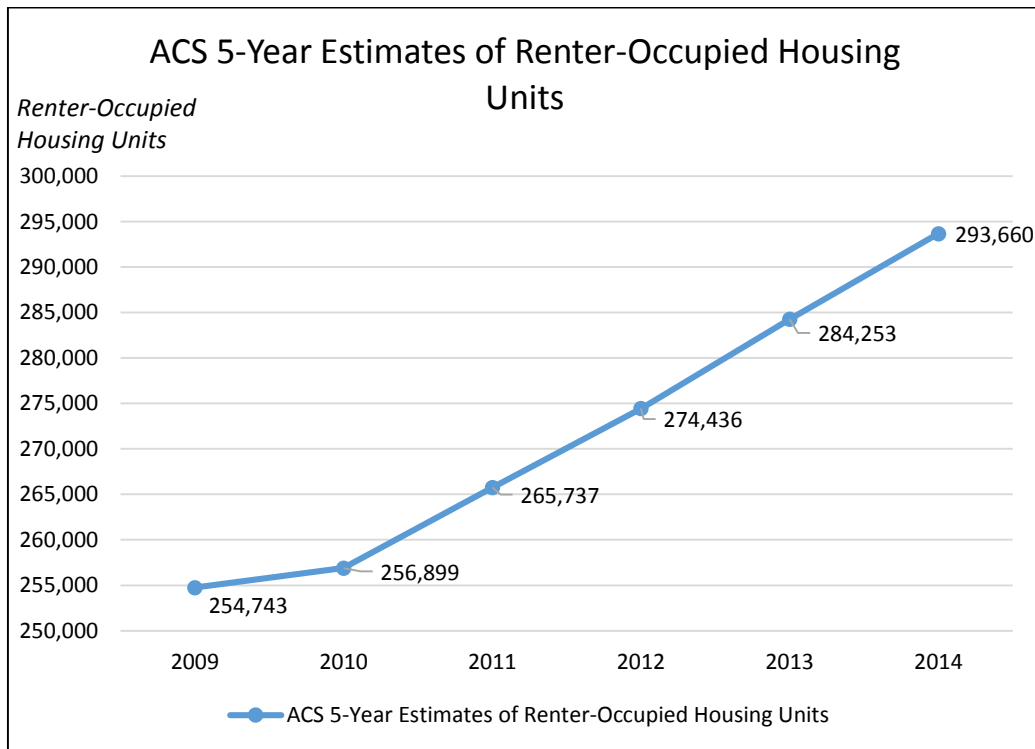
Source: U.S. Census Bureau, 2014 American Community Survey 5-Year Estimates

**Figure 1.4. ACS 5-Year Housing Unit Estimates for Seattle, Washington**



Source: U.S. Census Bureau, 2014 American Community Survey 5-Year Estimates

**Figure 1.5. ACS 5-Year Estimate of Owner-Occupied Housing Unit Estimates in Seattle, WA**



Source: U.S. Census Bureau, 2014 American Community Survey 5-Year Estimates

**Figure 1.6. ACS 5-Year Estimate of Renter-Occupied Housing Units in Seattle, WA**

Employment growth has compounded the issue. Higher-income earning individuals and families skew prices in the housing and rental markets through their ability and willingness to absorb higher housing costs and the purchase or rental of (and thus elimination of) previously affordable housing units. One real estate report noted in October 2015 that, “Seattle's economy is seeing healthy growth as the market's large technology sector drives employment to new all-time highs... The metro's single-family market is rapidly expanding and seasonally adjusted home prices have eclipsed the previous record high set in 2007”<sup>15</sup>. Another report- “Emerging Trends in Real Estate 2016”, produced jointly by Price Waterhouse Coopers and the Urban Land Institute (ULI)- bumped Seattle up from 8<sup>th</sup> place in 2015 to 4<sup>th</sup> place in 2016 for hottest real estate markets in the United States<sup>16</sup>. The ULI report hits on the critical implication of this increase in real estate speculation: “A growing population base and legitimate constraints on supply make the single-family housing market the most attractive... a lack of development opportunities and public and private investment is seen as the only potential problem from a local market perspective”<sup>17</sup>. Yet another real estate report, comparing the Seattle real estate market to national trends, predicts that housing sales will slow in 2016 due to issues of affordability and a diminishing housing stock supply: “According to spokespersons from Northwest Multiple Listing Service, low inventory, new rules for mortgage closings ... and affordability concerns will more than likely slow home sales around Western Washington during the remaining months of 2015 and into early 2016... The latest statistics from the MLS show a double-digit drop in inventory, a double-digit jump in closed sales, and a near double-digit increase in prices from a year ago”<sup>18</sup>.

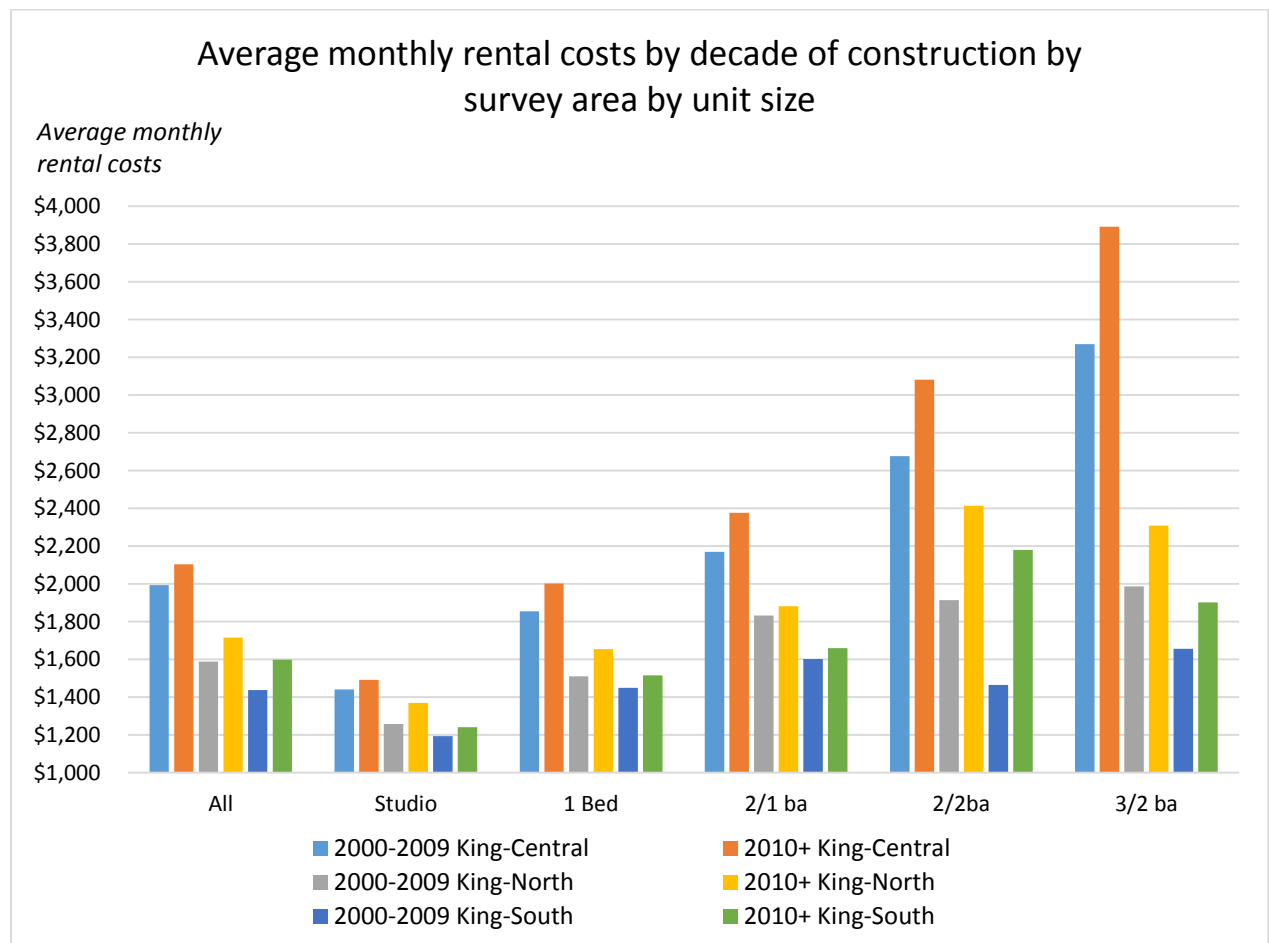
### Measures of Housing Affordability

The Department of Housing and Urban Development (HUD) considers housing costs to be a burden if an individual or family must allocate more than 30% of their income to it<sup>19</sup>. HUD uses this benchmark when determining applicability for individuals and organizations that apply for funding for the

development or occupancy of affordable housing. HUD also considers the amount of income that an individual earns when determining applicability, based on the income as a percentage of annual area median income (AMI). Every March, HUD publishes the latest annual benchmarks for Seattle for both income brackets and rent ceilings through the Seattle Office of Housing, with the thresholds based on the revised AMI expectations for different family sizes<sup>20</sup>. For example, in 2016, if a program required that housing for a family of four utilized an income limit of 60% AMI for applicability, then the maximum income allowed for consideration is \$54,180. By comparison, in 2015, the maximum income allowed for a family of four at 60% AMI was \$53,760. Similarly, rents for a three-bedroom unit to be made affordable to those earning 60% AMI have to be limited to \$1,409 per month (equivalent to \$16,908 annually or just over 30% of the 60% AMI limit), whereas in 2015, that same figure was \$1,398 per month.

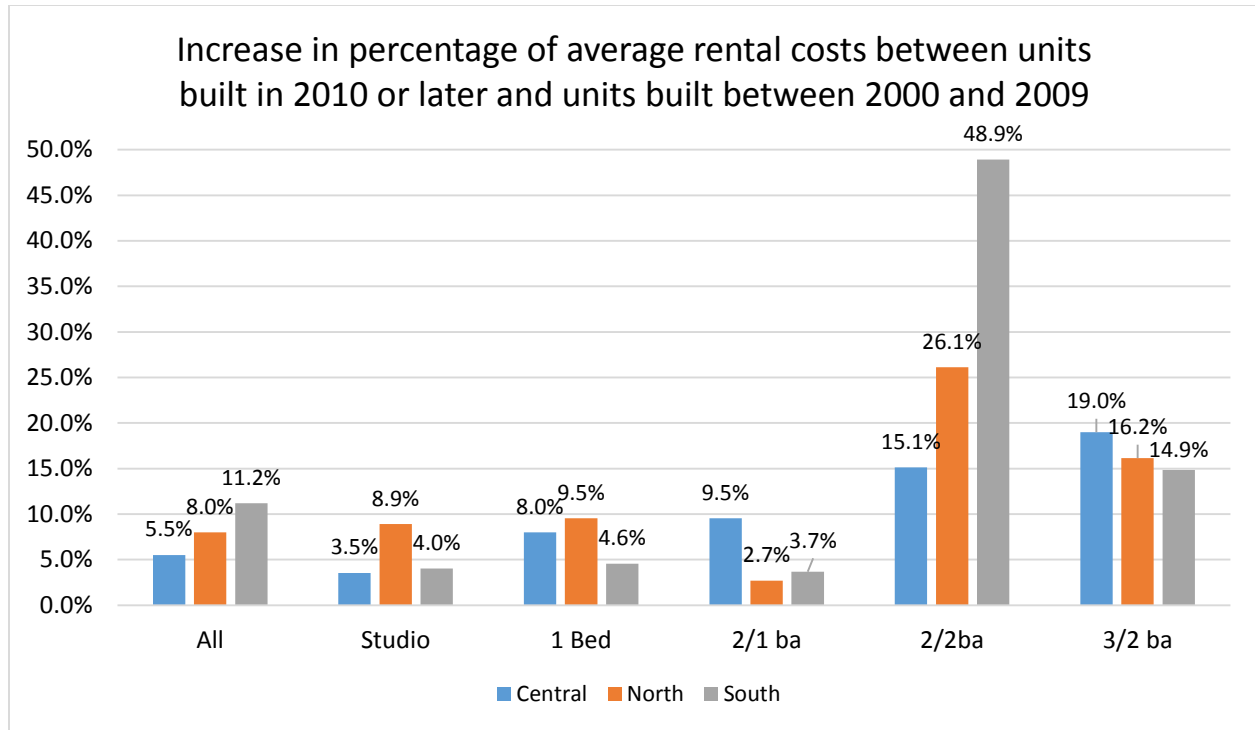
Affordability issues in the city were magnified in 2015 when existing leaseholders and apartment tenants saw their rents increase as landlords took advantage of real estate market trends. In early 2015, the King County Housing Authority estimated a 4.5% vacancy rate with only 15 affordable rental units available for every 100 low income households<sup>21</sup>. Dupre+Scott Apartment Advisors (D+S), a private data collection firm, estimated King County's vacancy rate in September 2015 as only 3.6%, with some Seattle neighborhoods posting vacancy rates as low as 1.4%<sup>22</sup>. Tenants' rights advocates reported increases in rents from 50% to 150% in early 2015<sup>23</sup>, though data from D+S suggests that rents in late 2015 increased by a lower percentage than they did in late 2014 (6.9% compared with 9.3% in the previous year<sup>24</sup>). The city has seen its housing supply increase- approximately 1,370 permits were issued in 2015 for new construction and nearly 1,200 of those permits accounted for new single family/duplex and multifamily housing construction<sup>25</sup>- and the long-term expectation is that the addition of these units to the housing stock will lower average rental costs as vacancy rates increase. In the short-term, however, many of the new housing units that have been brought online remain unaffordable. D+S data from March 2016 includes average rental costs by survey area and by housing size, as well as the differences in rents for

units built between 2000 and 2009 compared to units built in 2010 or later. Based on review of the “King-Central” area (only includes Seattle neighborhoods), the “King-North” area (only non-Seattle community is Shoreline, WA) and the “King-South” area (predominantly areas south of Seattle with the exception of Beacon Hill, Rainier Valley, and West Seattle), not only have average monthly rental costs exceeded \$1400 for all units (see **Figure 1.7**), but the increase in average monthly rental costs from units built between 2000 and 2009 to those built in 2010 or later varies from a low of 2.7% for 2-bed/1-bath units in central Seattle to 48.9% for 2-bed/2-bath units in southern Seattle and south King County<sup>26</sup> (see **Figure 1.8**).



Source: Dupre + Scott Apartment Advisors, Inc. Volume 18, Number 1 2016

**Figure 1.7. Average monthly rental costs by decade of construction by survey area by unit size**

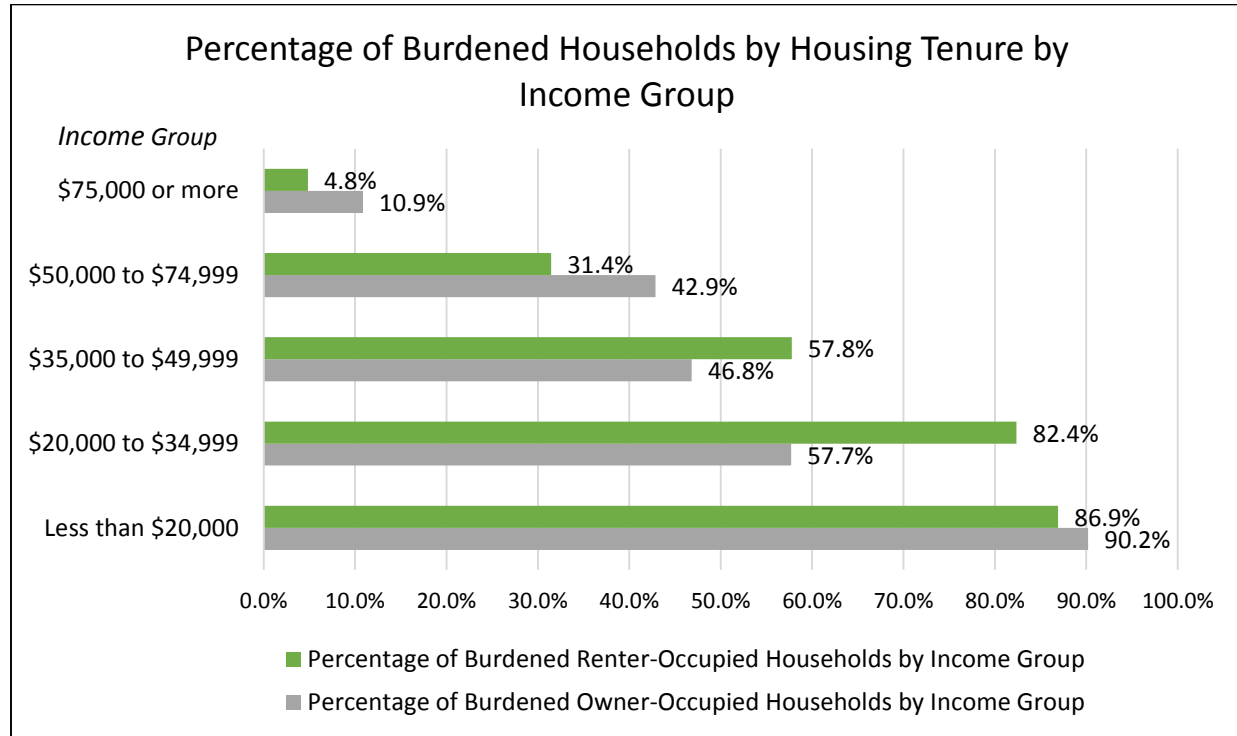


Source: Dupre + Scott Apartment Advisors, Inc. Volume 18, Number 1 2016

**Figure 1.8. Increase in percentage of average rental costs between units built in 2010 or later and units built between 2000 and 2009.**

Regardless of the exact percentage that rents have increased by annually, lower-income earning individuals and families that rent have been further burdened financially by the cost increases. The 2014 ACS 1-Year estimates for the percentage of households spending 30% or more of their income on housing indicate that more than half of renters earning less than \$50,000 are burdened<sup>27</sup> (though a significant number of owner-occupied households are burdened with housing costs as well, as shown in **Figure 1.9**). The issue of housing affordability has a significant social equity element to it as well. The 2014 ACS 1-Year estimates for median income in the past 12 months (in 2014 inflation-adjusted dollars) found that the median income in 2014 was \$79,300 for white households (75.2% of the Seattle population), but just \$28,050 for black or African American households (5.8% of the Seattle population) and \$19,696 for American Indian and Alaskan Native households<sup>28</sup>. For comparison's sake, HUD qualifies 30% of AMI for a

household of four in Seattle as an income of \$27,100, just under the median income for a black or African American household.



Source: U.S. Census Bureau, 2014 American Community Survey 1-Year Estimates

**Figure 1.9. Percentage of Burdened Households by Housing Tenure by Income Group in Seattle, Washington, per ACS 1-Year Financial Characteristics.**

### Constraints on the Housing and Land Supply in Seattle

At the macro-economic level, there are two basic ways to reduce the cost of a product available through a market- reduce demand or increase supply. Antigrowth strategies to reduce housing demand are not generally advisable, as the economic benefits from growth can include additional tax and sales revenue to the city and local businesses. Discouraging growth isn't practical either, as a ban on housing or workplace expansion will not stop neighboring communities from welcoming new residents and jobs, nor will it stop people from coming to the area if there are economic opportunities available<sup>29</sup>. Increasing supply is more ideal, provided the increase in supply is not generated through rent controls on privately-

owned units. Private landlords advocate against rent control as an affordability measure under the contention that rent limits discourage the upkeep of rental units and may be both politically unpalatable and legally impermissible. The encouragement of new housing construction is therefore the preferred approach, but the increase in real estate demand has put a premium on land acquisition costs. There are also a number of other factors that impact the supply of land available for new development, both naturally and artificially.

#### *Finite Supply of Land*

Seattle may be described as an “inelastic city,” to appropriate a phrase used by author David Rusk. Any increase in the real estate market demand in Seattle cannot be balanced by an increase in “lateral” land growth because the city has little to no physical room to grow, whether through annexation or consolidation of suburbs. Increasing the housing supply must therefore be addressed through infill redevelopment. The King County Department of Assessors’ data categorizes the present use of all properties in the city, and the amount of vacant land in single-family, multi-family, and commercial zones per the Assessors data as of January 2016 is summarized in **Table 1.1** below. Of the 179,550 parcels that make up the buildable land area of the city, approximately 7,390 parcels, or 4.12%, are currently designated as vacant for tax purposes. Only 16.2% of the properties within *this* inventory, comprising 0.67% of all parcels in Seattle, are larger than 15,000 square-feet, a benchmark used later in this thesis for the minimum size of land necessary to support multifamily housing construction. These numbers also don’t qualify where the vacant land is located; not all parcels are scattered evenly throughout the city. If there isn’t vacant land available where real estate market demands are highest, then growth must occur through the redevelopment of existing properties, which may require eviction of existing residents and businesses as well as the addition of demolition costs for the developer.



<b>Property Type</b>	<b># of Properties</b>	<b># of Properties &gt; 15,000 SF</b>	<b>% of Properties &gt; 15,000 SF</b>	<b>Average Size (sq-ft)</b>	<b>Median Size (sq-ft)</b>
Vacant (Single Family)	5738	917	16.0%	22,011	5,500
Vacant (Multi-Family)	755	112	14.8%	11,753	5,000
Vacant (Commercial)	897	170	19.0%	14,183	6,030
<b>Total Vacant Land</b>	<b>7390</b>	<b>1199</b>	<b>16.2%</b>	<b>20,013</b>	<b>5,500</b>

Source: King County Department of Assessments Parcel Data, 2016

**Table 1.1. Vacant Single-Family, Multi-Family, and Commercially Zoned Properties in Seattle<sup>30</sup>**

*The Washington State Growth Management Act*

The real estate market has been further squeezed on the supply side by the government-mandated implications of the Washington State Growth Management Act (GMA). In 1989, sixty public planning agency directors met to discuss how to address “critical growth and development issues,” including economic development, diverse housing for all income groups, natural resource protection and management, and reduction in urban sprawl<sup>31</sup>. This meeting eventually led to the adoption in 1991 of section 36.70A of the Revised Code of Washington (RCW), which calls for coordinated and comprehensive planning within Washington communities to safeguard the environment, promote sustainable economic development, and protect the “health, safety, and high quality of life enjoyed by residents of this state”<sup>32</sup>. The identification of resource protection and reduction in urban sprawl led directly to the inclusion of “Urban Growth Areas” in RCW section 36.70A.110. For counties that are either required by the state or voluntarily choose to plan under these guidelines, the county must establish a land boundary such that any urban growth shall be encouraged inside of its lines while any growth outside must be rural in nature. Although there are some qualifications allowing for the boundary to include some land not currently “urban,” the intent is to restrict urban development to land within the boundary while maintaining the land outside for farmland, parkland, and environmental and ecological preservation.

The urban growth area within each participating county is intended to remain in place indefinitely, provided that the respective county can provide supporting documentation that there is both a sufficient

supply of housing units and a sufficient amount of developable (or redevelopable) land within the area to support the Washington State Office of Financial Management's (OFM) 20-year population projection. These projections are updated at least once every five years "or upon the availability of decennial data, whichever is later" per RCW section 43.62.035<sup>33</sup>. Each update of a city's comprehensive plan (required at least every eight years) as well as a buildable lands report (included as an interim measure) is to include the projections for the next twenty years<sup>34</sup>. While this land supply, measured in acres, must include adequate land for "industrial and commercial activities, open space, and other public facilities," the most critical element for the buildable lands report are the number of housing units and jobs. If the analysis concludes that there is insufficient land to support either requirement, then the boundary must be adjusted. In the twenty-five years since the GMA was passed, there has never been a point in which King County was determined to not enough development capacity to support the 20-year growth projections.

In the larger scope, this restriction on the land available for development has led to an artificial premium on land within the urban growth area (for which the city of Seattle is located entirely inside). Where Seattle is affected more directly by the legislation is that RCW section 36.70.110(3) calls for urban growth to be concentrated "first in areas already characterized by urban growth that have adequate existing public facility and service capabilities to serve such development"<sup>35</sup>. The Growth Management Planning Council (GMPC) in King County chose to address this requirement through the establishment of "Urban Centers" where certain cities and municipalities would be required to modify their zoning codes accordingly to encourage concentrated development in these locations<sup>36</sup>. Sixteen Urban Centers have been established in King County, of which six are located in Seattle- the Central Business District, First Hill/Capitol Hill, Northgate, Seattle Center, South Lake Union, and University District. The city has taken this strategy further with the establishment of "Urban Villages" intended to take on additional commercial and residential density as well<sup>37</sup>. There are six "Hub Urban Villages"- Bitter Lake Village, Lake City, Ballard, Fremont, North Rainier, and West Seattle Junction- and eighteen "Residential Urban Villages." These

designations and the associated “upzoning” changes have encouraged “higher and better uses” for properties within the urban centers and villages, increasing the value of the land and encouraging property redevelopment to support higher densities.

*The Buildable Lands Report*

By 1997, six years after the GMA was adopted, private sector landowners and developers were able to successfully lobby for the incorporation of a review and evaluation program into the law to hold the GMA accountable for establishing growth targets, measuring success towards those growth targets, and preparing “reasonable measures” for meeting those targets (“other than adjusting urban growth areas”) if the targeted densities are not achieved by established periods of time<sup>38</sup>. Data must be collected on “urban and rural land uses, development, critical areas, and capital facilities to the extent necessary to determine the quantity and type of land suitable for development, both for residential and employment-based activities.” The purpose of the buildable lands reports that serve as products of the city and county review and evaluation programs are therefore to estimate the amount of theoretical development that could be built on all vacant or underutilized (redevelopable) parcels within a given jurisdiction in an open-ended time frame under existing regulations and developmental conditions and compare that amount to the population and employment projections established by the state for the next twenty years.

County and city planners essentially must provide credible support that there is sufficient capacity for additional housing units and jobs to accommodate the anticipated growth within the next twenty years. “Sufficient” in this context generally means that the growth targeted locations should not exceed 80% of the existing capacity to meet those growth projections<sup>39</sup>. Planners must determine the actual density of housing construction and amount of commercial and industrial land developed and review needs based on these values<sup>40</sup>. If a buildable lands analysis suggests that the capacity of the urban growth center has exceeded this benchmark in either housing units or jobs, then local governments and planners

need to adjust their zoning or legislative obstacles to facilitate more growth. As the 2014 King County Buildable Lands Report (BLR) acknowledges, “cities are using a variety of planning tools to increase capacity and ensure that targets can be met... such as parcel-specific development agreements and encouragement of building with multiple uses, [which] are creating dense, vibrant, walkable mixed-use districts in urban and suburban places formerly dominated by one-story buildings and parking lots”<sup>41</sup>. A detailed explanation of the calculation process is included in Chapter 4 of this thesis.

The 2007 BLR stated that Seattle needed to target an additional 38,021 households to accommodate the population growth between 2006 and 2022 and had a surplus of 84,653 households (122,700± household capacity in total)<sup>42</sup>. The difference between “housing units” and “households” in this context is that households are the number of housing units assumed to be available based on an applied residential vacancy rate (set at 4.8% in this report)<sup>43</sup>. When the report was updated in 2014, it found that 27,000± housing units, or nearly 70% of the estimated twenty-year growth, had already occurred within the six years between 2006 and 2012<sup>44</sup>. The housing unit targets were adjusted in the next BLR to 59,000± units required between 2012 and 2031 to reflect new population growth targets. The city’s development capacity for housing also grew substantially with zoning changes in that span, increasing from 84,650± housing units to 168,200± housing units, or an increase of 99%<sup>45</sup>. The BLR attributed this growth to “approved zoning changes that allow for increased density and greater building heights in South Lake Union through incentive zoning” as well as similar zoning changes in the downtown area<sup>46</sup>. The city of Seattle also established its own set of growth targets and development capacity figures in 2014 as part of its *Seattle 2035 Comprehensive Plan* update. The city’s analysis estimated an incoming 70,000 households by 2035 and a current development capacity for 224,000 additional housing units, or an increase in capacity of 33% more housing units from the 2014 BLR and 165% more housing units from the 2007 BLR<sup>47</sup>.

The results from the BLR have not been universally accepted or lauded by all sectors. The Master Builders Association of King and Snohomish Counties (MBA), which represents developers, contractors,

and tradesmen within the building industry, has raised concerns regarding the timing, methodology, and unwritten implications of the analysis. Reports are due on an eight year cycle, but the MBA contends that this does not allow for accurate development planning as both the population and housing unit numbers increase over time<sup>48</sup> (leading to the substantial jumps in capacity between the 2007 and 2014 BLRs). The methodology used in the analysis assumes that all parcels legally permissible for redevelopment will be developed. The MBA argues that, region wide, the BLR results suggest that 90% of all multifamily housing units would need to be redeveloped following the county's procedures<sup>49</sup>. The methodology does not address the transaction costs or general difficulties associated with redevelopment either, including the need for willing sellers; the need for an appraisal to conclude that the highest and best use of the site is redevelopment; and the need for physical site improvements that may be financially unfeasible depending on topographical and environmental considerations. In simpler terms, not all vacant properties are created equal, nor are they all practically redevelopable.

The BLR does not address affordability either when it considers the available capacity for future housing development. There are no requirements in the Washington GMA to supply a percentage of new housing units for households earning less than the area median income, and Washington cities and counties generally do not account for this as a result. If the local economy continues to grow and there is an insufficient supply of housing units in urban centers, individuals and families earning incomes at-or-below the area median income may be priced out of the neighborhoods in which they work or else they will be burdened with higher costs of living. The MBA advocates for increases in the amount of land supply that may be developed in urban centers and/or an increase in urban growth area limits to increase the housing supply and reduce market prices<sup>50</sup>.

## The Response to HALA Strategy L.1

The affordable housing challenges outlined in this chapter prompted Seattle Mayor Ed Murray to organize the HALA committee in November 2014 with the mandate of generating recommendations for how the city could facilitate the construction of 20,000 additional affordable housing units and 30,000 additional market rate housing units within ten years<sup>51</sup>. Neither the housing targets nor the mandate itself were stipulated by any county or state growth management requirements, but rather were set by the Mayor and his staff “to ensure the city's future growth addresses, in part, our critical housing affordability needs”<sup>52</sup>. The final recommendations from the HALA report were leaked in 2015 prior to the report’s official release, however<sup>53</sup>. The initial reaction from residents, per the Mayor’s office, was approximately five negative e-mails for every one positive. The most controversial recommendation from the report- the elimination of exclusively single-family zoning- was dropped by the Mayor after two weeks in order to improve the possibility of implementing the remaining recommendations<sup>54</sup>.

The public response to strategy L.1 has been less critical, but is still mixed. Nonprofit entities, including the Low Income Housing Institute (LIHI) with support from Seattle Councilmember Kshama Sawant, have advocated for the city to finance affordable-housing developments on surplus and underutilized public land<sup>55</sup>. The city defines “excess,” “surplus,” and “underutilized” property as follows<sup>56</sup>:

- *Excess*: “Real Property that the Jurisdictional Department has formally determined it no longer needs for the Department’s current or future use.”
- *Surplus*: “Excess Property formally designated by the City Council as not needed to carry out any recognized goal or policy of the City.”
- *Underutilized*: “Municipal Use property that could support additional and/or more intensive uses without interfering with the primary use of the property.”<sup>1</sup>

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<sup>1</sup> Additional definitions for the term “underutilized” by other public agencies are provided in Chapter 2.

On the public side, the politics behind land use decisions have impacted the use of public land for affordable housing in the recent past. When the city seized 50 residential properties in the Roosevelt neighborhood from a delinquent landlord in October 2015, the land- located within three blocks from a future light rail station in some cases and with utilities on site- was dedicated as parks and open space to appease neighbors rather than be used for affordable housing<sup>57</sup>. Neighborhood residents opposed to changes in single-family zoning to increase density contend that because the buildable lands report suggests there is sufficient capacity for growth in most neighborhoods, that facilitating the construction of more housing in the present is undermining neighborhood “livability.”<sup>58</sup> The city’s Office of Housing has also taken the stance that there are fewer parcels available than the public realizes that can accommodate the development of a 100-unit multifamily housing building<sup>59</sup>. “The point is, there’s not ginormous amounts of free land out there,” per Miriam Roskin, Office of Housing deputy director<sup>60</sup>.

## Research Design

The use of publicly-owned surplus and underutilized land for the development of affordable housing is not a new idea. It is also an idea that was able to be discussed by the HALA committee, a group with a wide cross-section of housing development knowledge and political interests, and make it into the final list of recommendations in the HALA report. However, there are no explicit materials available that outline just how *feasible* or *effective* of a recommendation this could be when considering the limitations imposed through physical development constraints, legal restrictions, and the actual supply of land compared with the amount of housing units needed to be produced to meet the HALA mandate. There are also no materials available to determine whether implementation of any revisions to the city’s existing reuse and disposal policies would address the needs of affordable housing developers.

The research is structured into six chapters. This is the first chapter, in which background information is provided to explain why housing affordability in the city of Seattle is an issue. The remaining chapters are structured as follows:

*Chapter 2: Seattle's Real Estate Property Disposition Policies and Associated Legal Requirements*

This chapter includes a review of the existing reuse and disposition policies that the city of Seattle adheres to for surplus and underutilized city property. It outlines the legal authority that guides city policies as well as other legal constraints that affect property sales at the city-level and at the individual department level. The chapter also includes an analysis of the implementation and effectiveness of King County Ordinance 12394, a law that prioritizes the use of surplus and underutilized county-owned property for affordable housing.

*Chapter 3: Existing Surplus Property Policies in Comparable Growing Cities*

This chapter studies whether comparable growing cities in North America (Denver, Colorado; Portland, Oregon; San Diego, California; San Francisco, California; and Vancouver, British Columbia) have addressed the issue of land acquisition costs on affordable housing development through the use of city-owned surplus property. Common threads for housing affordability issues and state-mandated housing requirements are identified to frame how each city's policies are impacted by each as well as how they compare to Seattle.

*Chapter 4: An Analysis of the Physical Supply of Surplus Public Land Available for Multifamily Housing*

This chapter includes an analysis of the city-owned properties deemed as surplus and underutilized by the city or qualified as underutilized through the research for their relative developmental potential for multifamily affordable housing. Only properties with interior dimensions and site areas larger than values considered to be the minimum required for multifamily housing are



considered physically feasible for affordable housing development. These properties are further organized into ‘development suitability classes’ in order to provide a gauge of how challenging the parcel may be to develop, with considerations such as zoning, topography, and environmental and legal restrictions. Those properties considered to have the highest developmental potential are then included in a buildable lands analysis to establish an estimate for the number of housing units that could potentially be provided on these properties. This chapter concludes with a final inventory for each property’s development suitability class, an evaluation of the results, and low-build, medium-build, and high-build scenarios depending on how aggressive any policy changes would be enforced.

*Chapter 5: An Evaluation of the Feasibility of using Surplus Public Land for Private Affordable Housing in Seattle*

This chapter considers all of the information collected in chapters two through four to evaluate the feasibility of using surplus and underutilized publicly-owned land for affordable housing. Feasibility in this context means that the policy or program is politically palatable, practical, and has a reasonable chance of producing positive results for all parties involved. Two case studies- one related to the transfer of underutilized public land for affordable housing and the other for the impending transfer of surplus public land for affordable housing- are included to inform other real-world issues that may need to be addressed when considering this proposal. This chapter concludes with a discussion of other considerations that may be valid for taking this analysis further, including alternate forms of housing that could be considered to address housing affordability besides multifamily housing; alternate forms of land transfers to address fair market value and lending of credit obstacles; alternate forms of land assembly agencies that could address the concern of HALA Strategy L.1 for assembling publicly-owned parcels outside of the city’s control for affordable housing; and alternate uses of public land development rights.

*Chapter 6: Conclusion*

This thesis concludes with a condensed summary of the evaluation of the feasibility and effectiveness of the HALA Strategy L.1 with important takeaways for future discussion. These lessons are applied to a current surplus property disposal in progress to reflect on how any proposal to revise the city's existing policies would affect this transfer. This conclusion is organized such that any party interested in advancing this topic may be made aware of the current nature of the city's reuse and disposition policies and immediate challenges or obstacles to overcome to support a position on the issue.

## Chapter 2: Seattle's Real Estate Property Disposition Policies and Associated Legal Requirements

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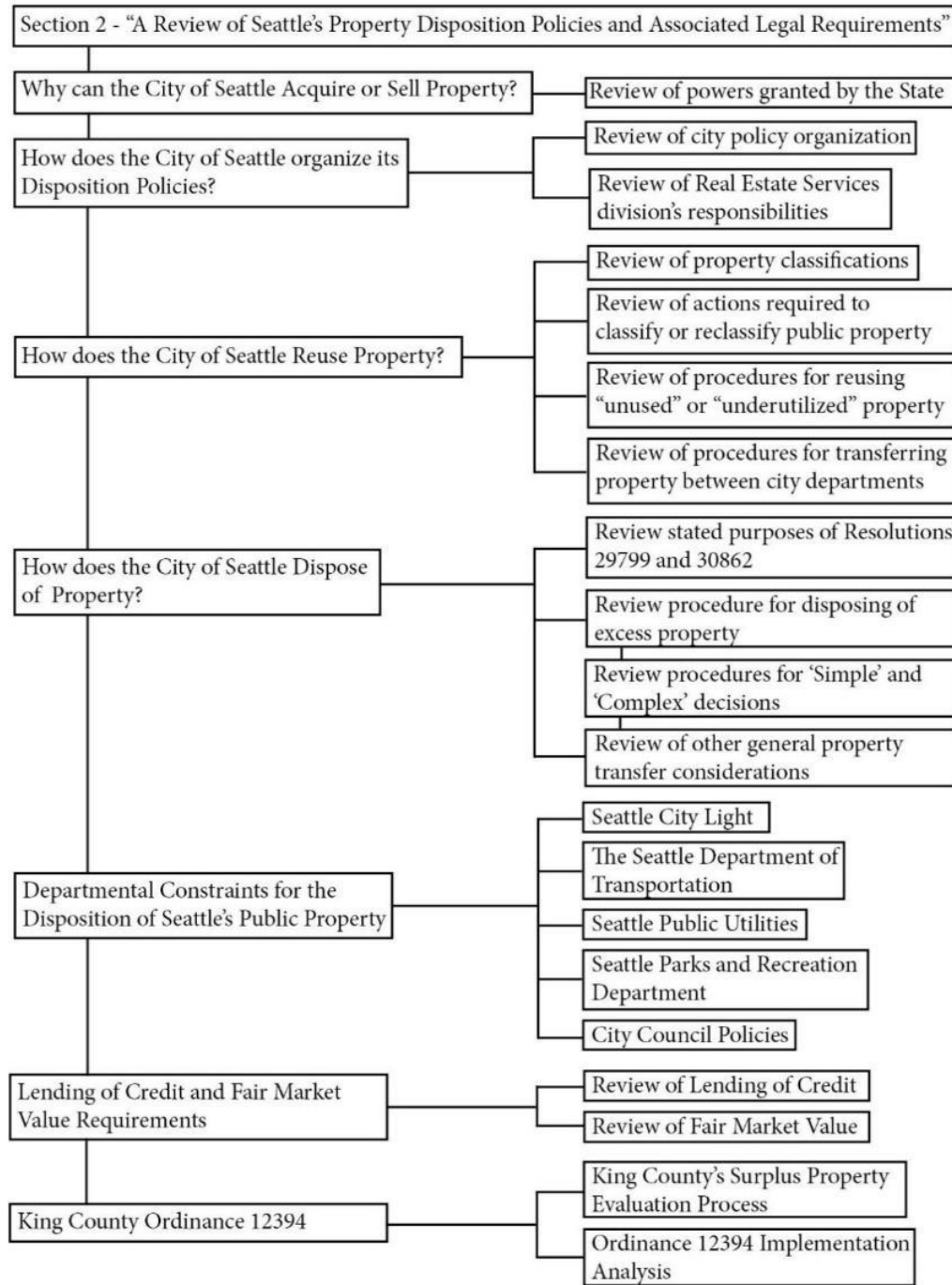
### Introduction

This thesis seeks to address whether the prioritization of publicly-owned surplus or underutilized land for the development of affordable housing would be a feasible and effective policy for generating more affordable housing units in Seattle. The previous chapter outlined the issues that are specifically impacting the city of Seattle and the Puget Sound region at large as well as the planning framework that the state and city follow for guidance in facilitating housing development. This context is important for understanding the various forces impacting land acquisition costs and city-wide approaches to addressing housing needs, but it doesn't capture what Seattle's policies are now for the land it has direct control over and whether those policies address housing needs.

The city of Seattle currently includes the consideration of affordable housing or low-income housing as part of the evaluation process in its real estate reuse and disposition policies, but neither is listed as a singular *priority*, nor are there any formal programs working to this end. In order to evaluate any proposed change to the city's existing policies, it is therefore necessary to understand in detail what those policies are. It is also vital to understand what legal and operational restrictions must be adhered to in order for any city real estate policy to not be challenged in court. Relevant to this discussion is Ordinance 12394, a law instituted by King County (the county in which Seattle is located) in 1996 that prioritizes affordable and low-income housing for its surplus properties. An analysis of how this policy has been implemented provides insight into what challenges may present themselves in instituting any new policy in Seattle for the use of surplus public land for affordable housing.

In this chapter, I first provide an analysis of the legal authority that allows the city to acquire and dispose of property, followed by an examination of the city's existing policies for property reuse and disposition. It is important to understand the principles that guide the city's management of real property

if other policies are to be proposed for consideration. Next, I include a review of the state’s lending of credit and fair market value laws to apply these factors into any policy consideration. Finally, I review King County Ordinance 12394 and how it has been implemented to use county-owned surplus land for affordable housing. An outline of this chapter is illustrated in **Figure 2.1**.



**Figure 2.1. Outline of Chapter 2**

## Why can the City of Seattle Acquire or Sell Property?

Seattle's property disposition policies and procedures are supported by the powers that the city has been legally authorized to wield for land acquisition and sales. At the state level, the powers granted to the city are based on its designation as a *first class city*. This has nothing to do with socioeconomic levels or popularity, but rather that cities are defined as "first class" or "second class" based on population. A "first class city" is defined in the Revised Code of Washington (RCW) Section 35.01.010 as a city "with a population of ten thousand or more at the time of its organization or reorganization that has a charter adopted under Article XI, section 10, of the state Constitution"<sup>61</sup>. As such, the city is granted specific powers by the state under RCW 35.22.280 for the ongoing operations and maintenance of the city. Power "(3)" provides the most direct power for land acquisition, allowing the city to "control the finances and property of the corporation, and to *acquire, by purchase or otherwise, such lands and other property as may be necessary for any part of the corporate uses provided for by its charter, and to dispose of any such property as the interests of the corporation may, from time to time, require*"<sup>62</sup>. This section of the code also grants the city other powers related to land acquisitions or purchases, including eminent domain, the ability to acquire land for parks, and the ability to acquire land for cemeteries.

## How does the City of Seattle organize its Disposition Policies?

Seattle organizes its real estate transaction policies under three categories. The first are council-adopted policies, in which policies drafted by the Real Estate Services (RES) division of the Finance and Administrative Services (FAS) department are reviewed by the Real Estate Oversight Committee (REOC) and the Law Department and, if recommended, sent to City Council for review and approval through either an ordinance or resolution<sup>63</sup>. The second category includes executive order policies, which are enacted by the Mayor and do not require City Council approval. The third category includes departmental directives issued by the FAS department, which has the authority under Seattle Municipal Code (SMC)

section 3.39.020.d to “maintain the City's financial accounts and records, issuing financial statements on behalf of the City, establish accounting policies and procedures for City departments, and monitor departmental compliance therewith”<sup>64</sup>. Section 3.39.020 also grants two other powers to the FAS related to real estate management and public property sales:

- 3.39.020.N: “Consistent with this title and as otherwise authorized by ordinance, administer the City’s purchasing and contracting processes, including solicitation of offers and proposals, and administration and enforcement of agreements made; execute public works contracts for the City... expert and consultant services, and disposition of property, equipment, supplies, and material, other than art works, that are surplus to the City's needs.”
- 3.39.020.Q: “Manage the City's real estate portfolio, excluding those properties for which the City Charter, ordinance or state law requires management by another department. Management includes planning and development, acquisition, disposal, analysis, development of policy and procedure, and general administration, including space allocation and operations.”

“Procedures for the Evaluation of the Reuse and Disposal of the City’s Real Property,” adopted and amended in Resolutions 29799 and 30862, respectively, is the primary document that has dictated the city’s property acquisition policies since 1998, having replaced Resolution 26358 (written in 1980 for similar purposes). Resolution 29799 cites the need to make decisions “concerning acquisition, reuse, and disposal of the City’s real property... within the context of a long-range vision, with the goal of responsible stewardship for current and future generations”<sup>65</sup>. The language contained in this resolution adjusted the city’s responsibilities to be more in line with the goals of the Washington State Growth Management Act and the city’s comprehensive plan. This resolution was amended in 2006 through Resolution 30862 with additional clarification on procedures and guidance for informing neighboring property owners and the general public if a city-owned property is being considered for reuse or disposal. Specifically, “the City Council believes that members of the public should be given ample opportunity to inform and participate

in the decision-making process on disposal and/or reuse of the City's real property, particularly in identifying opportunities for public use or use of such property that would benefit the public, including, e.g., the preservation of open space and the provision of low-income housing"<sup>66</sup>. The amendments:

- Increased the distance of notice to 1,000 feet from the property;
- Increased the range of groups and members of the public to be contacted;
- Required re-notification to the same groups if the surplus process is incomplete within 18 months of initial notification;
- Required RES or the department having jurisdiction to notify groups about any Executive decision to dispose of excess property prior to sending any legislation to City Council; and
- Required the Executive to include with legislation for each excess property a report detailing the public notice process and any public comments received.

It should be noted that Resolution 29799 explicitly states that the policies are *not* binding, but rather are only to guide internal decision-making processes. Per Section 5, "failure to follow these policies and procedures shall not serve as a basis for invalidating any acquisition, disposal, or other decision regarding the use of real property by the City, nor shall failure to comply with these policies and procedures delay any closing, entitle anyone to damages, or otherwise provide a cause of action for any relief"<sup>67</sup>. This qualification in the city's existing policy may protect it from legal actions, but the flexibility it provides to make decisions contrary to public opinion or RES recommendations highlights one area where "prioritization" language runs into implementation obstacles. These policies also only apply to properties for which the city owns a fee simple interest and the bundle of rights associated with that interest- that is, the city has no control over land it is leasing. In addition to the execution of these policies, the RES division also performs either general feasibility analyses or site-specific analyses if there are particular issues or impacts that need to be addressed with property use or acquisition, including alignment with City plans and policies, co-location possibilities at other existing city-owned sites, and community impacts<sup>68</sup>.

## How does the City of Seattle Reuse Property?

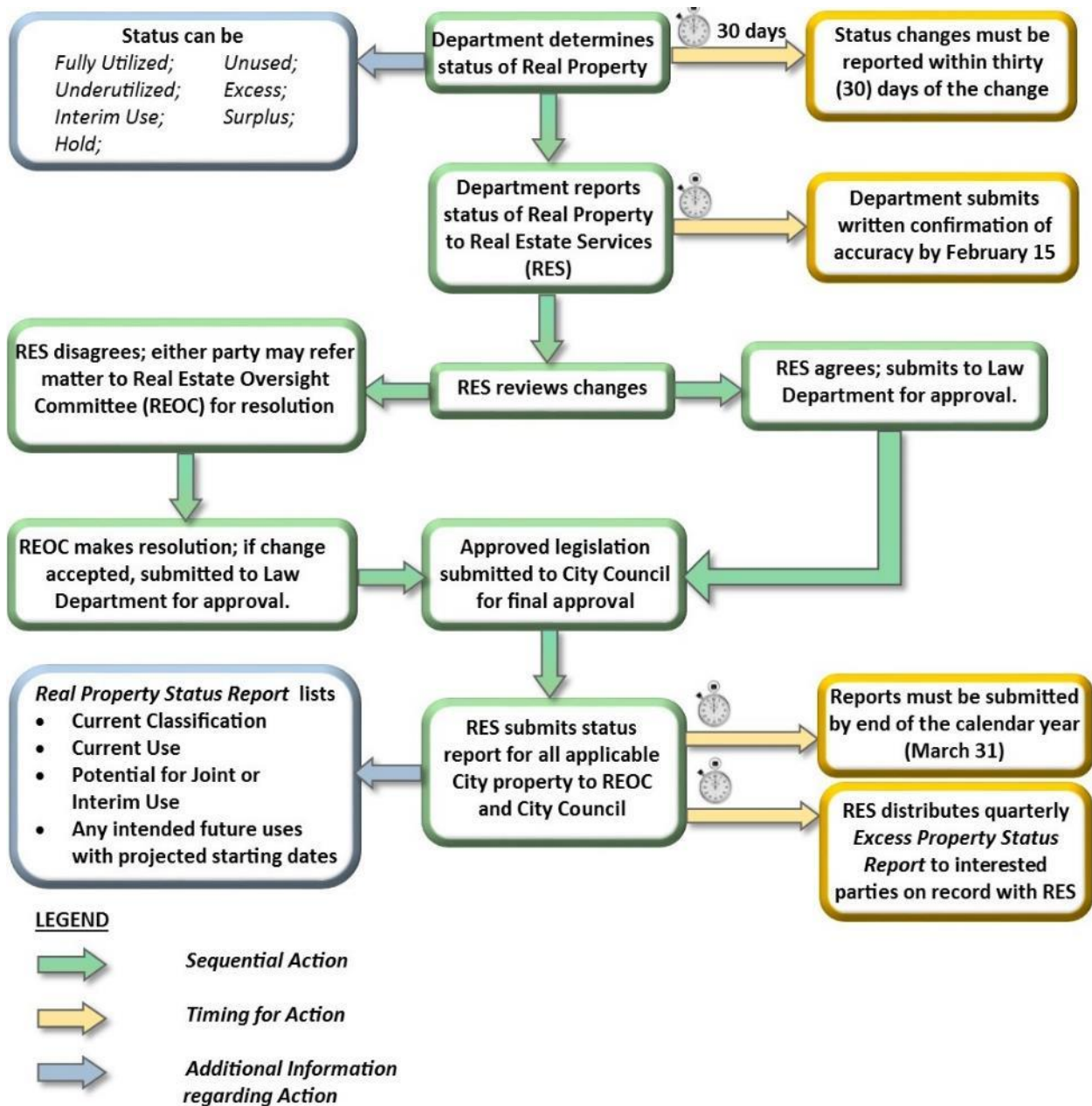
City-owned real property must first be declared surplus and then reviewed by all other city departments before it can be considered for sale to a private party. It is thus critical to understand how the city reuses public property for other purposes beyond those of the original department before diving into what else that property may be used for. City departments are required to classify each property they own and report that classification and any change to the RES division. As part of this process, it is intended that each department consider suitable or compatible additional uses for those properties that are not fully realized for *Municipal Uses*, for which the property should be utilized to the fullest extent possible<sup>69</sup>.

Properties may be classified as follows:

- *Fully Utilized*: “Municipal Use Property that is actively being used for municipal purposes to the fullest capacity possible under any required restrictions on its Municipal Use.”
- *Underutilized*: “Municipal Use property that could support additional and/or more intensive uses without interfering with the primary use of the property.”
- *Interim Use*: “The use of property for a non-municipal use(s) on a short-term basis during the period of time prior to its being used for its proposed future Municipal Use.
- *Unused*: “Property owned by the City that is not currently in Municipal Use and that is not being rented, leased, or otherwise used under an agreement with the City.”
- *Excess*: “Real Property that the Jurisdictional Department (“Department”) has formally determined it no longer needs for the Department’s current or future use.”
- *Surplus*: “Excess Property formally designated by the City Council as not needed to carry out any recognized goal or policy of the City.”
- *Hold*: “A delay in the implementation of a Reuse or Disposal decision by city departments and public agencies until certain steps can be completed (e.g. obtain funding).”

The process for which the status of each property is reviewed and classified is shown in **Figure 2.2**.





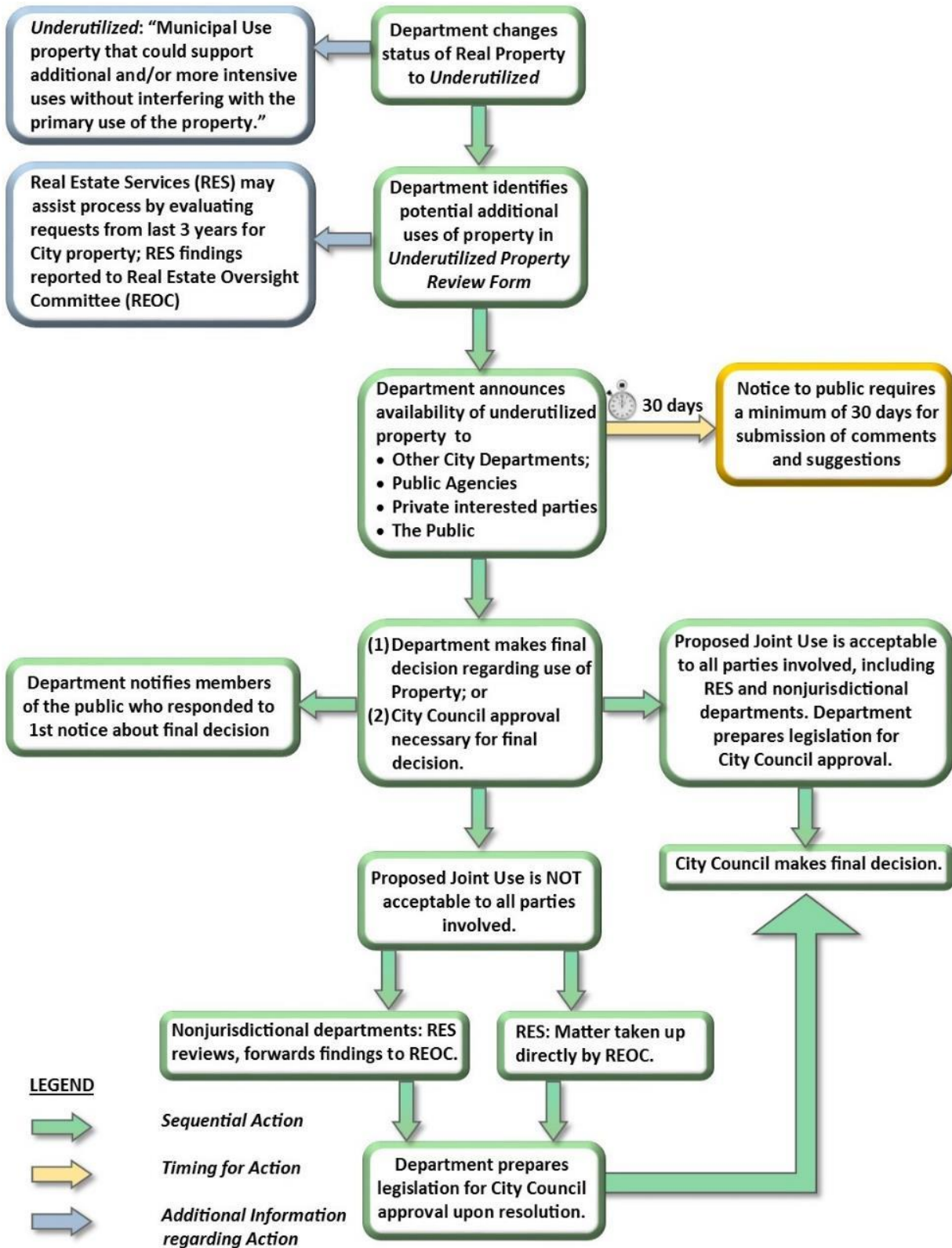
Source: Author

**Figure 2.2. Actions Required to Classify and Reclassify Public Property**

There are slightly different procedures for property reuse depending on whether it is designated as “underutilized” or “unused.” For underutilized sites, additional uses are to be identified during each department’s annual review of its assets and reported in an *Underutilized Property Review Form*. The RES department may assist with this process by reviewing requests for city property from the previous three

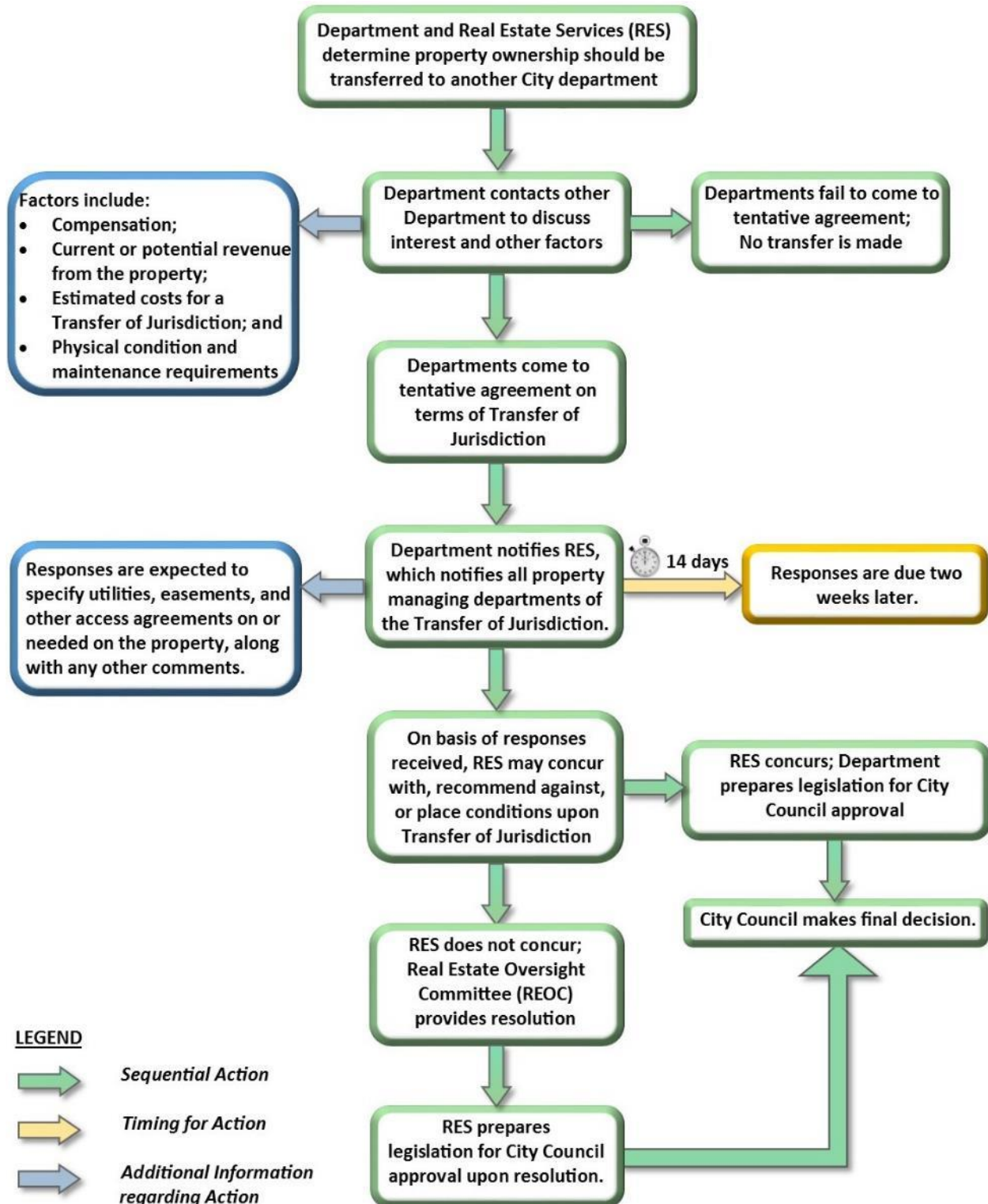
years and evaluating these requests against a department's properties. One of the amendments in Resolution 30862 is that the city must give notice of the availability of these properties not only to other cities departments and agencies, but to the public as well, for a minimum of thirty days to collect comments and suggestions. Once the department makes a decision on what to do with its property, it notifies the public of its decision and seeks City Council approval if necessary. A diagram of this process (ending when a property is reclassified as "excess" for clarity purposes) is shown in **Figure 2.3**. If the property is designated as "unused," the same procedures apply, but with two exceptions. If the property is "unused" because a future use has already been identified, then an "interim use" designation should be used instead. In this case, replace the words "Joint Use" with "Interim Use" in Figure 2.3. If it is "unused" because there is no future use or need from the department, it is reclassified as "excess."

In the event that a fully utilized property is determined to be better served under an alternate department by the department having jurisdiction ("Department") and RES, the Department is expected to reach out to the alternate department and negotiate terms for a transfer. If and when a tentative Transfer of Jurisdiction agreement is reached, RES notifies all other jurisdictions of the proposed transfer in order to establish any easements, utility agreements, and/or other access agreements that may be required for all efficient city operations. Once responses are received, RES makes a final determination whether to concur, recommend against, or place conditions on the transfer agreement. If RES recommends against the transfer, the REOC is expected to review and provide a resolution. All final resolutions are submitted to the City Council for final approval. A diagram of this process is shown in **Figure 2.4**.



Source: Author

Figure 2.3. Actions Required to Establish Uses for Underutilized Properties



Source: Author

Figure 2.4. Actions Required to Transfer Fully Utilized Properties to Other Departments

## How does the City of Seattle Dispose of Property?

The primary goals of Resolutions 29799 and 30862 are to ensure that the city's property is being "strategically utilized" to the fullest extent possible<sup>70</sup>. Properties no longer needed ("excess" or "surplus") may be disposed of to avoid the costs and responsibilities of managing them. Resolution 29799 states that "the Executive" makes recommendations about the reuse or disposal of property "not needed by a Department" on an ad hoc, case-by-case basis. Although not explicitly defined, the Executive refers to the FAS department, and any recommendations made by them to City Council are intended to be vetted by the REOC to ensure that decisions are made considering city-wide context. The REOC includes:

- The Fleets Management Division Director;
- The Director of Seattle Public Utilities (SPU);
- The Director of the Department of Neighborhoods (DON);
- The Director of the Office of Economic Development;
- The Superintendent of City Light (SCL);
- The Superintendent of Parks and Recreation;
- The Director of the Department of the Department of Planning and Development (which was split in 2015 into the Office of Planning and Community Development and the Department of Construction and Inspections); and
- The Director of Transportation.

There is no representative on the REOC from the Office of Housing. Any proposal to reuse or sell a property is reviewed against any restrictions on the property due to either:

- The purpose for which the property was originally acquired;
- The funding sources used to acquire the property;
- The title or deed conveying the property, including terms and conditions of the original acquisition, or any other contract or instrument by which the City is bound or to which the property is subject; and/or
- City, state, or federal ordinances, statutes, and regulations, including but not limited to:
  - Bond, grant, or loan programs;

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- The State Accountancy Act, RCW 43.09.210, providing that property transfers from one department or public service industry to another are to be paid for at their true and full value by the department or public service industry receiving the property<sup>71</sup>.
- Zoning and land use matters such as the Land Use Code, landmarks ordinance, historic preservation policies, and special review district limitation; and/or
- Other plans, policies, or regulations adopted or approved by the City Council, including the City of Seattle Comprehensive Plan.

Resolution 29799 further notes that any recommendation by the Executive must also be weighed against the potential for the property to be used for one of the following purposes:

- In support of adopted Neighborhood Plans;
- **As or in support of low-income housing;**
- In support of economic development;
- **In support of affordable housing;**
- For park or open space;
- In support of Sound Transit Link Light Rail station area development;
- As or in support of child care facilities; and
- In support of other priorities reflected in adopted City policies.

The final considerations for the Executive that the resolution lists include other factors that could impact the value or need of the property:

- The “highest and best use” of the property<sup>2</sup>;
- Compatibility of the proposed uses with the physical characteristics of the property and with surrounding uses;
- The timing and term of the proposed use;
- Appropriateness of the consideration to be received;
- Unique attributes that make the property hard to replace (e.g. size, location);
- Potential for consolidation with adjacent public property to accomplish future goals and objectives of the City;

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<sup>2</sup> “Highest and best use” refers to the use of the property that is physically possible, financially feasible, legally permissible, and maximally productive compared to all other potential uses.

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- Conditions in the real estate market from the perspective of the property seller; and
- Known environmental factors that may affect the value of the property.
- Whether the property has the potential to be sold to either non-City public entities or members of the general public.

If the Law Department is consulted during the process, their role is to aid in determining:

- Compliance of proposed Reuse and Disposal actions with local, state, and federal ordinances, statutes, regulations, plans, and policies;
- Resolution of any Encumbrance issues;
- The need for environmental analyses, including environmental due diligence and reviews required under the State Environmental Policy Act (SEPA); and
- The form and substance of any proposed legislation and transaction documents.

The process of disposing of excess property begins with the Department filling out an *Excess Property Description Form*. This form is to include a variety of information including name, address, legal description, tax parcel ID, photos, historical background, and other legal documentation associated with the property. This form is submitted to RES for evaluation, at which point RES fills out an *Excess Property Notice* letter for distribution and notification of the property's availability to other city departments, public agencies, the general public, and any other interested parties. The intent of this notification is not only to gauge interest in the property but to determine if there are other less-than-fee-simple interests in the property, such as utility agreements, easements, and access agreements, which the city could consider including as a condition of any sale. Excess property that is 2,000 square-feet or less in lot area does not require department or public notification. Attached to the *Excess Property Notice* are two other documents- the *Excess Property Response Form* and *Excess Property Proposed Use Form*. The former is intended to collect both interest in the property from specific parties and any comments they have related to the existing use of the property. The latter is intended to collect information on proposed alternative uses for the property, including potential implementation dates, costs, funding sources, terms, city or public benefits, and general scope of the proposed alternative use. These forms are due back to RES within

thirty (30) days of the issuance of the *Excess Property Notice*, though RES has discretion to extend the comment receipt period if it receives a written request explaining the reason for the extension and a proposed alternative cut-off date for comments. The RES can (and does) still consider comments received after this period, but they are obligated not to make any decisions until after that period has expired.

All forms received by RES are copied to the Department. Even if no members of the public or other public agencies respond, city departments are expected to fill out and return a completed *Excess Property Response* form “with complete and accurate information.” This is to ensure that there is a record that each department received and evaluated the property, regardless of whether the response is that they have no interest. Although they do not own any property, the Office of Planning and Community Development (OPCD) and the DON have responsibilities to meet for filling out the *Excess Property Response* Form as well. The OPCD is to identify “planning and management goals for the area in which the property is located, as identified in the Comprehensive Plan and other adopted plans and policies.” The DON is to identify “any neighborhood plans that have been adopted for the area in which the property is located” as well as “whether a proposal for acquisition, use, or Disposal of the property has been developed as part of an adopted neighborhood plan.”

The first tier of the evaluation process for excess property begins with the Department. The Department reviews the returned forms and, within thirty days, makes a recommendation on what to do with the excess property (reuse or disposal) to RES. This recommendation is expected to include the “number and substance of the public comments received, describe the preferred Reuse or Disposal, and if appropriate, propose a Transferee or method for selecting a Transferee.” Several options are at the Department’s discretion:

- Establishment of an *Interim Use* until a recommended future Municipal Use(s) is implemented;
- Transfer the property for implementation of a Municipal Use



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- To another City department;
  - To a specific non-City Transferee; or
  - To a non-City Transferee that has not yet been identified.
- Designation as Surplus property to be transferred
  - To a specific non-City Transferee; or
  - To a non-City Transferee that has not yet been identified.

At this point, RES initiates the second tier of the evaluation process, beginning with an evaluation of whether the proposed decision is '*simple*' or '*complex*.' The difference between *simple* and *complex* decisions are that the latter require more public involvement and City reviews. *Simple* decisions can be approved by RES before submission to the City Council while *complex* designs must be approved by the REOC before submission to the City Council. Criteria for determining the distinction include:

- The potential presence of conflicting proposals;
- The type and amount of consideration proposed or necessary for the property;
- The estimated fair market value of the property;
- Change in zoning requirements required by the proposed action;
- Whether the City will retain any Real Property rights; and
- Community interest in the property.

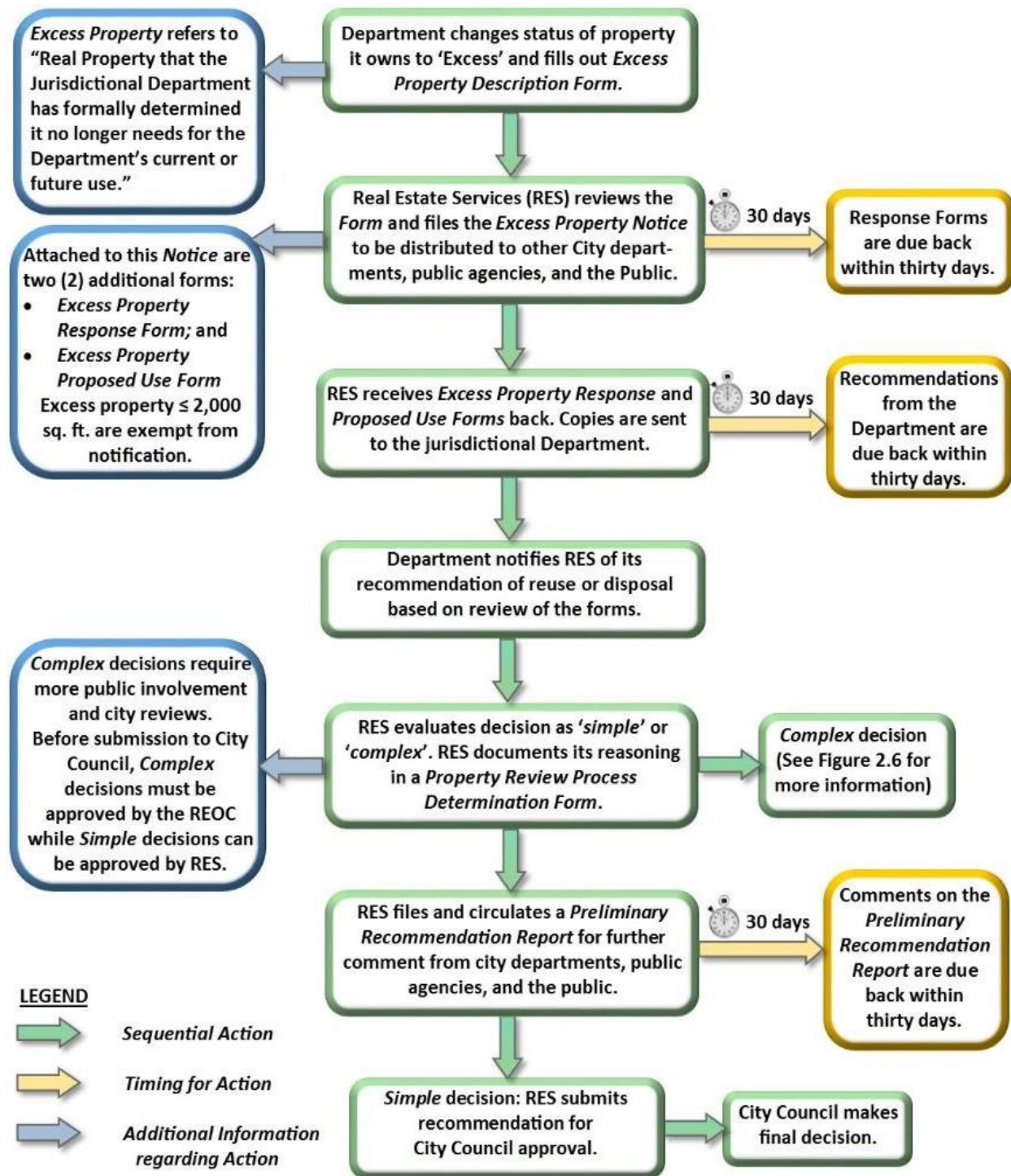
Decisions are classified as *complex* regardless of other considerations if either the estimated fair market value of the property exceeds \$1,000,000 or a *complex* designation has been requested by the Department, REOC, or City Council. Whatever decision is made, RES must document its reasoning for the classification in a *Property Review Process Determination Form*. The decision that RES recommends, whether it be *simple* or *complex*, does not need to match the Department's recommendation. The reasoning for this recommendation needs to be properly documented in a *Preliminary Recommendation Report on Reuse or Disposal of Excess Property (Preliminary Report)* and distributed to the REOC, all city departments, public agencies, and members of the public that expressed an interest in the property. Comments are due back within thirty days; no recommendations (or transmission to City Council) can be

made before then. One special circumstance occurs when one of the parties to respond to the *Excess Property Proposed Use Form* requests for the property to be designated a “Hold” while it raises funding for the land transfer. RES can make a recommendation that the department hold the property for up to one year until the prospective Transferee has fulfilled its obligations for taking control of the property. Maintenance costs in that span must be negotiated between the Department and the Transferee.

If the RES designation of the decision is *simple*, the only other steps to take are that the RES prepares legislation, reviewed by the Law Department and Department of Finance, and sends it to the City Council along with the other completed reports for final approval. The City Council is not required to hold a public hearing for approval of the recommendation, but may choose to do so (at which point public notification procedures are enacted). For an outline of the process up to this point, refer to **Figure 2.5**. If the RES designation of the decision is *complex*, both the *Preliminary Report* and a *Public Involvement Plan* must be sent to the REOC for formal review and approval prior to distributing to the full list of recipients. A *Public Involvement Plan* outlines the public involvement process used to obtain public comments and a list of all persons and entities notified, how they were notified, and when they were notified. RES is to allow at least 14 days for comment on the *Public Involvement Plan* prior to briefing City Council on all reports, though it can still accept comments after this period. City Council’s first responsibility is to approve, approve with modifications, or reject the *Public Involvement Plan*.

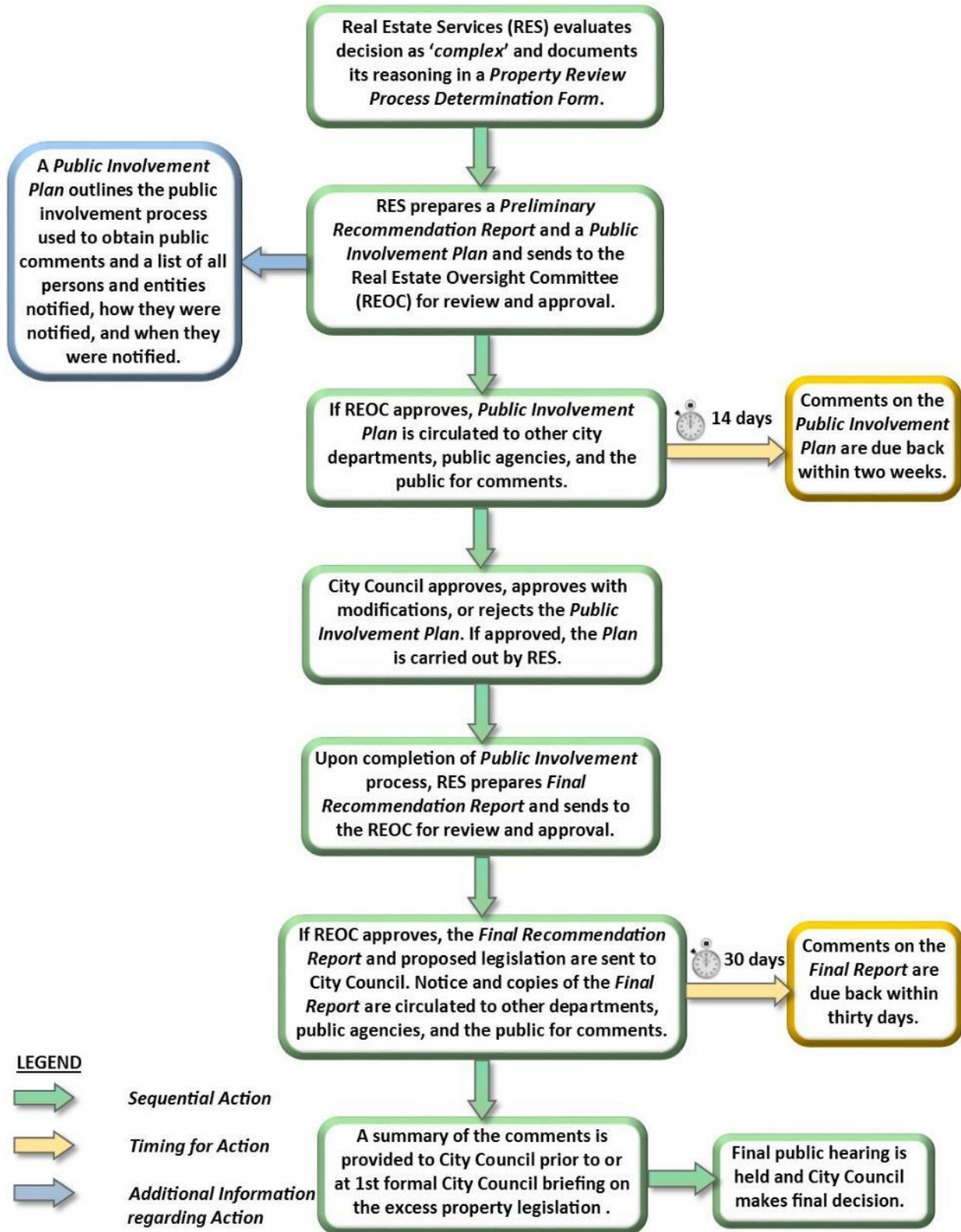
The approved *Public Involvement Plan* is carried out by RES and, upon completion, a *Final Recommendation Report (Final Report)* is generated with any revised recommendations. The *Final Report* is issued to REOC for review and approval, and upon approval, a notice of the *Final Report* and the proposed legislation submitted to City Council is issued. A thirty-day period is required between the notice and the public hearing in order to allow for final comments to be made on the *Final Report* by all interested parties. A summary of the comments is provided to City Council prior to or at the first formal City Council briefing on the excess property legislation. A final public hearing is then scheduled for final City Council

approval. For an outline of the process beginning with the decision to designate an excess property decision as *complex*, refer to **Figure 2.6**.



Source: Author

**Figure 2.5. Actions Required to Reuse or Dispose of Excess Property, Simple Decision**



Source: Author

Figure 2.6. Actions Required to Reuse or Dispose of Excess Property, Complex Decision

*Other Considerations for Transfers of City-Owned Properties to Other Entities*

The procedures outlined in the previous sub-section explained the current process for how one city department in Seattle may either transfer title of property it owns to another city department, public agency, or private entity. Aside from the challenges that come from the implementation of a rigorous public process, there are a number of other considerations to take away from this process.

The first consideration is that while these outlines make it clear how the Department would go about transferring its property, it does not make clear what the process is if another department, public agency, or private entity *requests* the property. While individual departments may respect the purposes for these requests, they must also ensure that they are not jeopardizing their own department's goals in the future by transferring full ownership rights of land out of their control. A vacant property that could be large enough to support a new affordable multifamily housing development may already be flagged by the Department for another purpose in the future, once funding is available. The sale of an excess property could also be identified as the funding source of another project for the Department, even if the use of the property could serve another department's needs. Section 1, Part E of Resolution 29799 addresses competing interests in a publicly-owned property by noting that "the requests of City departments and Public Agencies to obtain jurisdiction over or to acquire city property carry considerable weight, but do not necessarily preclude a recommendation to transfer the property to a private entity for Municipal Use or to reclassify it as Surplus"<sup>72</sup>. City Council would serve as the final arbiters on a challenge of land ownership between departments, but the process as currently defined provides protection to the Department from land requests.

A second consideration is the cost of property transfers between departments and to other public agencies. For interdepartmental or intergovernmental transfers, transfers require public notice and a hearing if the property is valued over \$50,000, pursuant to RCW Section 39.33.020<sup>73</sup>. Further, RCW section

43.09.210 (the State Accountancy Act) requires that the transfer of publicly-owned property occurs at “its true and full value by the department... receiving the same, and no department... shall benefit in any financial manner whatever by an appropriation of fund made for the support of another”<sup>74</sup>. The Washington State Office of the Attorney General addressed this language in 1997 with the issuance of the “Relationship of Intergovernmental Disposition of Property Act”<sup>75</sup>. This Act clarified the requirements of RCW 43.09.210 in two ways- it clarified that “full value” had a “flexible meaning depending on the circumstances of the transfer” and that the public notice requirements of RCW 39.33.020 were only applicable to intergovernmental property transfers- *not* to land transfers to private parties.

The “flexibility” argued by the Attorney General is interpreted in the consideration that, as long as the return from a transfer of property is not obviously arbitrary or irrational, “full value” may be found in the terms of the transfer. The Attorney General further argues that the code requirements can be interpreted as requiring that any municipality or public agency interested in transferring property establish a value for the property to ensure that the property owner is properly vetting the reasons it is considering the property disposal and has addressed the property’s value to the agency before negotiating. In other words, although the transfer between departments does not need to necessarily be at “full market *economic* value,” there needs to be some kind of value transfer between departments that is justifiable in court. These terms must be negotiated during the transfer process between departments, and it means that the department receiving the property won’t receive it for “free,” regardless of whether they’re both public agencies for the same municipality or serving the same goals.

## Departmental Constraints for the Disposition of Seattle's Public Property

Resolutions 29799 and 30862 may provide the framework for identifying, classifying, and transferring properties deemed excess by each city department or surplus by City Council, but there are often other legal constraints or supplementary disposition guidelines that impact the respective policies of the various public departments and agencies regarding property management. In this sub-section, these constraints are reviewed on a department-by-department basis. The departments included are Seattle City Light, Seattle Department of Transportation, Seattle Public Utilities, and the Seattle Parks and Recreation Department. The Seattle Public Library system<sup>3</sup> ("Library") and Seattle School District<sup>4</sup> (SSD) are not managed or operated by the city and therefore are not included in this analysis.

### *Seattle City Light*

Seattle City Light (SCL) is managed under the auspices of a General Manager/Chief Executive Officer (CEO), appointed by the Mayor, and confirmed by City Council for a four year term<sup>76</sup>. General duties for the CEO include the management and operations of the city's light and power system. Under the citywide policies set in Resolution 30862 Table 2, SCL is responsible for identifying, "Easement rights that should be reserved for existing or future utilities if the property is transferred to a non-City entity"<sup>77</sup>. However, SCL has their own *Real Property Use Guidelines* outlining the process for reviewing and approving incidental use(s) of their property<sup>78</sup>. Incidental uses are defined in another SCL document –

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<sup>3</sup> RCW 27.12.210 grants Library trustees the powers and duties related to land acquisition and management. The Library's 2011-2015 Strategic Plan speaks to innovating the uses of its existing spaces, but as of February 2016, there are no known policies in place in the library system to address its land management policies.

<sup>4</sup> The SSD is managed by a board of seven (7) elected citizens representing each district in the city. RCW sections 28A.335.040 through 0.080 grant the SSD the authority to rent, lease, or allow the use of school surplus property by other organizations, public or private, while RCW 28.335.090 grants them the right to acquire or convey property "no longer required for school purposes." RCW 28A.335.120 guides the process for how school property sales may be conducted. The SSD produced Policy No. 6882, effective February 15, 2002, to address its policies and procedures related to the rental, lease, or sale of its real property. Its three primary objectives listed are to reflect the district's short, intermediate, and long-term educational needs; provide revenue and other financial support to district needs; and support, to a limited extent, youth education activities.

Department Policy & Procedure 500 P III-132, “Real Property Use Permits, Leases, Consents, and Easements”- as “uses by others of the Department's real property or easements, which are non-utility uses and for which the Department may grant, at its discretion, temporary permits or may consent to such uses, or, if a long term use, the City Council may authorize upon recommendation by the Department, provided that such uses are consistent with this policy and the Department's Use Guidelines”<sup>79</sup>.

Under the *Real Property Use Guidelines*, proposed uses can't interfere with existing and future uses or needs, even if there is just the *potential* for interference. In the latter case, the department retains the right in any agreement to cancel it at any time upon notice, place the costs for removal of relocation of the interference on the part of the user, and demand regular assurances of payment from the user, whether it be through security deposits, liability insurance, or other means. Reviews and approvals by both the department and City Council are required regardless of whether or not a particular proposal appears to meet the criteria set by the guidelines for incidental uses. All costs of new construction for the incidental use are borne by the user, as well as any fees related to the operation or litigation of the incidental use. If the proposal qualifies as an “unacceptable use” per the list outlined within the guidelines, the proposal is denied without further review. Among the list of unacceptable uses are “buildings,” with the explanation that, “Buildings are considered hazardous to utility facilities and may violate the applicable safety codes... Buildings are incompatible with the use of right-of-ways, create additional risk of liability and interfere with future utility use... This includes any portion of buildings encroaching into the right-of-way”<sup>80</sup>. It is therefore unfeasible to build housing on SCL owned and operated property, though these restrictions do not apply to excess or surplus property.

In September 2011, the City Council passed a resolution “requesting that Seattle City Light conduct a Surplus Property Disposition Pilot Project to test an alternative process for determining the appropriate disposition of surplus utility properties; temporarily suspending certain requirements of Resolution Nos. 29799 and 30862 for the properties identified in the Pilot Project for a period of two



years; and requesting that Seattle City Light and the Finance and Administrative Services Department report back to the City Council on the viability of the new procedures upon completion of the Pilot Project”<sup>81</sup>. SCL requested the project because it believed that it could be more efficient with the disposition of its properties if it utilized an alternative to the city’s reuse and disposition guidelines. The pilot project was applied to the sale of six former SCL substations designated as surplus. SCL submitted a report on the project to City Council on August 6, 2012, and City Council approved the sale of the six pilot properties through Ordinance 124013. The results of the pilot project were formally reviewed in Resolution 31424 in January 2013, with City Council requesting that SCL continue to conduct additional studies under the new disposition guidelines it proposed<sup>82</sup>.

The new guidelines are known as “Procedures for Circulation, Public Outreach, and Public Hearings for Disposition of Surplus Properties under the Jurisdiction of Seattle City Light”<sup>83</sup>. The guidelines describe their objectives as:

- a. To provide other City departments and other public agencies an opportunity to acquire surplus properties under the jurisdiction of City Light;
- b. To provide an opportunity for neighboring owners, residents, and community groups to provide input on the proposed disposition of these properties; and
- c. To provide recommendations to City Council for the eventual disposition of these properties.

SCL argues that efficiencies in their approach are realized if they can group multiple properties together rather than review each one individually. The department claims that this reduces strains on staff time and allows for community groups and citizens to observe a “wider perspective” of what SCL is doing with its surplus properties to present a better picture of the department’s goals and processes. Although SCL may not use the same forms required under Resolution 30862, the department still distributes notices and descriptions of the properties to other city departments and public jurisdictions. SCL asserts that its public outreach methods are stronger than under the citywide policies, though this statement has not been objectively qualified. Outreach is conducted at community group meetings (for

which the particular groups chosen are either recommended by the DON or requested by the community group themselves), through “community information meetings” organized by SCL (with invitations to the Department of Parks and Recreation, Office of Planning and Community Development, and SDOT for answering related questions that communities might have on the property), and through District Council meetings. SCL documented the results of their additional studies in the “Report to the City Council: Southwest Seattle Surplus Property Disposition Study” in September 2015<sup>84</sup>. The properties studied in this round of sales included six in West Seattle, one in Seatac, one in Burien, and one in Rainier Valley. The report reaffirmed the recommendations to improve community outreach, with the additional note that community meetings and formal public hearings would now be held in the respective neighborhoods during evening hours to reach a broader audience. For an outline of SCL’s process for disposing of surplus properties, refer to **Figure 2.7**.

#### *Seattle Department of Transportation*

SMC Chapter 3.12 states that the Director of Seattle Department of Transportation (SDOT) is appointed by the Mayor for a four-year term and must be approved by a majority of City Council<sup>85</sup>. The Director’s duties do not include the management of real property per se, but rather the management and operations of the city’s transportation systems and street network that may include real property among the department’s assets. There are (47) types of assets that SDOT manages, including street right-of-ways (ROW) that comprise approximately 27% of all land in the city<sup>86</sup> and the “Regulated Assets” that the city does not own but for which it has jurisdictional interest in. SDOT remarks in its asset management inventory that it maintains some ownership of real property for operations buildings and for yards to support maintenance activities, though it also leases land owned by FAS or by King County Facility Operations. SDOT also has ownership in some buildings and lots as a result of transportation capital projects, though FAS’s Facility Operations Division manages them. In its 2015 Asset Management Report,



Source: Author

Figure 2.7. Actions Required to Reuse or Dispose of Surplus Seattle City Light Property

SDOT listed twelve (12) buildings and yards and three (3) non-operational buildings with interim uses in their inventory, along with their respective estimated replacement values. Out of 57 parcels owned, 32 are categorized as parcels to be disposed of while another seven (7) have been identified as parcels to be jurisdictionally transferred to other city departments. The remaining parcels are intended to be maintained as ROW or are currently under development.

Additional legal requirements that SDOT must comply with are largely tied to ROW or street vacation procedures, as opposed to surplus or underutilized parcel reuse or disposition. A ROW or street vacation is essentially the elimination of the fee simple rights to ownership of that land by the city and subsequent transfer to the adjacent property owner or owners. A city department, public agency, or private party with property ownership adjacent to a ROW or street can request that SDOT “vacate” a ROW or street and allow it to be purchased and assembled to the adjacent property. The city can also choose to abandon a ROW or street, at which time ownership of that land is split down the middle and added to each adjacent property. RCW 35.79 dictates the requirements associated with the filing of street vacation requests and timing of public hearings, along with vacation limitations for streets that abut bodies of water. Resolution 31142 outlines SDOT’s street vacation policies, explaining that “there is no right under the land use code or elsewhere to vacate or to develop public right-of-way. In order to do so, a discretionary legislative approval must be obtained from the City Council and, under State Law, the Council may not vacate right-of-way unless it determines that to do so is in the public interest... In addition to the review provided by the street vacation process, a development proposal that includes a proposed vacation is subject to separate land use reviews, including State Environmental Policy Act (SEPA) review”<sup>87</sup>. Ordinance 120607 also outlines compensation fees required for street vacations and the transfer of this compensation to a subfund of the general fund – the Street Vacation Compensation Fund<sup>88</sup>.

*Seattle Public Utilities*

Seattle Public Utilities (SPU) was formally organized in 1997 as the synthesis of the Seattle’s Water and Engineering Departments<sup>89</sup>. The Seattle municipal code (section 3.32) uses the same language for the appointment and duties of the Director of SPU as that for the Director of SDOT<sup>90</sup>. SPU has developed a series of Action Plans to address the myriad goals of the organization and what actions will be taken to implement them, including an Action Plan for facilities management. This plan, to be implemented by the Facilities and Real Property Services division of SPU, has three primary objectives<sup>91</sup>:

- Address shortages of adequate space and safety requirements for operational work groups;
- Implement a centralized facilities management program; and
- Implement a decommissioning program.

The Action Plan states that the organization does not currently utilize any formal strategy for “planning, managing, and retiring” the approximately 400 buildings, sites, and facilities they own. The actions related to property disposal fall under the “Decommissioning” task, which recommends the addition of \$150,000 a year to remove above-ground structures “no longer in use for their intended purpose”<sup>92</sup>. Prior to removal, a Condition Assessment of nonfunctioning buildings and structures would be generated with strategies devised for the specific actions to be taken. Although not explicitly stated in the Action Plan, the city’s property reuse and disposal policies (outlined in the previous sub-section) require that departments classify the parcels they own, meaning that any properties upon which nonfunctioning buildings or structures are removed will need to be re-assessed and classified upon completion of the removal. Additionally, under Resolution 30862 Table 2, SPU is responsible for identifying “Easement rights that should be reserved for existing or future utilities if the property is transferred to a non-City entity.” The Action Plan provides a list of facilities expected to be decommissioned in some manner in the future:

- Former Water Quality Laboratory (designation unknown);
- Tolt Lime Soda Ash building (listed as fully utilized by FAS);

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- Lake Youngs Corrosion Building (listed as excess by FAS, but outside city of Seattle);
- Landsburg Analyzer Building (listed as fully utilized by FAS, but outside city of Seattle);
- Cedar Falls Chlorine Building (designation unknown);
- Small Myrtle Tank (listed as fully utilized by FAS);
- Woodland Park Standpipe (listed as fully utilized by FAS); and
- Barton Standpipe (listed as fully utilized by FAS).

At the state level, RCW section 35.94 provides further procedural requirements for cities that may wish to lease, sell, or convey surplus utility properties<sup>93</sup>. Any decision to transfer ownership of utility-owned property requires that the City Council adopt a resolution advising the public of the impending transference of ownership rights, with newspaper notices printed at a minimum of once a week for four weeks. Once any and all bids are received and evaluated, a public hearing is called for a resolution on the chosen bid. The resolution must include not only the terms and conditions of the transfer, but the fair market value of the transfer (as well as whether it be fee simple interest, leased fee interest, or any other interest). If the resolution is adopted, then the city must sanction an ordinance for the official transfer of the property to the selected bidder. This ordinance must be submitted to city voters at either the next general election or at a special election called for the specific question of the property transfer and must be passed by a majority (>50%) of voters to go into effect. These state requirements impact the ability of transferring utility-owned properties to nonprofit affordable housing developers through lengthy approval periods and additional transaction costs.

### *Seattle Parks and Recreation Department*

The Seattle Parks and Recreation Department is led by a Board of nine members, four of whom are selected by the Mayor and approved by the City Council and five of whom are voted on by the City Council members themselves<sup>94</sup>. The Department's responsibilities include the development and/or maintenance of all park land and open space owned by the city as well as continued management and operation of recreational activities. The Department also acquires land for both public parks and open

space and preservation purposes, using funds collected from the Parks District (land acquisition between 2000 and 2014 was funded through two voter-approved levies). If the Department were to consider the sale of property it owns within the Parks District, RCW 35.61.132 places additional constraints on the sale depending on how the property was acquired in the first place<sup>95</sup>. If the property was acquired by dedication or donation, “the consent of the donor or dedicator, his or her heirs, successors, or assigns is first obtained if the consent of the donor is required in the instrument conveying the property to the metropolitan park district... In the event the donor or dedicator, his or her heirs, successors, or assigns cannot be located after a reasonable search, the metropolitan park district may petition the superior court in the county where the property is located for approval of the sale. If sold, all sales shall be by public bids and sale made only to the highest and best bidder.” Requirements to adhere to dedication or donation stipulations may serve as one barrier for property reuse while the sale requirements may serve as another obstacle if a nonprofit developer must compete in an open market with a for-profit developer at auction.

#### *City Council Policies*

Resolution 30862 raises another important qualification regarding the overall reuse and disposition policies- City Council can specify their own “Reuse or Disposal” process for a particular property or type of property, for which this process governs over the policies written in Resolution 30862<sup>96</sup>. It does not appear from a cursory review of individual surplus property disposal ordinances that the City Council deviates often from general recommendations. In one instance, the City Council approved a surplus property sale on the condition that the proceeds would be used to advance low-income housing in lieu of the Preliminary Report recommendation of using the proceeds to “support asset preservation of capital facilities that support Health and Human Services programs”<sup>97</sup>. The key takeaway is simply that the City Council has authority to make decisions outside of the established disposition guidelines, which may or may not align with the provision of affordable housing in all circumstances.

## Lending of Credit and Fair Market Value Requirements

One major constraint to utilizing public property for affordable housing was mentioned in HALA Strategy L.1 – “fair market value.” Specifically, the strategy states<sup>98</sup>:

“For City owned property, the City should ... explicitly allow the sale or lease of City-owned land at **less than fair market value** for affordable housing purposes, recognizing that this comes at a cost to other city needs and general funds.”

It is important to discuss Washington state’s “Lending of Credit” and “Fair Market Value” requirements here because, regardless of the intent of the strategy, it is prudent to consider what the city is legally allowed to do under these circumstances. Understanding this requirement provides clarification for what financial requirements the city of Seattle must follow if it were to transfer title of publicly-owned land to a private interest (excluding those department-specific constraints discussed in previous subsections). Article VIII, Section 7 of the State Constitution, known as the “Gift Clause,” stipulates that, “No county, city, town or other municipal corporation shall hereafter give any money, or property, or loan its money, or credit to or in aid of any individual, association, company or corporation, except for the necessary support of the poor and infirm, or become directly or indirectly the owner of any stock in or bonds of any association, company or corporation”<sup>99</sup>. The Gift Clause was enacted in 1889 in response to the practice of state and local governments providing public funds to private railroad companies to support rail infrastructure development for economic growth<sup>100</sup>. This practice led to financial insolvency for a number of jurisdictions left footing the bill if and when railroad lines were abandoned.

Legal interpretations of what constitutes a “gift” have evolved as the number of legal rulings and precedents developed following Article VIII’s adoption. Two Washington supreme court cases- *Foster v.*



*Commissioners of Cowlitz County*<sup>5</sup> and *Rands v. Clark County*<sup>6</sup>- established that Article VIII, Section 7 only bars government agencies from funding non-governmental enterprises, whereas corporations “whose functions are wholly public” are exempt<sup>101</sup>. Public development authorities (PDA) such as the Pike Place Market PDA or Seattle Chinatown-International District PDA fall under this category. The case *Johns v. Wadsworth*<sup>7</sup> established that it is irrelevant whether the governmental funding is assisting a private corporation with the development of a “public good”- if the recipient does not serve a “wholly public purpose,” then it is not eligible to receive the gift<sup>102</sup>. However, *State ex. Rel. Washington Navigation Co. v. Pierce County*<sup>8</sup> created an exception for cases where the government body only *leased* property to private operators while maintaining ownership of the property<sup>103</sup>. In all of these cases, a gift was established as any depreciation to a government agency’s treasury for the benefit of a private recipient.

*Miller v. City of Tacoma*<sup>9</sup> muddied the legislative waters by holding that the acquisition, redevelopment, and resale of “blighted urban areas” to private enterprises constituted a “public purpose justifying public expenditure”<sup>104</sup>. Subsequent cases shifted the interpretation of “gift” from a loss in treasury to a transfer of property “without pecuniary consideration”<sup>105</sup>. *O’Connell v. Port of Seattle*<sup>10</sup> determined that this transfer could be constitutional if the transfer included legal obligations on behalf of the recipient. The test for appropriateness subsequently developed into a two-test analysis- does the transfer have donative intent and was there any consideration of value? This test was further refined through two rulings. In *Adams v. University of Washington*<sup>11</sup>, a “gift” was restated as a “decrease in the state general fund and a gratuitous benefit to a recipient” and the determining factor was a lack of “consideration,” or “grossly

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<sup>5</sup> 100 Wash. 502, 171 Pac. 539 (1918).

<sup>6</sup> 79 Wash. 152, 139 Pac. 1090 (1914).

<sup>7</sup> 80 Wash. 352, 141 Pac. 893 (1914).

<sup>8</sup> 184 Wash. 414, 425, 51 Pac. 2d 407, 411 (1935).

<sup>9</sup> 61 Wash. 2d 374, 378 Pac. 2d 464, 467 (1963).

<sup>10</sup> 65 Wash. 2d 801, 804-06, 399 Pac. 2d 623, 625-26 (1965).

<sup>11</sup> 106 Wash. 2d 312, 722 P.2d 74 (1986).

inadequate return”<sup>106</sup>. In *City of Tacoma v. Tacoma Taxpayers*<sup>12</sup>, the *Adams* test was adjusted to focus more on donative intent. In this test, if an expenditure of public funds is found to serve no “fundamental governmental purpose,” then donative intent is reviewed. If donative intent is found, then the adequacy of the return is considered. If an expenditure is found to have carried out a “fundamental governmental purpose,” though, then the transaction is viewed for whether it was “legally sufficient,” with no further review of the consideration required<sup>107</sup>. The dissent in the *City of Tacoma v. Tacoma Taxpayers* raised two primary issues with public-to-private property transfers- that the original language in Washington’s Constitution is “quite clear” regarding the use of public funding for private individuals, and that the test procedure supported through the majority opinion treated government bodies as individuals or corporations, reinforcing their ability to make speculative or financially irresponsible decisions.

One case relevant to the discussion of using public funds to address affordable housing is *State Housing Finance Commission v. O’Brien*<sup>13</sup>, for which the Washington Supreme Court sustained the constitutionality of a state agency loaning the proceeds of nonrecourse revenue bond to first-time, income-restricted homebuyers and to builders or purchasers of mixed-income rental housing projects<sup>108</sup>. The court ruled that the “adequacy of private housing and the health of the state’s economy have traditionally been concerns of state government,” noting that private benefits were either incidental to the benefits received for the general public or recompense for work performed to provide a public benefit. The “risk of loss” to the state treasury was considered greatly diminished by economic safeguards that the state agency built into its legislation<sup>109</sup>, including:

- Program funds were established from the private bond market in lieu of the state treasury;
- These funds were held in special trust accounts;
- The bonds contained language absolving the state of any financial obligations; and
- Limits on the amount of bonds that could be issued reduced impact to the state’s credit ratings.

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<sup>12</sup> 108 Wash. 2d 679, 743 P.2d 793 (1987).

<sup>13</sup> 100 Wash. 2d 491, 671 P.2d 247 (1983).

One dissenting opinion in the five-to-four ruling argued that the use of the state's name and conferring of tax-exempt status on bonds was a clear violation of the Gift Clause. Another dissenting opinion argued that the subsidization of private homeowners and developers was *not* a recognized state function. A third dissenting argument against the ruling was that, even if the "risk of loss" had been greatly diminished by the implementation of legislative safeguards, the Gift Clause doesn't distinguish between differing magnitudes of loss- any economic loss is a loss and should be prohibited<sup>110</sup>. These dissenting opinions highlight the volatility associated with legal interpretations of the transfer of public funds or property to private entities; the make-up of the court at any given time can shift the interpretation from one in which municipalities have flexibility to support public needs (like housing) to one in which the law's plain language prohibits any public-to-private transfers without any fiscal value being received in kind.

Other "lending of credit" court interpretations:

- The use of tax exempt status to authorize bonds that also benefit private entities is not, in and of itself, a loan of credit<sup>14</sup>;
- However, the use of tax exempt status to authorize bonds, entering the state treasury, to pay private corporations to perform a service through a "lease-sublease agreement" are prohibited<sup>15</sup>;
- A government grant or gift to another governmental entity (or Indian tribe) is not considered a gift to an "individual, association, company or corporation"<sup>16</sup>; and
- No donative intent occurs when funds are expended for a recognized governmental function<sup>17</sup>.

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<sup>14</sup> *Higher Educational Facilities Authority v. Gardner*, 103 Wash. 2d 838, 699 P.2d 1240 (1985).

<sup>15</sup> *Port of Longview v. Taxpayers of the Port of Longview*, 85 Wash. 2d 216, 533 P.2d 128 (1974).

<sup>16</sup> *Anderson v. O'Brien*, 84 Wash. 2d 64, 67, 524 P.2d 390, 393 (1974).

<sup>17</sup> *City of Seattle v. State*, 100 Wash. 2d 232, 668 P.2d 1266 (1983).

*Fair Market Value Definitions*

There is no explicit definition for “fair market value” within any Washington legislation that covers *all* potential sale situations. However, the term is defined in numerous sub-sections, including Washington Administrative Code (WAC) section 390-05-235(1), covering public disclosure commissions<sup>111</sup>: “ ‘Fair market value’ or ‘value’ when used in the act or rules is the amount in cash which a well-informed buyer or lessee, willing but not obligated to buy or lease that property, would pay, and which a well-informed seller, or lessor, willing but not obligated to sell or lease it, would accept, taking into consideration all uses to which the property is adapted and might in reason be applied.” This language is very similar to that which the Washington Pattern Instructions 150.08 uses for instructing juries in Washington civil trials for how to define the term: “Fair market value means the amount in cash that a well-informed buyer, willing but not obligated to buy the property, would pay, and that a well-informed seller, willing but not obligated to sell it, would accept, taking into consideration all uses to which the property is adapted or may be reasonably adaptable”<sup>112</sup>.

The Seattle Municipal Code only defines “fair market value” in the section of the Land Use Code that governs Shoreline Master Program regulations (23.60A.912): “The open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation, and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials”<sup>113</sup>. This definition helps inform some of the factors that may need to be accounted for when establishing the fair market value for any transfer of property or services, but the previous definitions are those referred to in the majority of court cases.

*The Implications of Lending of Credit and Fair Market Value Requirements*

The significance of this material to public property disposition policies is that if the city of Seattle chooses to sell its public property to a private entity and the sale is challenged in court, the city must be able to prove that it did not have “donative intent” with the transaction. The city must prove that the transfer served a fundamental governmental purpose and that there is a clear bargained-for consideration justifiable in the court of law, though courts may provide some flexibility in the interpretation of the value received in each case. There is therefore an inherent legal risk associated with the sale of a property for “less than fair market value,” especially if this policy is written into an adopted ordinance. There may be legal precedents supporting the provision of affordable housing as a fundamental governmental purpose, but the nature of the sale may lend itself to controversy depending on how it is negotiated.

**King County Ordinance 12394**

The intent of this chapter is to review and analyze the existing property disposition policies in place in the city of Seattle as well as any legal constraints that must be considered whenever the city seeks to transfer the title of any property over to a private entity. The policies of King County (“the County”) do not directly impact these concerns. However, in July 1996, the Metropolitan King County Council passed an ordinance that prioritized the use of surplus County-owned property for affordable housing<sup>114</sup>. The nature of this ordinance is virtually the same as that of the HALA proposal, and with nearly twenty years of implementation on record, a review of the challenges and successes of this policy may provide insight into similar challenges and successes with implementation at the city level.

*King County’s Surplus Property Evaluation Process*

King County holds ownership of approximately 4,100 properties<sup>115</sup>. These properties were acquired over time by its various departments for public facilities or public works projects. At the time that the respective department has no further need of the property, the property may be surplussed to

the County's Real Estate Services Section (RESS), which is responsible for tracking, selling, leasing, or managing the County's properties. RESS manages both fee simple and tax title properties, the latter of which include those properties for which property tax for a single year has not been paid in more than three years and the County has seized control of the property. RESS does not manage properties foreclosed by mortgage lenders.

Section 4.56.070 of the King County Code guides the management of real property by the County<sup>116</sup>. The Facilities Management (FM) division of the County is required to maintain and update an inventory of all County-owned real property, detailing which department has jurisdiction, the estimated economic value of the property, and potential uses of the property. Individual departments must provide status reports to the FM division by April 1, noting any change in use or status. If either the status is changed to "surplus" or the FM division determines through inquiry that the Department does not have a justifiable need for the property, then the FM begins the process of contacting other county departments, including the King County Housing Authority, to determine if there is another use for the property to support an essential government service. If another department makes a request for the property and can demonstrate its need, the title is transferred to the other department. Interestingly, King County notes that there is to be no "financial transaction between present and future custodial organizations, except as required by RCW 43.09.210, as amended, or under grants."

If the property is *not* flagged as being needed for an essential government service, then the parcel is next evaluated for its suitability for affordable housing<sup>117</sup>. Affordable housing is defined in this section as either residential housing rented or owned by persons who are from a special needs population with monthly housing costs less than 30% of their monthly income, or as defined in RCW 43.63A.510. Suitability criteria is generally defined in the code as whether the property is located within the Urban Growth Area (UGA); whether it is zoned for residential development; and whether the housing development is compatible with the neighborhood. However, the FM division has produced their own forms and

additional criteria that are used to evaluate a property's suitability for affordable housing. The FM division may also consult with the King County Department of Community and Human Services (DCHS) for their consideration of an individual property's development suitability for affordable housing. The FM-generated form is shown in **Figure 2. 8** while the full criteria used are as follows:

1. Properties that get an "automatic rule out":
  - a. Clearly in the rural area (outside UGA or town urban extension areas) unless the property is right on the boundary line with a realistic prospect of inclusion in the UGA in the near future.
  - b. Properties less than 0.25 acres (~11,000 square feet) and/or of an elongated shape that would rule out any building (e.g. long narrow strip).
  - c. Properties with no potential for development (e.g. nearly all wetland or steep slopes, etc.)
  - d. Property that is zoned commercial or industrial with no potential or likelihood for mixed use development.
2. Properties that are unlikely to be desirable for affordable housing, but should still be referred to DCHS for a quick review:
  - a. Properties between 0.25 acres and 1.0 acres.
  - b. Properties with limited or no access to public transportation within 1/3 mile (~ 600 yards).
  - c. Properties not currently zoned residential, but might still have potential for residential development (e.g. zoned for public use or park, but could be re-zoned for residential).
  - d. Properties with no adjacent access to one or more of the essential services (but may have the possibility of reaching those services in the near future).
  - e. Properties that have no current easement or access to a road or street (unlikely in UGA).
  - f. Properties with extensive critical areas, but which may have enough "buildable land" (e.g. at least one or more acres of buildable land) to be considered.
3. Properties that DCHS may very likely be interested in setting aside for affordable housing development, and which DCHS may want to review in some depth:
  - a. Residentially-zoned properties of 1.0 acres or more with good access to utility connections.
  - b. Multi-family or mixed-use zoned properties with good access to utility connections.
  - c. Properties within 1/3 or 1/4-mile of a transit stop or station with peak-hour headways of 20 minutes or less.
  - d. Properties of 3 acres or more even if they have some sensitive area constraints.

## Public Land for Affordable Housing: An Evaluation of a HALA Proposal in Seattle

- e. Properties in proximity (within ½ mile) to urban centers or neighborhood businesses with good pedestrian connectivity.
- f. Properties on the Eastside or in better school districts- or with higher opportunity index in general.

RESS estimates that this evaluation process takes between two and three months<sup>118</sup>. If a surplus property meets this criteria and passes any other judgment test by the FM division, then a final recommendation is made to the Executive for uses besides the sale of the property before requests for proposals (RFP) may be released. The Executive may consider other uses, including:

- Exchanges for other privately or publicly owned lands that meet the county's land needs;
- Lease with necessary restrictive covenants;
- Use by other governmental agencies;
- Retention by the county if the parcel is classified as floodplain or slide hazard property; and
- Use by nonprofit organizations for public purposes.

The Executive requires approval from the King County Council by ordinance in order to officially process any real property sale, unless the property has an “apparent value” worth under \$10,000<sup>119</sup>. The King County Prosecuting Attorney’s Office must also formally approve all sale agreements. All surplus properties that meet the affordable housing criteria are included in a final report by the FM division, due by July 1 of each year, to the King County Council. Ordinance 12394 also calls for the Property Services Division to supply a list of surplus properties suitable for housing every year, by September 30<sup>120</sup>. RFPs are posted on the RESS web site for surplus property, and the Property Services Division works in tandem with the Housing and Community Development Program to evaluate proposals from both for-profit and nonprofit developers.



Date: \_\_\_\_\_

Reviewer: \_\_\_\_\_

### AFFORDABLE HOUSING CHECKLIST

Property Name \_\_\_\_\_

General Location \_\_\_\_\_

Address \_\_\_\_\_

Parcel # \_\_\_\_\_

Zoning \_\_\_\_\_

Property Size (Acres) \_\_\_\_\_

Est. of Usable Acreage \_\_\_\_\_

	Yes	No
Within Urban Growth Area	<input type="checkbox"/>	<input type="checkbox"/>
Zoned for Housing	<input type="checkbox"/>	<input type="checkbox"/>
Parcel shape appears appropriate	<input type="checkbox"/>	<input type="checkbox"/>
Parcel topography appears appropriate	<input type="checkbox"/>	<input type="checkbox"/>
Water at or adjacent to parcel	<input type="checkbox"/>	<input type="checkbox"/>
Sewer at or adjacent to parcel	<input type="checkbox"/>	<input type="checkbox"/>
Power at or adjacent to parcel	<input type="checkbox"/>	<input type="checkbox"/>
Critical Areas on parcel	<input type="checkbox"/>	<input type="checkbox"/>
Transportation:		
• access to public street or road	<input type="checkbox"/>	<input type="checkbox"/>
• arterial or freeway access	<input type="checkbox"/>	<input type="checkbox"/>
• bus access to employment centers	<input type="checkbox"/>	<input type="checkbox"/>
• light rail or commuter rail access	<input type="checkbox"/>	<input type="checkbox"/>
Housing appears compatible with neighborhood	<input type="checkbox"/>	<input type="checkbox"/>
Close to services (grocery, shopping areas)	<input type="checkbox"/>	<input type="checkbox"/>
Property Fits Guideline <input type="checkbox"/> 1, <input type="checkbox"/> 2, or <input type="checkbox"/> 3.		
Details/Comments: _____		

Source: King County Facilities Management Division

**Figure 2.8. King County Facilities Management Division's Affordable Housing Checklist**

*King County Ordinance 12394 Implementation Analysis*

King County's Ordinance 12394 has been mentioned in numerous publications as a forward thinking "best practice" policy for affordable housing development. An oft-cited statement from the Inclusive Communities Toolkit, produced by the National Housing Conference, reads, "In 1997, King County found that 52 out of 750 surplus county-owned parcels had housing development potential. By the beginning of 2007, the ordinance had generated 400 new affordable housing units, including 170 units in the Greenbrier Heights development in Woodinville"<sup>121</sup>. King County's legislative records between 1996 and 2000 are not readily available for assessing the accuracy of this statement, nor do those available make it explicitly clear which parcels have been transferred as part of the surplus property sale. However, the Greenbrier Heights Senior Apartments<sup>122</sup> include 60 affordable housing units and the Greenbrier Family Apartments include 99 affordable housing units<sup>123</sup>; 159 in total compared to the 170 mentioned.

Regardless of the exact number of units produced through the implementation of this policy, there are some takeaways to be gleaned from how the policy was enforced within that first ten-year period (1996 – 2006) compared to the second ten-year period (2006 – 2016). The previous sub-section noted that the only explicit language written into the code for a site's suitability for affordable housing was whether it was located in a UGA; whether it was zoned residential; and whether housing was "compatible" with the neighborhood (which reads a lot like "zoning" but is open-ended enough to allow for virtually any interpretation that the County chooses to follow)<sup>124</sup>. In practice, however, affordable housing was considered unsuitable for many County-owned properties in that span that were not based on specific code interpretations, but rather the criteria used by the FM division discussed earlier. These additional suitability criteria were interpreted in a variety of surplus property transfers:

- No sewer was available at the site (Ordinances 14296 and 14453);
- The site featured steep slopes and/or a drainage easement (Ordinance 14466);
- An alternative option was considered to be in the best interest of both the city and county (Ordinance 14765);

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- The local City Council refused to accept the designed and phased residential development proposed by nonprofit developers;
- The size and shape of the parcels (for which numbers were provided but did not match any parcel numbers listed in King County's records) was considered insufficient (Ordinance 15146);
- The site was a former landfill or refuse disposal (Ordinance 15292);
- The site had been previously designated for open space (Ordinance 15531);
- Restrictive covenants were in place as part of the farmland preservation program (Ordinance 15881); and
- The Federal Aviation Administration Noise Remedy Program prohibited residential development in the area (Ordinance 16757).

The majority of the additional criteria in this list are defensible, and they illustrate the problem that arises from trying to capture every possible issue that could prohibit a site's feasibility for housing. In cases where the "size and shape" were considered insufficient or "an alternative option was considered to be in the best interest," however, the lack of an explicit explanation undermines the effectiveness of Ordinance 12394 by allowing other special interests to be given priority over a potentially suitable site for housing. For criteria focused on the availability of utilities on site, the lack of that infrastructure would certainly add costs to a project for a nonprofit developer, especially if there is no connection located in the adjacent street. However, cost by itself doesn't necessarily mean that affordable housing is an incompatible use, and thus it is questionable whether these criteria are in line with the intent of the code.

The interpretations associated with these non-legislated criteria become even more questionable for surplus properties sold after 2006. Not a single surplus property sale between 2008 and 2016 was made to a developer for affordable housing. Beginning with Ordinance 16836 – the sale of a 218,000± square-foot lot in Maple Valley in a residentially zoned neighborhood – virtually all ordinances no longer provide any explanation as to why the site is considered "unsuitable for affordable housing" by the FM Division. The Maple Valley site is mentioned as having electricity "but no sewer or public water" along with the encumbrances of "planting, driveway, and gas-line easements as well as fragile slope and wetland

setbacks”<sup>125</sup>. None of these are explicitly stated as the reason the site is considered unsuitable for housing, though the combination of all of these obstacles might be enough to justify the final interpretation. This focus on the statement of suitability is not to suggest that the FM division had any secretive reasons for coming to their final conclusion; as of April 2016, the new property owners only built one single-family, one-story house with four bedrooms<sup>126</sup>. The lack of a single statement as to the site’s suitability for housing simply appears to have set a precedent for future sales with even less information made available.

The next ordinance approving a surplus property sale following the Maple Valley site was Ordinance 16916. This ordinance and 17 of the remaining 23 ordinances authorize surplus property sales simply stated, “The subject property does not meet the criteria for affordable housing”<sup>127</sup>. Those six properties that did provide explanations, along with post-sale analyses by this author, were as follows:

- Ordinance 17028 – “The property was reviewed for potential sale for affordable housing but was determined to be too small and therefore unsuitable for such development”<sup>128</sup>.
  - The property is located in Issaquah, within the UGA;
  - The lot size is 25,020 square-feet in size, or approximately 0.57 acres<sup>129</sup>;
  - King County installed sewer, water, and electricity at the site;
  - The site is approximately 0.4 miles from access to public transportation and essential services;
  - The property was sold to a private individual in 2011 for \$181,000; and
  - The single-family house built on the lot is now appraised at \$709,000.
- Ordinance 17094 – “As no county agencies expressed interest and the county's department of community and human services waived any interest for potential affordable housing, FMD declared the property surplus in March 2010”<sup>130</sup>.
  - Based on the timeline in this statement, no suitability analysis was performed once the DCHS waived interest.
  - The property is located in Issaquah, within the UGA;
  - The lot size is 29,256 square-feet, or approximately 0.67 acres<sup>131</sup>;
  - The site is approximately 0.6 miles from access to public transportation and essential services;

- The property was sold to a private individual in 2011 for \$114,100; and
  - The single family house built on the lot is now appraised at \$922,000.
- Ordinance 17609 – “Bruggers Bog was purchased with funds from the King County road fund. The road fund is a separate fund established under chapter 36.82 RCW. According to RCW 43.09.210, when property is sold or transferred that was purchased with funds from the roads fund, the county must receive ‘full value’ in return so that the road fund may be fully reimbursed. The affordable housing requirement is a King County Code provision, while the necessity of the road fund receiving full value from a sale of the Bruggers Bog under RCW 43.09.210 is a state law requirement. Given the higher value of the property the county will receive if sold for an industrial use, which is \$2,896,622, versus a use of the property that would allow affordable housing, which is \$2,300,322, it is important under state law to sell the property for the higher industrial value. As a result, although the road services division's Bruggers Bog property may be suitable for affordable housing, it is not appropriate in this instance to sell it at the lower value that would be associated with affordable housing”<sup>132</sup>.
  - RCW 43.09.210 only applies to intergovernmental property transfers- not sales to private entities. The court interpretations of full market value provide flexibility for the interpretation of the transfer value. The argument provided here is misleading and debatably incorrect.
- Ordinance 17906 – “Facilities Management division previously found the property suitable for affordable housing development and issued requests for proposals for property redevelopment. No RFPs were successful”<sup>133</sup>,
  - No explanation is provided for why the RFPs were unsuccessful, though this in itself is not an invalid reason to not use a property for affordable housing. It only raises the question of how the RFPs were announced and which organizations were notified.
- Ordinance 17912 – “In response to county attempts to make it available to affordable housing, no viable proposal was received”<sup>134</sup>.
  - No explanation is provided for the criteria established for “viability.”
- Ordinance 17947 – “The facilities management division offered the property for affordable housing development on April 3, 2012, and found no interest”<sup>135</sup>.

The analysis of these six Ordinances is not intended to launch a witch hunt or make accusations as to the veracity of the FM division’s claims. The purpose is to highlight how, in the ten years since

Ordinance 12394 was hailed as a “best practice” at the national level, it no longer appears to be resulting in any new affordable housing development. The lack of clarity in the ordinances as to why a surplus county-owned property was considered unsuitable for affordable housing makes it difficult to determine whether the program became less effective because of its implementation; because of the lack of appropriate public land available for housing; or because of the lack of developer interest in those properties for affordable housing. The six ordinances since 2008 that did provide explanations only muddled the water with opaque justifications. The lesson that may be gained from this investigation is that while public agencies should be allowed discretion to analyze a site’s suitability for affordable housing, clarity and transparency are vital to ensuring that a policy prioritizing affordable housing development on surplus property is being effectively implemented. The inclusion of the criteria checklists used by the FM Division to determine a site’s suitability would help support their arguments better, especially since this checklist is not made available to the public anywhere other than through request. Information that would be particularly helpful includes (but is not limited to):

- Minimum size of parcel;
- Minimum dimensions or shape of the parcel;
- Existing legal constraints on the site;
- Environmental impacts on the site; and
- Access to public transportation.

These criteria are considered in the analysis of the suitability of the surplus property in the city of Seattle for affordable housing in Chapter 4 of this thesis.

## Chapter 3: Existing Surplus Property Policies in Comparable Growing Cities

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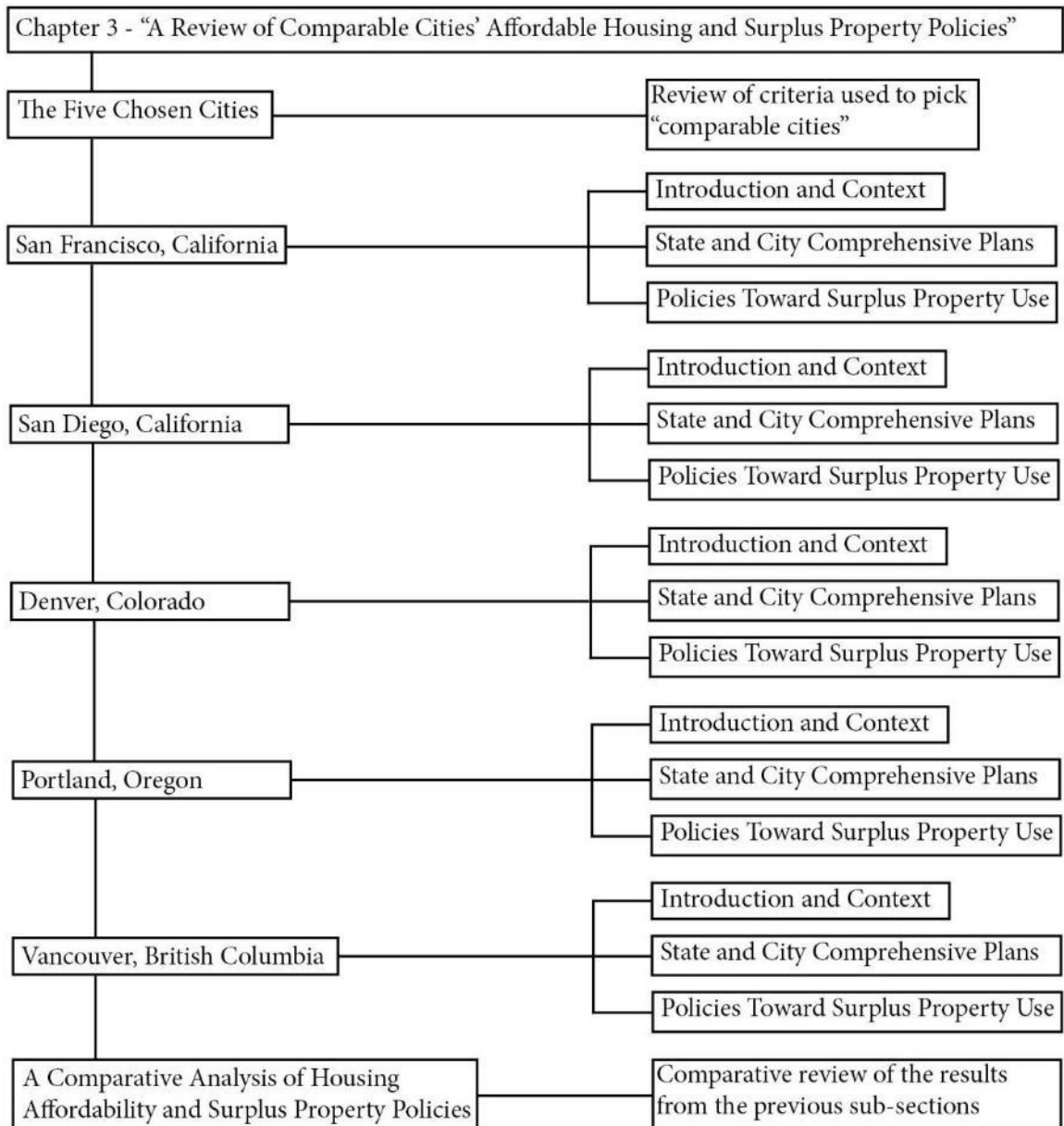
### Introduction

This thesis seeks to address whether the prioritization of publicly-owned surplus or underutilized land for the development of affordable housing would be a feasible and effective policy for generating more affordable housing in Seattle. The previous chapter reviewed the ordinances and legislation that impact the use of publicly-owned property in Washington as well as the policies and procedures in place for the disposition of public property by the city of Seattle. The purpose of this review was to better understand the existing policies in place as well as the legal factors that may impact the use of city-owned property for housing in Washington. It is narrow-minded to look at one city in a vacuum, however, when there are other cities in North America seeking to resolve the same or similar issues. Understanding the extent to which these cities are affected by affordability issues, how these cities have attempted to address these challenges, the different planning frameworks that guide their responses, and whether or not the use of surplus public land for affordable housing or a similar approach has been utilized to this end may provide valuable insight into whether the prioritization of surplus publicly-owned land for affordable housing is even an idea worth considering.

In this chapter, I introduce five (5) major metropolitan cities in the western half of North America that are coping with housing affordability. First, I provide an explanation for why these five cities were considered as worthy of comparison for the city of Seattle. Next, I provide an individual analysis of how each city has elected to address the issue through January, 2016 (a period selected based on the time of this writing). This analysis includes an “introduction and context” sub-section to provide background as to the extent of the city’s housing affordability issues; a “State and Comprehensive Plans” sub-section to indicate whether or not the city is required by its respective state or provincial authority to provide housing or facilitate the development of housing as a government service; and a “Policies Towards Surplus Property Use” sub-section to investigate what that particular city’s policies are today regarding surplus

property (including whether they prioritize the use of that land for affordable housing). Finally, I provide a summary comparison of each city (including Seattle), identifying similar trends and unique conditions that provide important context for the role that public property plays in housing affordability. Refer to

**Figure 3.1** for an outline of Chapter 3.



**Figure 3.1. Outline of Chapter 3.**



## The Five Chosen Cities

In the selection of comparable cities to Seattle, any number of filters may be applied to make a final determination of appropriateness. In reality, no city will be an exact duplicate, and many different cities may be ruled favorable or unfavorable for consideration depending on what measures are weighed more heavily than others. The following selection process is intended to be neither absolute nor final, but rather to serve as a means to clarify how the cities were chosen for this study so that their relevance to the subject may be made explicit.

The first factor considered is geography. There are any number of cities around the globe that are addressing issues of housing affordability. However, to evaluate how government or nonprofit programs may work in a city in North America, a similar system of government will be necessary to understand the practicality of any such program being implemented. For the purposes of this review, only cities in the United States and Canada will be considered. For the sake of this discussion, the western half of the United States is also being weighted more heavily, although it may not be illogical to consider eastern, mid-western, or southern cities in the US.

The second factor is size. Housing affordability becomes an increasingly challenging issue as the population within a geographically-constrained city exceeds the amount of housing units available. Population estimates for the 381 metropolitan statistical areas (MSA) within the United States for 2014 are available through the American Census Bureau<sup>136</sup>. The Office of Management and Budget defines an MSA as a region with at least one urbanized area that has a population of at least 50,000<sup>137</sup>. It comprises the central county or counties containing the core, plus adjacent outlying counties having a high degree of social and economic integration with the central county or counties as measured through commuting. Seattle-Tacoma-Bellevue ranks 15<sup>th</sup> in terms of population size on the list of MSAs with 3,439,809

residents. The Seattle-Tacoma-Bellevue MSA also saw an increase in the population between 2010 and 2014 of 3.85%. Among the top 30 MSAs in population, there are six “western” MSAs (see Table 3.1).

Metropolitan Statistical Area	Population	Population Increase
San Francisco-Oakland-Hayward, CA Metro Area	4,335,391	5.67%
Phoenix-Mesa-Scottsdale, AZ Metro Area	4,192,887	6.65%
<b>Seattle-Tacoma-Bellevue, WA Metro Area</b>	<b>3,439,809</b>	<b>3.85%</b>
San Diego-Carlsbad, CA Metro Area	3,095,313	4.05%
Denver-Aurora-Lakewood, CO Metro Area	2,543,482	7.83%
Portland-Vancouver-Hillsboro, OR-WA Metro Area	2,226,009	4.51%

Source: U.S. Census Bureau, Annual Estimates of the Resident Population: April 1, 2010 to July 1, 2014

**Table 3.1. Western U.S. Metropolitan Statistical Area Populations and Population Increases**

Based on a preliminary review of these cities, Phoenix will not be considered for discussion. Although the issue of affordable housing has been raised in the public forum over the past year, the region does not appear to be addressing it as a critical issue. Further, Senate Bill 1072, passed in 2015, now prohibits Arizona cities from implementing regulations intended to either set aside percentages of new developments for low-income earners or include any form of residential rent control<sup>138</sup>. Incentive-based regulations for promoting affordable housing development may still be used by Arizona municipalities, but the direction from the state appears to be the discouragement of affordable housing development, and thus Phoenix is not considered appropriate for comparison.

## San Francisco, California

### *Introduction and Context*

“From the beginning, San Francisco has been a city of destiny, framed in a bewitching setting of evergreen hills and fringed by the waters of the bay. This city is truly one of the spectacular sites of the world”<sup>139</sup>. So begins *Boom: The Sound of Eviction*, a documentary that blames the rise and fall of the dot-com, “get-rich-quick on the internet” era on the housing affordability and resident displacement issues

that have risen in the city over the last two decades. The reality is that San Francisco has been dealing with housing affordability issues since the 1960's, when slum clearance programs and public housing projects, components of federally funded urban renewal programs, were eventually realized as counterproductive to the needs of low-income communities<sup>140</sup>. In the 1970s, changes in the city's economic base combined with its limited land capacity (San Francisco is approximately 47 square miles at the end of a peninsula with no ability to expand) led to escalating housing prices. This crisis inspired the development of neighborhood groups and community organizers that lead efforts to preserve affordable housing and community services to this day.

The latest "housing plan" produced by the city's planning department indicates that more than 50% of the city's housing stock was built before World War II while 72% of all units contain two bedrooms or less<sup>141</sup>. Approximately 62.5% of housing units are occupied by renters. As such, a considerable portion of housing affordability efforts in San Francisco today involve either preserving or rehabilitating housing units that are already affordable or mandating the inclusion of affordable units as a percentage of the total in the approval of new developments. Between 2010 and 2013, an estimated 3,520 new housing units were constructed with 95% of them built in structures with ten units or more. The city also estimated that 33% of new housing in 2013 included rental units affordable to very low- and low-income households.

The physical challenge with the development of new affordable housing in the city is that the housing market has extremely low rental vacancy rates and high demand while the city is largely built out. Any redevelopment therefore means the demolition and displacement of the land use that was previously in operation there. Other challenges include high construction costs in a busy market; lengthy entitlement and permitting processes; and general opposition from wealthier or gentrifying communities towards the construction of units for lower-income or homeless populations. Affordable housing, when built, comes from three main groups- nonprofit housing developers, the San Francisco Housing Authority, and market-rate developers through inclusionary zoning or linkage fees. The former two groups are funded in part

through tax increment financing (TIF) mechanisms (generally not allowed in Washington State). They were formerly funded by the San Francisco Redevelopment Agency, but the state of California dissolved all publicly organized redevelopment agencies in 2012 in an effort to reduce the deficit in the state budget.

### *State and City Comprehensive Plans*

The state of California requires that all municipalities develop a general plan that addresses the seven following issues: land use, circulation, housing, conservation, open space, noise, and safety<sup>142</sup>. The housing element, which is to be updated within every eight years, is expanded on in section 65580 of the California Government Code (CGC) and begins with the following declaration (emphasis by this author)<sup>143</sup>:

“The availability of housing is of vital statewide importance, and the early attainment of decent housing and a suitable living environment for every Californian, including farmworkers, is a priority of the highest order. The early attainment of this goal requires the cooperative participation of government and the private sector in an effort to expand housing opportunities and accommodate the housing needs of Californians of all economic levels. The provision of housing affordable to low- and moderate-income households requires the cooperation of all levels of government. **Local and state governments have a responsibility to use the powers vested in them to facilitate the improvement and development of housing to make adequate provision for the housing needs of all economic segments of the community.** The Legislature recognizes that in carrying out this responsibility, each local government also has the responsibility to consider economic, environmental, and fiscal factors and community goals set forth in the general plan and to cooperate with other local governments and the state in addressing regional housing needs.”

The CGC does not address the use of public land for housing, but it does outline requirements for fulfilling the housing element of the general plan, including the need for an inventory of vacant lands (with size, zoning, and parcel number information) that may accommodate population growth<sup>18</sup>. Section 65589 explicitly notes that cities and counties are not required to “expend local revenues for the construction of

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<sup>18</sup> State of California Code, Government Section 65583.

housing, housing subsidies, or land acquisition”<sup>144</sup>. Section 65582.1 lists incentives and reforms for promoting affordable housing development, including the prioritization of water and sewer hookup allocations for affordable housing, density bonus laws, second dwelling unit laws, reduced timing for affordable housing permit application reviews, and limits to downzoning and density reductions. Section 65583.1 also provides direction for promoting the preservation of affordable housing units that are in danger of being converted to market rate housing or removed from the total housing supply available.

At the local level, the latest San Francisco General Plan outlines general goals, including one related directly to housing- “Improvement of the city as a place for living, by aiding in making it more healthful, safe, pleasant, and satisfying, with housing representing good standards for all residents and by providing adequate open spaces and appropriate community facilities”<sup>145</sup>. The city has also established Priority Policies to serve as the “basis upon which inconsistencies in the General Plan are resolved”<sup>146</sup>. Among the Priority Policies, added through Proposition M in November 1986, are two directly related to affordable housing and community resources:

1. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods; and
2. That the City's supply of affordable housing be preserved and enhanced.

The 2014 Housing Element report reviews the state of the city and what programs and policies it has available to address housing needs. It is divided into four sections- (1) Population, Employment, and Income Trends; (2) Housing Characteristics; (3) Housing Needs; and (4) Meeting Housing Needs, which specifically addresses how the city proposes to meet the necessary housing supply<sup>147</sup>. Between 2015 and 2022, San Francisco has been designated to supply 28,870 new units, of which 57% must be affordable. Proposition A, passed by voters in November 2015, also authorizes the city government to issue \$310 million in bonds for the construction and rehabilitation of affordable housing units<sup>148</sup>.

*Policies towards Surplus Property Use*

The city first addressed the use of publicly-owned surplus property for affordable housing with the enactment of the Surplus City Property Ordinance, Administrative Code, Chapter 23A, in 2002<sup>149</sup>. This ordinance required that underutilized or surplus property be transferred to the Mayor's Office of Housing for the development of affordable housing, defined as housing for the homeless or households earning less than 20% of area median income (AMI), housing with on-site services for or nonprofit space for serving the homeless, or housing for households earning less than 60% AMI. Properties to be used for affordable housing were to have covenants, lease agreements, or other mechanisms in place to ensure the units remained affordable for the "useful life of the property," whether it be through re-sale restrictions and/or through shared equity policies. Properties considered unsuitable for housing were to be sold in order to generate funding for affordable housing, although property controlled by the Recreation and Parks Commission, the Port, the Airport, the Public Utilities Commission, and the Municipal Transportation Agency were exempt from these requirements<sup>150</sup>. The ordinance unfortunately only generated 100 new affordable housing units by 2010<sup>151</sup>. Aside from the usual challenges that arise with organizing the financing for affordable housing projects (particularly with lower-income restrictions on rent), one obstacle was that the ordinance placed the determination of properties as surplus or underutilized with individual departments, with no audits or incentives for obtaining more properties.

The continued lack of available sites and construction progress for redevelopment prompted current San Francisco mayor Ed Lee to direct his staff in 2014 to re-examine their "underutilized sites with regards to the potential for housing"<sup>152</sup>. This program, known as "The Public Land for Housing Program," was guided by an intergovernmental group staffed by members of the Office of Economic and Workforce Development, Planning Department, Municipal Transportation Agency, Public Utilities Commission, Mayor's Office, Mayor's Office of Housing (MOH), and the Real Estate Division. The program's goals attempt to balance the need for affordable housing with the need for departmental discretion, stating the

need to “maintain a coordinated development of these public resources through community and stakeholder engagements; provide a range of public benefits and innovative strategies that extend beyond the sites themselves; all while still ensuring that owner agencies can further their core missions.”

The program relies on existing city documents, including the city’s general plan (equivalent to Washington’s comprehensive plan), to develop their goals and guidelines, resulting in a set of five principles for guiding potential public site development:

1. Optimize land utilization;
2. Provide public benefits;
3. Fund public services;
4. Utilize innovative approaches to deliver projects and public benefits; and
5. Complement neighborhood context and engage the community.

The process for utilizing publicly-owned surplus or underutilized land in San Francisco begins with each city department identifying its surplus real property<sup>153</sup>. Properties are then transferred to the MOH, which then begins the process for determining whether a property is suitable or not for affordable housing or whether it should be sold to obtain financing for affordable housing. The public is included in this process, with phase 1 project level meetings to inform the public about the general property portfolio and give an opportunity to weigh in on the collective approach; Phase 2 Site Level meetings to provide an opportunity to weigh in on specific sites that have been selected to be used through Phase 1 meetings; and finally informational hearings at City meetings. The program then begins the process of soliciting developers for applications, with the intention of coordinating and tracking the development process with specific benchmarks and measures.

The public was provided an opportunity in November 2015 to weigh in on whether affordable housing should receive the first *priority* with surplus public property through Proposition K. Voters ultimately passed Proposition K, which included numerous provisions for prioritizing affordable housing

among the options for optimal land utilization; for establishing city policies for how other public agencies and Boards may utilize their surplus properties; and for establishing specific criteria for the definition of “affordability” during development<sup>154</sup>. These provisions are intended to address some of the obstacles from the previous ordinance regarding individual departments hoarding properties that may have realistically qualified as underutilized or unused. Land utilization also looks at how housing may be combined with other community benefits, such as green features, transportation linkages, open space, affordable commercial space, and space for other community services. The balancing act that must occur between competing land uses has to also look at the revenue that could be generated from the property sale, which can be substantial if the property may be redeveloped into an office or residential tower<sup>155</sup>. Affordable housing development, even if the land is available, requires large subsidies and funding that needs to come from somewhere.

## San Diego, California

### *Introduction and Context*

The city of San Diego is around a seven-hour drive south from San Francisco and an hour’s drive north of the United States-Mexico border. Like San Francisco, it is landlocked, compressed between the Pacific Ocean and its surrounding suburbs. However, San Diego boasts land coverage over 325 square miles, dwarfing San Francisco<sup>156</sup>. The city has relied on the San Diego Housing Commission (SDHC) to support affordable housing development since 1979<sup>157</sup>. The SDHC provides numerous affordable housing programs, including rental assistance, first-time home-buying assistance, housing management and operation, and housing development. The SDHC works with city and other governmental organizations for land acquisition, including the transfer of 1,366 public housing units from the Department of Housing and Urban Development (HUD) in 2007. In 2009, the City Council’s Land Use & Housing Committee solicited a best practices study from the SDHC for how to increase the affordable housing supply<sup>158</sup>. A



public participation process was included in the final preparation of the study and an Affordable Housing Best Practices Task Force was organized in 2011 in response. The Task Force recognized potential revenue sources and produced a list of “affordable housing tools” through their efforts.

#### *State and City Comprehensive Plans*

For a review of state of California legislation guiding city requirements for meeting housing needs, refer to the “State and City Comprehensive Plans” section under San Francisco, California.

The city of San Diego adopted its most recent General Plan in 2008, and it serves to guide all development related policies. However, the housing element is detailed in a separate and distinct “Housing Element 2013 – 2020” report. The report begins with five major goals of the plan, for which one (Goal 4) is directly related to affordable housing opportunities<sup>159</sup>. The goal is to “provide affordable housing opportunities consistent with a land use pattern which promotes infill development and socioeconomic equity; and facilitate compliance with all applicable federal, state, and local laws and regulations”. The report explicitly notes, however, that it is not the city’s responsibility to provide affordable housing, but to ensure that there is sufficient vacant and redevelopable land zoned for residential uses for which housing may be constructed on. In total, the Housing Element report states that the city is targeting 700 additional units for moderate-income households, 3,600 additional units for low-income households, 3,000 additional units for very low-income households, and 3,000 additional units for extremely low-income households, all by December 31, 2020<sup>160</sup>.

#### *Policies towards Surplus Property Use*

The city’s primary real estate disposition policy is outlined in Policy No. 700-10, effective as of December 2012<sup>161</sup>. There is little mention within the policy for any review of surplus property for its viability for a particular use(s), affordable housing or otherwise, other than that “the Mayor’s staff will review the City’s property inventory to determine which properties are no longer needed for public

facilities or to support the elements of the General Plan and whose disposition will provide a greater public benefit”<sup>162</sup>. The background section also states, “The proceeds from the sale of City-owned lands are utilized for Capital Improvements Program projects, as required by the City Charter, Section 77, and the revenues generated from leases are normally utilized for General Fund purposes unless the property sold or leased belonged to an Enterprise Fund”<sup>163</sup>. The city has a second policy for “the disposition of city property to nonprofit organizations,” but it refers solely to leasing arrangements and makes no mention of affordable housing as a purpose for entering into a lease agreement<sup>164</sup>.

The SDHC has developed affordable housing units through land acquisitions and public-private-partnerships, but the city does not have any explicit programs or policies in place for the utilization of publicly-owned surplus property for affordable housing. That does not mean that the city does not acknowledge the idea, however. In the city’s Housing Element 2013-2020 report, the idea is recommended in five separate sections of the report, under three goals.

- Goal 1: “Ensure the provision of sufficient housing for all income groups to accommodate San Diego’s anticipated share of regional growth over the next housing element cycle, 2013-2020, in a manner consistent with development patterns of the sustainable communities strategy, that will help meet regional greenhouse gas targets by improving transportation, land use coordination and jobs/housing balance, creating more transit-oriented, compact, and walkable communities, providing more housing capacity for all income levels, and protecting resource areas”<sup>165</sup>.
  - Objective A: Identify and Make Available for Development Adequate Sites to Meet the City’s Diverse Housing Needs
    - Policy HE-A.6. Encourage affordable housing on publicly-owned sites not needed for public use. If it is determined that land designated for public use is not currently needed and will not, in the foreseeable future, be needed for public use and is located within close proximity

to transit and services, it should be considered for redesignation to mixed-use designations that include housing and promote affordable housing<sup>166</sup>.

- Objective B: New Construction of Affordable Units
  - Policy HE-B.28 (Housing for Farm Workers). Seek to provide additional housing units for farm workers with mobile home or manufacturer housing units on City-owned land<sup>167</sup>.
  - Policy HE-B.51 (Workforce Housing). The City and other public entities such as school districts should identify vacant and underutilized publicly-owned land that has potential to be used for affordable housing<sup>168</sup>.
  - Program 19. City-Owned Land for Housing. The City will continue an ongoing effort to identify City-owned parcels that have potential to be used for affordable housing. The City Council will be periodically informed of available properties and their suitability and feasibility for housing<sup>169</sup>.
- Goal 3: “Streamline the entitlement and permitting process for new residential development by minimizing governmental constraints in the development, improvement, and maintenance of housing without compromising the quality of governmental review of the city’s responsibility to ensure development takes place in a sustainable manner”<sup>170</sup>.
- B. Nongovernmental Constraints
  - 1. Price of Land. The City has examined the possibility of utilizing City-owned land as one way to facilitate the development of low-income housing. However, **there are very few suitable City-owned parcels available for this purpose**<sup>19, 171</sup>

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<sup>19</sup> Emphasis provided by the author.

- Goal 4. “Provide affordable housing opportunities consistent with a land use pattern which promotes infill development and socioeconomic equity; and facilitate compliance with all applicable federal, state, and local laws”<sup>172</sup>.
  - Objective H. Affordable Rental and Homeownership Opportunities.
    - Program 13. Community Land Trusts (CLTs). CLTs can serve as stewards for an expanding stock of permanently affordable owner-occupied housing in San Diego. A community land trust is a nonprofit organization formed to hold title to land to preserve its long-term availability for affordable housing and other community uses. A land trust typically receives public or private donations of land or uses government subsidies to purchase land on which housing can be built. The homes are sold to lower-income families, but the community land trust retains ownership of the land and provides long-term ground leases to homebuyers. The City shall support community land trusts through such actions as: **(1) offering city-owned properties**<sup>20</sup>; (2) directing local, state and federal funds designated for first-time homebuyer subsidies; (3) encouraging partnerships with market-rate developers; (4) providing grant funds; and (5) consideration of developing a partnership to monitor compliance of outstanding City first-time homebuyer loans and other agreements with long term affordability requirements that are enforceable by the City<sup>173</sup>.

The use of publicly-owned land for affordable housing is mentioned six times in the Housing Element 2013-2020 report, including as three policies and two programs. However, the language of each is often confusing, vague, or contradictory. The city identifies for Goal 1 that there are specific housing needs and goals for the elderly, people with disabilities, military families, students, and the homeless, but it does not mention the use of publicly-owned land for these groups- only for farm workers and general

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<sup>20</sup> Emphasis provided by the author.

workforce housing. For Program 19, the report states in one paragraph that “the City Council will be periodically informed of available properties and their suitability for housing,” while another states that the City Council is the responsible organization for implementation. It is more likely that the City Council will be informed of opportunities to use the program than to be in charge of it, but it is unclear from the report who is informing them. Goal 3 oddly claims that there are very few “suitable” city-owned parcels available for housing development, contradicting everything else just stated.

The final section of the report provides an audit of the recommendations from the 2005-2010 Housing Element report<sup>174</sup>. There are two mentions of the use of city-owned property for housing from that report - “Farm Worker Housing” and “City-Owned Land for Housing.” In the former case, the city sought grant funding to provide mobile homes for 50+ farm workers on city-owned sites. In the latter case, the city established a goal of providing affordable workforce housing on at least two city-owned sites, with four potential sites identified between 2007 and 2009. Between both cases, no additional homes were constructed on any city-owned land.

The 2013-2020 report mentions that “ongoing discussions with the City’s Real Estate Assets Department (READ) continue on potential opportunities”<sup>175</sup>. READ ultimately controls the process for selling surplus public property. Its publicly stated goals and objectives as of 2011 were to professionally manage real estate assets, optimize the city’s assets, optimize human resources, and centralize management of the city’s workspace resources<sup>176</sup>. One round of public property sales was initiated in 2007 in order to provide funding to address a backlog of infrastructure repairs and upgrades to the city’s water and wastewater systems, though the city could only use the funds from sales to this end because the properties were owned by the Water Department<sup>177</sup>. The city’s charter actually prohibits the use of land-sale proceeds to address general fund obligations, though state laws mandate that governments looking to unload public properties not owned by departments or agencies be offered to other local agencies first for needs such as affordable housing, parks, and transit infrastructure. Additionally, public properties

currently designated for parkland require a two-thirds majority approval from city voters to be sold while City Council policy mandates that land sales require the land be sold at a public auction, with final sale approvals from the Council on a case-by-case basis. A second round of surplus property sales following the Water Department sales was initiated in 2014 by mayor Kevin Faulconer through a request for qualifications for commercial real estate brokerage services<sup>178</sup>.

## Denver, Colorado

### *Introduction and Context*

Denver's emergence as one of the most popular destinations in the United States began the same way as many of its current competitors. Following a recession in the 1980s<sup>179</sup>, the combination of a stable economy, low office space rents, reversing trends in urban-suburban housing preferences, and the attraction of nearby ski resorts and outdoor activities raised the city's profile in the decades since. The accompanying rise in housing costs prompted the city in 1999 to commission a task force to review affordable housing issues and generate possible recommendations<sup>180</sup>. In August 2002, the results of that task force were realized as the City of Denver Affordable Housing Ordinance, otherwise known as the "inclusionary zoning ordinance"<sup>181</sup>. This ordinance, amended in 2006 and 2013, set additional affordability requirements for all for-sale developments with over thirty housing units based on a percentage of the units. Minimum terms were set for the length of time that the units were to remain affordable as well as maximum re-sale and profit values within that span. The city also provided means to cover the costs of construction, including direct payments for each affordable unit constructed and through incentives, such as expedited application reviews, density bonuses, and parking requirement reductions.

In spite of these efforts, the housing market continues to grow rapidly, and ongoing in-migration coupled with a dwindling housing supply resulted in 2015 becoming the city's least affordable year yet. Along with San Francisco and Portland, Denver home values in October 2015 achieved a 10.9% increase

over values from the year before on the S&P/Case Shiller home price index<sup>182</sup>. Home sales in 2015 were completed on average within 23 days, compared to 80 days in 2012<sup>183</sup>. November 2015 also marked the 10<sup>th</sup> consecutive month that Denver led all metropolitan areas in home price appreciation per Zillow's home price index. The onset of new rental units on the market has slowed the increase in rental rates, but the state demographer estimated that Colorado added 45,000 households but only 25,000 new units.

At the state level, the Department of Local Affairs (DOLA) serves as the state agency responsible for providing local government assistance in a variety of areas, including funding for housing programs. DOLA's Division of Housing (DOH) cites "increasing the availability of safe, affordable housing" as a top priority<sup>184</sup>. The DOH, created in 1970, provides gap funding to private housing developers, housing authorities, and local governments for land acquisition for new affordable housing developments as well as rehabilitation projects<sup>185</sup>. The financial assistance made available through grants and loans is distributed based on timing, availability, and priorities, with competition among recipients for funding<sup>186</sup>.

#### *State and City Comprehensive Plans*

There is neither a statewide planning agency nor any formally legislated requirement that municipalities in Colorado develop comprehensive plans. The Colorado Constitution permits the adoption of home rule charters for local government organization if approved by a county's voters, and the state grants these charters both land use and planning powers as well as the right to establish the structure of local government<sup>187</sup>. Municipal governments may regulate the location and use of buildings, structures, and land, with local law superseding any conflicts with state law unless there is a valid state interest (such as oil production or disaster management). Further empowering municipalities is the Local Government Land Use Control Enabling Act, which permits them to "regulate activities that impact a community or surrounding area to provide for the planned and orderly use of land, and to protect the environment" as

well as to “provide for the phased development of services and regulate the location of activities and development that may cause significant changes in population density”<sup>188</sup>.

The lack of a state mandate for generating comprehensive plans hasn’t prevented Denver from developing one, though the most recent plan was completed in 2000. This plan identifies eleven goals, with two related to housing<sup>189</sup>. Goal 2 calls for managing “growth and change through effective land use policies to sustain Denver’s high quality of life” while Goal 5 calls for expanding “housing options for Denver’s changing population.” Under the “Land Use” chapter of the comprehensive plan, the plan acknowledges the need for a range of “housing prices and types,” with policies supporting a greater distribution of each. The “Housing” section addresses the issue in greater depth, with Objective 1, “Support Housing Development,” and Objective 2, “Preserve and Expand Existing Housing,” providing strategies for promoting housing development. The city also developed two separate plans to address housing affordability issues- the Denver Housing 2015-2019 Five Year Plan and its predecessor, the “Building Denver’s Future” Denver Housing 2008-2018 Plan.

#### *Policies towards Surplus Property Use*

Denver does not have any formal policies regarding the use of surplus or underutilized property for affordable housing. The city’s Division of Real Estate addresses all requests for purchase of city owned land by reviewing whether other city agencies need the land<sup>190</sup>. If there are no objections, the property is sold at public auction with or without a “minimum acceptable offer,” though the city reserves the right to reject any offers at its discretion. The Division of Real Estate notes on its web site that the city does collaborate with developers regarding the use of public land for community services such as police stations, fire stations, and libraries, but it makes no mention of affordable housing.

In the 2008-2018 Housing Plan, the city identified the need to develop or support the creation of a land acquisition fund for affordable housing in transit corridors (Goal 1.C.4)<sup>191</sup> as well as the need for



increasing the number of sites available for affordable housing (Goal 3.A.6)<sup>192</sup>. The city met the first goal through the support of the establishment of the Denver Regional Transit Oriented Development (TOD) Fund (“the Fund”) in 2010. The Fund’s goal is to provide monies for the acquisition of property within a half-mile of light rail stations (existing or planned) or within a quarter-mile of busy bus corridors for affordable housing and associated community needs<sup>193</sup>. The ultimate goal is the development and preservation of 2,000 affordable units by 2024<sup>194</sup>. The Fund, supported through both nonprofit investments and financial contributions from Denver, essentially acts as a land bank for preserving land for affordable uses until the capital is raised by developers to build. Over the first three years, the Fund was only used for land in Denver and had one borrower- the nonprofit Urban Land Conservancy (ULC). However, the ULC was able to produce \$15 million for the acquisition of eight sites, resulting in the creation of 570 permanently affordable homes and over 100,000 square feet of supportive commercial space in proximity of major transit corridors. The Fund is now used for acquiring properties along transit corridors in the surrounding suburbs as well.

For goal 3.A.6, the 2008-2018 Housing Plan proposed to meet its benchmarks by:

- 3A.6.a. Prioritizing affordable housing in the disposition of city-owned land<sup>195</sup>;
- 3A.6.b. Working with Denver Public Schools, the Denver Housing Authority, the Regional Transportation District, nonprofit organizations, and other public and, where appropriate, private agencies to implement this policy; and
- 3A.6.c. Launching a community campaign to identify and dedicate vacant or excess land for affordable housing.

An audit of the city’s efforts was conducted in 2014 to “assess the Office of Economic Development’s efforts to provide affordable housing in Denver”<sup>196</sup>. The audit observed that the goals of the 2008-18 Housing Plan were not formally implemented because the report was never adopted by the Mayor at the time. The 2015-2019 Five Year Plan not only appears to have greater breath, depth, and

support, but it more explicitly addresses the use of publicly-owned property for affordable housing. Specifically, Action 5D, a target under Priority 5 “Increase Housing Diversity,” proposes to “create a continually updated database of publicly and privately owned neglected, underutilized and/or derelict properties that could be acquired for workforce and critical needs housing”<sup>197</sup>. This action does not appear to have been formally implemented yet, but its inclusion in the plan suggests that it may be addressed within the next four years.

## Portland, Oregon

### *Introduction and Context*

Portland, Oregon is separated from Washington state by the Columbia River and is split into two areas by the Willamette River. Oregon’s largest city, Portland is popular both as a cultural destination and for its proximity to extensive outdoor recreation opportunities. For decades, the city existed predominantly as a collection of single-family neighborhoods, with more affordable multifamily housing concentrated in the city’s urban core<sup>198</sup>. However, as housing trends have shifted residential interests toward apartment and condominium living, the growth of multifamily housing has increased and begun replacing some of the older housing stock. The recession of 2008 took a toll on the city’s job growth, but since 2011, the city has rebounded with exceptional economic and job growth. While forecasts from the Oregon Office of Economic Analysis suggest that the state is experiencing 4% average wage gains per year<sup>199</sup>, analyses of the 2014 American Community Survey data also indicate that the majority of this growth is occurring in households earning \$75,000 or more<sup>200</sup>. This polarizing growth has had the effect of reducing the opportunities for lower- and middle-income families.

An examination of housing affordability in Portland by the Portland Housing Bureau (PHB) was published in October 2015. The population grew by more than 80,000 people and 29,000 households between 2000 and 2013<sup>201</sup>, but homeownership rates declined or remained stagnant in 19 of 24

neighborhoods<sup>202</sup>. Rental costs vary by neighborhood, but on average, the cost of housing increased from 2014 by 7.9% for two-bedroom units (lowest increase) and by 9.2% for studios (highest increase)<sup>203</sup>. Home sale prices have increased as well; from 2011 to 2014, the largest increase in median home sales price was by 60.7% in the Lents-Foster neighborhood and the average increase throughout the city was 31.91%<sup>204</sup>. Perhaps most concerning in the housing market is the larger trend of institutional investors purchasing properties in bulk with payment in cash. According to the real estate information firm RealtyTrac, Portland ranked 2<sup>nd</sup> in December 2014 among cities where institutional investors are active, and investor cash sales accounted for 14% of all property sales between 2011 and 2014<sup>205</sup>.

Portland has a number of affordable housing policies and provisions in place. The PHB provides direct financial assistance to developers for the construction of affordable housing<sup>206</sup>. The PHB has also taken efforts to preserve and extend the affordability of existing housing units through rehabilitation. The city has three different limited property tax exemption programs designed to encourage either the rehabilitation of older homes for qualifying residents (based on income earned) and for apartment owners that meet certain affordability requirements. The city itself set aside 30% of all government spending from TIFs for affordable housing in the past, but since October 2015, the city has pledged to increase that number to 45% (at the possible expense of other redevelopment or public improvements projects)<sup>207</sup>. This change would add approximately \$67 million to the \$202 million the city has already pledged for affordable housing construction over the next ten years.

#### *State and City Comprehensive Plans*

Oregon took the lead in land use planning in the United States in 1973, when its state legislature passed Senate Bill 100, creating the Department of Land Conservation and Development (DLCD) to enforce regional and local comprehensive planning goals<sup>208</sup>. Nineteen statewide planning goals were established by the DLCD as “Oregon’s Statewide Planning Goals & Guidelines.” Among them was Goal 10

(Housing), which states, “Buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density”<sup>209</sup>. Senate Bill 100 stipulated that all Oregon cities and counties were to develop or amend their comprehensive plans and land-use regulations in order to comply with the statewide planning goals. The state’s administrative rule OAR 660-007 (“Division 7”) for cities “within Metro” also requires minimum overall densities for new development within the city, with zoning allowing a minimum 50% of new dwellings to be attached single-family or multi-family and with “clear and objective” standards established by local governments<sup>210</sup>. As a result of these efforts, the city of Portland has been planning for affordable housing for over forty years.

Portland’s most recent comprehensive plan— “The Portland Plan,” published in April 2012— organizes its objectives for 2035 into three categories of “integrated strategies”<sup>211</sup>. Housing-related goals are mentioned in two categories:

- *Thriving Educated Youth*, Objective 4, Healthy neighborhoods: “All youth live in safe and supportive neighborhoods with quality affordable housing.”
- *Economic Prosperity and Affordability*, Objective 16, Affordable Community: “No more than 30 percent of city households (owners and renters) are cost burdened, which is defined as spending 50 percent or more of their household income on housing and transportation costs.”
- *Economic Prosperity and Affordability*, Objective 17, Access to Affordable Housing: “Preserve and add to the supply of affordable housing so that no less than 15 percent of the total housing stock is affordable to low-income households, including seniors on fixed incomes and persons with disabilities.”

#### *Policies toward Surplus Property Use*

Portland does not have an explicit program for facilitating the transfer of publicly-owned surplus land to developers to build affordable housing. This is not surprising, as a report from the Office of the

City Auditor in April 2015 indicated that, as of the time of the report, the city lacked any kind of comprehensive inventory of the property it owned, let alone employed any formal policy for strategically managing them<sup>212</sup>. However, in July 2015, the city updated its surplus property sale policies through Resolution No. 37143 in order to improve transparency regarding the sales. One department- the Water Bureau- provides a brief summary on its web site the steps required for selling surplus property<sup>213</sup>:

1. Properties are declared surplus by the Bureau and then submitted to other city, local, regional, and state agencies for sale consideration.
2. If there is no governmental interest, the community is notified through printed and electronic notification of the property's availability.
3. If there is still no public agency interest in the property, a non-emergency Ordinance is prepared for the regular City Council agenda, asking the council to declare the property surplus.
4. Finally, once the property is designated as surplus by the City Council, the Bureau has authorization to continue with its sale. The property is then posted on the city's Surplus Real Property web site, hosted by the Bureau of Internal Business Services.

The desire for transparency in the city's disposition policies was sparked by the sale from the Water Bureau of a surplus water tank to a private developer, with the goal of keeping water rates down. The community around the property complained that the land should have been retained for public space. Portland's Housing Commissioner Dan Saltzman attended one of the final meetings discussing the proposed changes and recommended that City Council amend the policies further such that unneeded parcels would be *prioritized* for community needs such as affordable housing, community gardens and open spaces<sup>214</sup>. Among the amendments were two requirements to address community needs:

1. The Portland Housing Bureau is required to respond to any offer of surplus property sales, regardless of whether they want the land, to ensure it's been brought to their attention.
2. The City Council is required to consider applying conditions for property disposition prior to voting to declare a property surplus.

These new policies were codified into ADM-13.02 – *Disposition of City Real Property*. The city now categorizes properties as either Category 1, 2, or 3, with varying procedures for each<sup>215</sup>. In all categories, the city must prepare a document for distribution including “pertinent property information, such as the property’s approximate size, zoning, a description of any known infrastructure on the site, the preliminary title report for the property, a description of any anticipated restrictions needed by City bureaus for the site (if known), bureau contact information for questions, and other relevant details.” Sub-section III.D.1 also reads, “***Whenever practicable***<sup>21</sup>, the bureau and Commissioner in Charge shall consider proposing conditions for disposition of the real property for affordable housing, community, or open space.” That first statement- *whenever practicable*- makes it clear that while surplus property disposition should consider community uses, that it is not an absolute requirement.

The October 2015 “State of Housing in Portland” report from the PHB reviewed the city’s policy targets for its 2035 Comprehensive Plan and noted that the city was not currently meeting one target in the Southeast Quadrant for pursuing “opportunities for affordable housing as well as mixed-income housing projects within the Clinton Station area, with a focus on lands currently owned by the City of Portland”<sup>216</sup>. The report states that “affordable housing programming within the Clinton Station area is not yet under development.” It does note that for the goal of providing “housing incentives including using transferring title of city-owned lands to housing developers to indirectly write down the cost of land on which housing is to be built” from the 1988 Central City Plan, the city is apparently meeting this goal because it “regularly uses the disposition of City-owned land to incentivize the development of affordable housing.” However, there is no explanation in the report for how this is being met when considered in conjunction with the city’s lack of formal policy until the City Council’s amended policies from earlier in the summer.

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<sup>21</sup> Emphasis provided by the author.

## Vancouver, British Columbia

### *Introduction and Context*

Vancouver is the westernmost metropolitan city in Canada and a fairly straight 2-1/2 hour drive north of Seattle. Like Seattle, it features an attractive coastline, fills a prominent role as an international seaport, and has a penchant for raining more often than not. The population of Vancouver in 2011 was approximately 603,500 people and just under 20,000 less than Seattle's estimated population at that time<sup>217</sup>. Over the next twenty to thirty years, the metropolitan Vancouver region anticipates in-migration of more than a million people, with 150,000 people allocated to Vancouver alone<sup>218</sup>. This population growth may not have occurred yet, but the city has already seen its share of rising housing prices due to rising economic growth, low interest rates, and a finite supply of land<sup>219</sup>. As of March 2015, the home values in Vancouver were 11.2 times larger than local average annual income (compared to ratios of 6.6 in Toronto and 4.9 in Montreal, the only cities in Canada larger than Vancouver in population)<sup>220</sup>. The Canadian Rental Housing Index paints a similar picture, with Vancouver exhibiting the worst balance of average income and rent<sup>221</sup>. Per the index, one in four Vancouver residents spends 50% or more of their income on rent.

The Ministry of Finance, a department of the province of British Columbia government, suggested in a report from June 2015 that rather than introduce measures to curb demand in the local housing market, the city should look to increase the supply of housing and further promote densification<sup>222</sup>. This is effectively what the city's approach has been over the last several years- an increased focus on building up the market rental stock through secondary suites (equivalent to accessory dwelling units), lock off suites, and laneway housing (equivalent to detached accessory dwelling units or backyard cottages). The city's Rental 100 program encourages development of projects with 100% rentable units (in lieu of

condominiums) through waivers of development fees, reduced parking restrictions, smaller unit sizes, and increased density bonuses<sup>223</sup>.

### *State and City Comprehensive Plans*

In 1996, the Canadian government replaced the “Municipal Act,” a decades-old legislation providing planning powers to local governments, with the “Local Government Act”<sup>224</sup>. This new legislation was designed to provide greater autonomy to local municipal and regional governments. Two new powers granted to municipalities were the power to “make agreements with other public authorities, or with private partners to provide or undertake services, works, or facilities;” and the power to “acquire, manage, and dispose of land and any other type of property, enhancing the ability to provide services in new and innovative ways”<sup>225</sup>. Municipalities have the authority to plan and regulate land uses as they see fit, but section 875 of the Local Government Act outlines the recommended objectives and information to be included in an Official Community Plan (OCP), should the municipality elect to develop one<sup>226</sup>. There are no requirements for the length or content to be included if an OCP is prepared, but joint planning with regional governments and other municipalities is encouraged, as is both the written policies and mapped locations for affordable housing, rental housing, and special needs housing.

At the regional level, there are 27 districts within British Columbia, each with its own Board with representation from the municipalities within the district<sup>227</sup>. The primary role of these districts is to provide region-wide services and inter-municipal or sub-regional services where the benefits are shared by multiple municipalities. Regional districts have broad latitude with regards to the services they may provide, and like municipalities, they have their own planning divisions with which they may develop region-wide plans and growth strategies. Regional governments coordinate with municipal government authorities on region-wide growth strategies, which includes the designation of “adequate, affordable, and appropriate housing”<sup>228</sup>. In September 2013, the Vancouver City Council adopted a Regional Context



Statement Official Development Plan to identify goals and policies that would align with the Metro Vancouver Regional Growth Strategy. Among these goals and policies was Strategy 4.1 – “Provide diverse and affordable housing choices”<sup>229</sup>.

At the local level, the city’s Planning and Development Services department is responsible for major planning projects, neighborhood planning projects, the enforcement of land use and development policies and guidelines, and the review of all zoning and development applications<sup>230</sup>. Major planning projects aim to address specific needs that may focus on a handful of sites, transportation corridors, or multiple neighborhoods, depending on the need. Neighborhood plans, on the other hand, take comprehensive reviews on individual neighborhoods and establish both short- and long-term goals to meet the neighborhood’s needs. Each of the city’s neighborhood plans completed to date have included a housing section with set goals for addressing housing affordability and the supply of available units. As the Downtown-Eastside neighborhood plan notes, “During the life of the plan, it is estimated that another 1,900 households will need social housing or an income subsidy to afford to live in market housing... To support this population, there is significant pressure for more affordable housing options throughout the 30-year life of the plan”<sup>231</sup>.

#### *Policies toward Surplus Property Use*

The city does not have specific policies regarding the prioritization of affordable housing or community needs with regards to surplus public property, unless you take into account statements made in the Regional Context Statement Official Development Plan. Strategy 4.1.7 calls for adopting regional context statements that “encourage and facilitate affordable housing development through measures such as reduced parking requirements, streamlined and prioritized approval processes, *below market leases of publicly owned property*, and fiscal measures”<sup>232</sup>. In the same section, Action 6 of 15 calls for the identification of city-owned land that “may be underused” and facilitate the planning of these sites for

affordable housing development<sup>233</sup>. From a daily operations perspective, however, when properties have been determined to be surplus, they are just posted on the city's web site, with additional information available from Real Estate Services, a division of the Real Estate and Facilities Management department<sup>234</sup>. The use of publicly-owned property for the development of affordable housing is still a policy that appears to be actively in use in other city plans, though. The approved Downtown-Eastside Plan states, for example, "Provincially-owned and nonprofit owned sites should wherever possible be leveraged for more affordable housing through their redevelopment potential within the life of the plan"<sup>235</sup>.

Vancouver's City Council also established the Vancouver Affordable Housing Agency (VAHA) in July 2014, following a recommendation from the Mayor's Task Force on Housing Affordability, to develop affordable housing on city-owned sites<sup>236</sup>. VAHA is a city-controlled but legally separate entity from the city, with the city acting as sole shareholder while the agency remains eligible to apply for third-party funding<sup>237</sup>. It is staffed by three senior city employees and four external directors from the real estate development field, all who are approved by City Council based on recommendations from the City Manager and Chief Housing Officer<sup>238</sup>. The city is banking on the mixed staffing to allow for more diverse expertise to be added to the organization's capacity while reducing transaction costs through a focused approach and more streamlined procurement and development processes. The agency is supported financially by the city through an annual operating and capital budget of \$750,000 for 2015 and 2016 and \$1.1 million in 2017. A July 2014 report notes that the agency was created for four purposes<sup>239</sup>:

1. To have a clear Council approved mandate and governance structure to ensure accountability, value for money and alignment with Council's housing policy;
2. To become a center of expertise with dedicated resources to expedite housing delivery through innovative approaches and partnerships;
3. To be set up on a phased approach starting with 500 units followed by an interim evaluation before proceeding onto the next phase to deliver a further 2000 affordable housing units by 2021; and

4. To facilitate the redevelopment of selected City sites and partner land to reach the housing targets above.

The agency is only responsible for the development of affordable housing. The city recognized that, if the agency was also responsible for management and operation of the facilities, that it would require additional organizational capacities and resources that fall beyond what can be provided at this time. The intent is to utilize nonprofit organizations to serve as operators and managers. VAHA further notes its four primary goals<sup>240</sup>:

1. Ensure resources and projects align with Council goals and objectives;
2. Deliver housing as quickly, efficiently, and affordably as possible through standardized processes, economics of scale, and clear decision-making;
3. Identify where the greatest impact can be made, and act as a catalyst for innovating housing ideas and models; and
4. Evaluate outcomes and share learnings with the City and senior levels of government, driving standardization and streamlining of processes across multiple delivery platforms.

The city and VAHA have set a goal of providing 2,500 new affordable housing units by 2021, with 500 to be provided in the first three years (beginning in 2015). The city identified affordability (in Canadian dollars) as households with incomes between \$375 per month for a single person (the Shelter Allowance) and maximum incomes of \$86,500<sup>241</sup> (most likely the maximum income is based around 120% of the median household income, considering this value in Vancouver 2013 was \$73,390<sup>242</sup>). In March 2015, VAHA purchased eight lots with the intention of constructing between 120 and 125 affordable housing units, including more than 50% for family housing. The city spent \$11,491,000 for the lots, utilizing funding through community amenity contributions allocated to the Cambie Corridor Affordable Housing Fund. By July 2015, the city identified twelve (12) other city-owned sites on which it intends to leverage the land value for the construction of 1,350 additional housing units<sup>243</sup>. Whether the city elects to purchase additional sites or accept land contributions from developers in exchange for rezoning requirements, the

city intends to maintain ownership of all properties developed. VAHA has posted a list on its website of 17 affordable housing developers that met the requirements to join a prequalified shortlist of developers for housing on City-owned land. The city also noted in public records that it intends to combine the use of publicly-owned land with other tools to improve the affordability of the units, including inclusionary zoning policies, density bonuses, Community Amenity Contributions, public-private partnerships, parking relaxations, property tax waivers, and capital grants or other forms of city equity<sup>244</sup>.

At the regional level, the Greater Vancouver Regional District Housing Committee, consisting of councilors and mayors from Vancouver and the surrounding townships, was commissioned as a function of the need to develop growth strategies<sup>245</sup>. One of the programs initiated by the Committee is the BC Housing Non-Profit Housing Asset Transfer Program (NHATP), which extends to non-profit housing organizations in good standing the opportunity to purchase land owned by the Provincial Rental Housing Corporation (PRHC)<sup>246</sup>. Specifically, there are approximately 350 land parcels (holding approximately 10% of all nonprofit or cooperative housing units in Metro Vancouver) that are owned by the PRHC that are currently leased to nonprofit housing operators for which the non-profit may wish to have ownership of the land itself<sup>247</sup>. These parcels are scattered throughout the 100 communities in the province, but the majority are located in the cities of Vancouver, Victoria, Saanich, Surrey, and Barnaby<sup>248</sup>. The program is supported by the BC Non-Profit Housing Association (BCNPHA), which represents over 500 nonprofit housing providers in the region. The ownership of all 350 properties is expected to be addressed within the next three years; 116 properties have been transferred to date<sup>249</sup>.

The benefits to the nonprofit with ownership are better long-term stability and the ability to leverage the land as collateral when seeking loans or additional capital to either upgrade the facilities or develop new units of affordable housing<sup>250</sup>. The benefit to the PRHC is better stewardship from nonprofits that have more incentive to upgrade their facilities rather than wait to see what happens at the end of the lease. Shifting the responsibility for increasing the supply of housing to nonprofits addresses the issue

that there are no plans for large-scale housing development at the senior government level. Through the program, the PRHC may cover (on a case by case basis) mortgage principal and interest payments to the extent that the nonprofit cannot sustain a positive cash flow without support<sup>251</sup>. Attached to the mortgages are new operating agreements between the regional district and the nonprofit for the life of the mortgage (amortized at 35 years), while existing operating agreements, outlining the current terms and conditions for providing subsidized housing, remain in place until they expire<sup>252</sup>. Land sales are finalized at fair market value, with proceeds committed to the housing sector for affordable housing.

Between the BCNPHA and the City of Burnaby, there have been a number of concerns raised with the program. Burnaby in particular has expressed apprehension regarding the transfer of public assets out of public control and the level of accountability of nonprofit organizations to maintain affordability over time as operating agreements, mortgages, and covenants expire<sup>253</sup>. The NHATP allows for increased flexibility in setting rent levels, which may further impact the levels of affordability in the province<sup>254</sup>. There are questions as to how much information about the program has been made public and which nonprofits have been offered land for purchase to date<sup>255</sup>. The proceeds from land sales were to be recommitted to develop new affordable housing, but to date, the sales have been used to fund a previously announced cost-sharing commitment between the province and the federal government for affordable housing in lieu of new investments. There is also uncertainty regarding what will happen at the end of the lease if a nonprofit chooses not to purchase the land, though the district has committed to continuing its leases for the time being. Depending on where one falls on the political spectrum, there may or may not be concerns with the region's potentially reduced role in providing affordable housing.

### A Comparative Analysis of Housing Affordability and Surplus Property Policies

The previous sections provided detailed information regarding the state of housing affordability in five North American cities as well as their respective positions on providing affordable housing and

whether they explicitly have policies or programs in place for using city-owned land for affordable housing.

**Table 3.2** provides a comparison of each city, including the city of Seattle. Each city considered for this investigation has acknowledged the need for more affordable housing, whether through government-produced reports, public statements, or some combination of the two. While Denver and Vancouver are not required by their respective state or provincial governments to plan for housing growth as with the other cities, the need to provide housing appears to be too important of a concern not to include it among their priorities. San Diego, San Francisco, and Seattle are the only cities to have been provided growth targets and dates for new household development by their respective senior governments, but Seattle does not have any requirement to address affordability in those units.

The means by which each city is approaching the need to increase its housing supply is where the plans and policies begin to diverge. Five of the six cities have made explicit statements about needing to increase the supply, but the mechanisms by which they intend to do so vary greatly. San Francisco and Vancouver both have aggressive policies that reflect the fact that each city is substantially smaller and more land-locked than the others. The preservation of existing affordable housing along with the use of inclusionary zoning and development policies are their primary approaches, although each bolsters this direction with other actions. In San Francisco's case, the city is actively looking at its public property inventory, whether surplus or not, for land that may be leveraged for housing (which sometimes puts its

## Public Land for Affordable Housing: An Evaluation of a HALA Proposal in Seattle

	San Francisco	San Diego	Denver	Portland	Vancouver	Seattle
Land Area in square-miles	47	325	155	145	44	84
2010 Population Estimate <sup>a</sup>	805,235	1,307,402	600,158	583,776	603,502	608,660
1. Is the provision of housing for all economic segments outlined as part of the state or provincial government's goals or vision?	Yes	Yes	No	Yes	No	Yes
2. Is the provision of providing affordable housing outlined as part of the local government's goals or	Yes	Yes	Yes	Yes	Yes	Yes
3. Has the local government officially recognized providing affordable housing as a concern?	Yes	Yes	Yes	Yes	Yes	Yes
4a. Has the state designated the city with a number of housing units it must plan to accommodate by a certain date?	Yes	Yes	No	No	No	Yes
4b. If yes, how many units, and by when?	28,870; 2022	88,096; 2020	-	-	-	59,014; 2031
4c. How many are to be planned to be "affordable"?	16,456	38,680	-	-	-	-
5a. Has the local government announced any plans to provide new affordable housing units?	Yes	No	Yes	Yes	No	Yes <sup>b</sup>
5b. If yes, how many units, and by when?	30,000; 2019b <sup>c</sup>	-	6,000; 2025 <sup>d</sup>	Not defined	2,500; 2021	20,000; 2025
6a. Does the local government have a formal policy regarding the prioritization of surplus property for affordable housing?	Yes	No	No	Yes <sup>e</sup>	No	No
6b. If yes, when was it first adopted?	2002	-	-	2015	Unknown	-
6c. If no, has a policy been recommended in any reports produced by city departments or task forces?	-	Yes	Yes	Yes	-	Yes
7a. Does the local government have any programs for actively searching for city properties to utilize for affordable housing?	Yes	No	No	No	Yes	No
7b. If yes, how many properties have been transferred through January 15, 2016?	100	-	-	-	20 <sup>f</sup>	-
7c. If no, has the local government sold or transferred publicly owned properties for affordable housing regardless of having an explicit policy to do so?	-	No	Unknown	No	-	Yes
8a. Does the government have an inventory of surplus properties publicly available?	Yes	No	No	No	No	Yes
8b. If yes, how many properties does it currently have listed as 'surplus,' 'excess,' or 'underutilized'?	29	-	-	-	-	204

a. U.S. population estimates were taken from the United States Census Bureau at this address: <http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>. The Vancouver population estimate is for 2011 and was taken from this address: <http://vancouver.ca/news-calendar/population.aspx>.

b. The city does not have plans for the construction of new affordable housing units, but it has announced intentions to facilitate the development of 20,000 affordable housing units through the recommendations provided by the Housing Affordability and Livability Agenda committee.

c. Proposition A was passed on November 3, 2015. This bond measure authorized the use of \$310 million to fund affordable housing programs. The number of units listed is not solely new units, however, but includes rehabilitated units as well.

d. Mayor Michael Hancock announced plans in 2015 to provide a minimum \$15 million a year to the creation or preservation of existing affordable housing units. The number of targeted units does not distinguish between both means.

e. It was reported that the city adopted in July 2015 a new policy to prioritize affordable housing development for any excess or surplus property. However, this policy has not been updated on the Water Bureau's home page, nor is this policy listed on any local government web site.

f. This quantity includes the (8) lots purchased by the city and (12) existing lots it has stated it will leverage for housing since 2015.

Source: Author

**Table 3.2 Comparison of Five North American Cities for Housing Affordability**

different departments at odds). Vancouver's development of VAHA established a new quasi-governmental organization that can acquire land on the city's behalf without all of the potential red tape and bureaucratic procedures that might otherwise be required for purchasing and/or transferring property. It is unclear how many housing units San Francisco aims to provide through this program, but it currently only has 29 properties listed as 'surplus,' 'excess,' or 'underutilized'. Vancouver/VAHA aims to provide 2,500 units over the next five years.

San Diego operates under the same mandates from the state of California that San Francisco does for accommodating housing numbers, but there does not appear to be as much innovation in the way of expanding or supplementing existing programs administered by its main housing public agency, the SDHC. There are a substantial number of recommendations from the city's most recent housing report, including the offering of city-owned property to community land trusts, but it is unclear whether they will be formally adopted and/or in what capacity. With regards to the use of city-owned land for development of affordable housing, the city's charter does admittedly place some limitations on what it is allowed to do with the funds from sales of public property, which may discourage the city from looking at this type of policy as an option. San Diego is also nearly 7 times larger than San Francisco, however, and the city may not have reached a point where land supply is the major culprit behind its affordability issues.

Denver is another city for which the expansion of programs and policies appears to be on the horizon, but it is limited currently in its number of existing policies. The main program utilized by the city directly for providing affordable homeownership opportunities is its Inclusionary Housing Ordinance, which requires developers to either provide a minimum number of affordable housing units for buildings with more than thirty units or provide an in lieu fee. As with many cities that have implemented similar programs to date- including Seattle- the majority of developers have chosen to pay the in lieu fee. To Denver's credit, however, the development of the Denver TOD Fund in 2010 has worked incredibly well at acquiring land along transit lines for the development of affordable housing and supportive community



spaces. The TOD Fund has resulted in the construction or preservation of more affordable housing units than any of the other cities investigated in this section.

Surprisingly, only one of the five comparable cities— San Francisco— actively listed its full property inventory on its web site (Seattle provides an inventory as well). Most cities had a page on their real estate division’s web site for listing publicly-owned property when it was available for sale. However, few mentioned whether a complete inventory existed while one city- Denver- explicitly stated that “there is not a ‘list’ of city-owned or surplus property available from the Division of Real Estate; however, you can contact the Assessment Office... to inquire whether the city is the owner of a particular parcel”<sup>256</sup>. Portland only recently developed an inventory of the property it owns as well as updated its disposition policies to improve transparency on the process by which it declares, notifies, and makes a decision on surplus property. Although there is not a formal inventory available to the public, the Portland Bureau of Internal Business Services identifies three surplus properties as available for sale, as of May 2016<sup>257</sup>.

## Chapter 4: An Analysis of the Physical Supply of Surplus Public Land Available for Multifamily Housing

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### Introduction

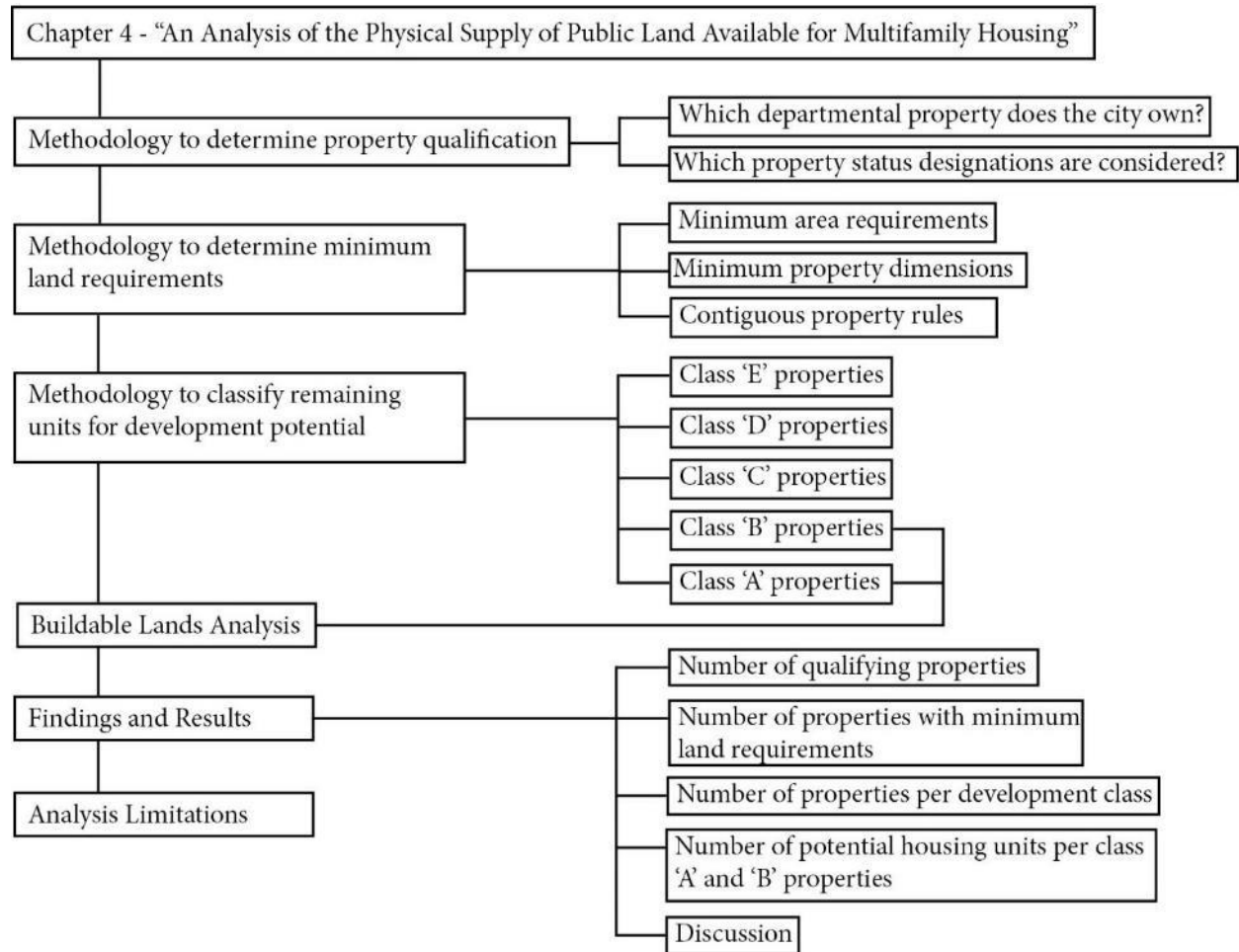
The previous chapter of this thesis reviewed the housing affordability issues facing five (5) major metropolitan cities in western North America and whether or not their local government had established any policies or instituted any programs regarding the use of surplus public property for affordable housing. The purpose of this review was to better understand how other major metropolitan areas facing housing affordability issues were addressing them and whether or not there were similar policies towards the use of surplus or underutilized public property that could inform any decision that the city of Seattle might make. Equally important to the evaluation of the HALA Strategy L.1 is an understanding of how *effective* any new policy would be towards meeting HALA's goals. Effective, in this context, refers to how much city-owned land actually exists that could realistically be utilized for multifamily housing construction and how far that gets the city to meeting HALA's goals.

In this chapter, I ask three spatial questions to further this discussion:

1. How many surplus or underutilized publicly-owned properties are available in the city of Seattle that could support multifamily housing development?
2. What are the characteristics of their physical and locational development suitability?
3. For those properties that have the greatest development suitability, how many housing units could theoretically be developed on these properties using a buildable lands analysis?

The chapter begins with an explanation of the methodology used for determining which properties are eligible for consideration for this analysis, as well as whether a property meets the physical requirements for use in multifamily housing construction. This is followed with an explanation of the methodology for how to classify these properties by their development suitability, as some properties are easier and less costly to develop than others, while some properties are located in areas that are not

preferable for housing. A brief explanation of the analysis process using geographic information systems (GIS) is provided with the methodologies. Subsequently, a buildable lands analysis is performed on those properties considered to have the greatest development suitability to estimate the number of affordable housing units that could be built on the subject sites. Finally, a summary of the results and an evaluation of the implications of these findings is provided. An outline of this process is illustrated in **Figure 4.1**.



**Figure 4.1. Chapter 4 Outline**

A conceptual model of the entire analysis is shown in **Figure 4.7** on page 117.

### Methodology to Determine Property Qualification

A key element of HALA Strategy L.1, "Prioritize Use of Public Property for Affordable Housing," is that the city evaluate its *surplus* and *underutilized* land for its value as a potential housing site. The Real

Estate Services (RES) division of the Department of Finance and Administrative Services updates an inventory of city-owned property every three-to-six months. This inventory includes information such as which department owns the property; the department ID number; the name of the property; the address of the property (though this often conflicts with the records on file with King County); the current use of the property (i.e. what it is currently used for); and the current status of the property (i.e. which of the seven categories it is classified as). The process by which city departments classify the properties under their control was discussed in Chapter 2 of this thesis, and the seven classifications are *fully utilized; hold; interim use; unused; excess; surplus; and underutilized*. City departments may have control of property of a size and location that would be ideal for housing, but if it is classified as fully utilized, hold, or interim use, then it is generally not available for future development. At a minimum, properties that have been deemed as “excess,” “surplus,” or “underutilized” will be considered for this analysis.

The more difficult qualification to define is “underutilized” for properties not designated as such by the city. As mentioned in Chapter 1, the city of Seattle defines “underutilized” as “Municipal Use property that could support additional and/or more intensive uses without interfering with the primary use of the property.” However, other definitions for underutilized properties provide slightly to moderately different interpretations for different agencies. Two similar definitions include the following:

- United States Code of Federal Regulations, Title 41 (Public Contracts and Property Management), Section 102-75.1160: Underutilized property means “an entire property or portion thereof, with or without improvements, which is used only at irregular periods or intermittently by the accountable landholding agency for current program purposes of that agency, or which is used for current program purposes that can be satisfied with only a portion of the property”<sup>258</sup>.
- San Francisco’s Surplus Public Land Ordinance, San Francisco Administrative Code Chapter 23A.3: “ ‘Underutilized Property’ shall mean an entire Property or portion thereof (including air rights), with or without improvements, that is used by the City only at irregular periods of time or

intermittently, or that is used by the City for current purposes that can be satisfied with only a portion of such Property, or that is not currently occupied or used by the City and for which there are no plans by the City to occupy or use such Property, and that has a potential for development as Affordable Housing while maintaining the existing and anticipated City uses of the Property”<sup>259</sup>.

Two other agencies provide a definition for “underutilized” that is closer to what Seattle would consider “redevelopable” for properties with an existing use not qualified as the highest and best use.

- San Diego County, Housing Element Update: “Underutilized property is land that has not been developed to its full capacity. To be considered underutilized, property must meet at least two of the following criteria:
  - The assessed value of the land is greater than the assessed value of improvements;
  - The primary improvements were built at least 30 years ago; and
  - The number of existing units could be tripled”<sup>260</sup>.
- Washington State Community, Trade, and Economic Development organization, “Buildable Lands Program Guidelines”: Underutilized land is defined as “All parcels of land zoned for more intensive use than that which currently occupies the property. For instance, a single-family home on multifamily-zoned land will generally be considered underutilized. This classification also includes redevelopable land, i.e., land on which development has already occurred but on which, due to present or expected market forces, there exists the strong likelihood that existing development will be converted to more intensive uses during the planning period”<sup>261</sup>.

“Underutilized” properties, for the purposes of this thesis, are those that follow the city of Seattle’s definition, but will consider the two similar definitions as well. Parking lots (or “surface parking”) owned by the city are traditionally the “low-hanging fruit” when considering underutilized properties. These are sites for which minimal demolition may be required to clear it for new development and for which the use of the site is not the highest and best use. The need for parking in public locations can be

very contentious, as many advocates for community services will argue that adequate off-street parking is essential to ensure that the public has access to those facilities<sup>262</sup>. There may also be legitimate concerns about security and operational logistics if the parking lot in question is directly adjoined to another existing public use (such as a library or public swimming pool). An exceptional example of when a publicly-owned parking lot can be converted into an affordable housing development is the *12<sup>th</sup> Avenue Arts facility*, built and managed by Capitol Hill Housing at 1660 12<sup>th</sup> Avenue.

The project, built in 2014 on a Seattle Police Department parking lot, features 88 housing units affordable to households earning 60% AMI along with two performing art spaces, community meeting spaces, multiple retail spaces, and underground parking for the Police Department to replace the lost parking spaces<sup>263</sup>. The



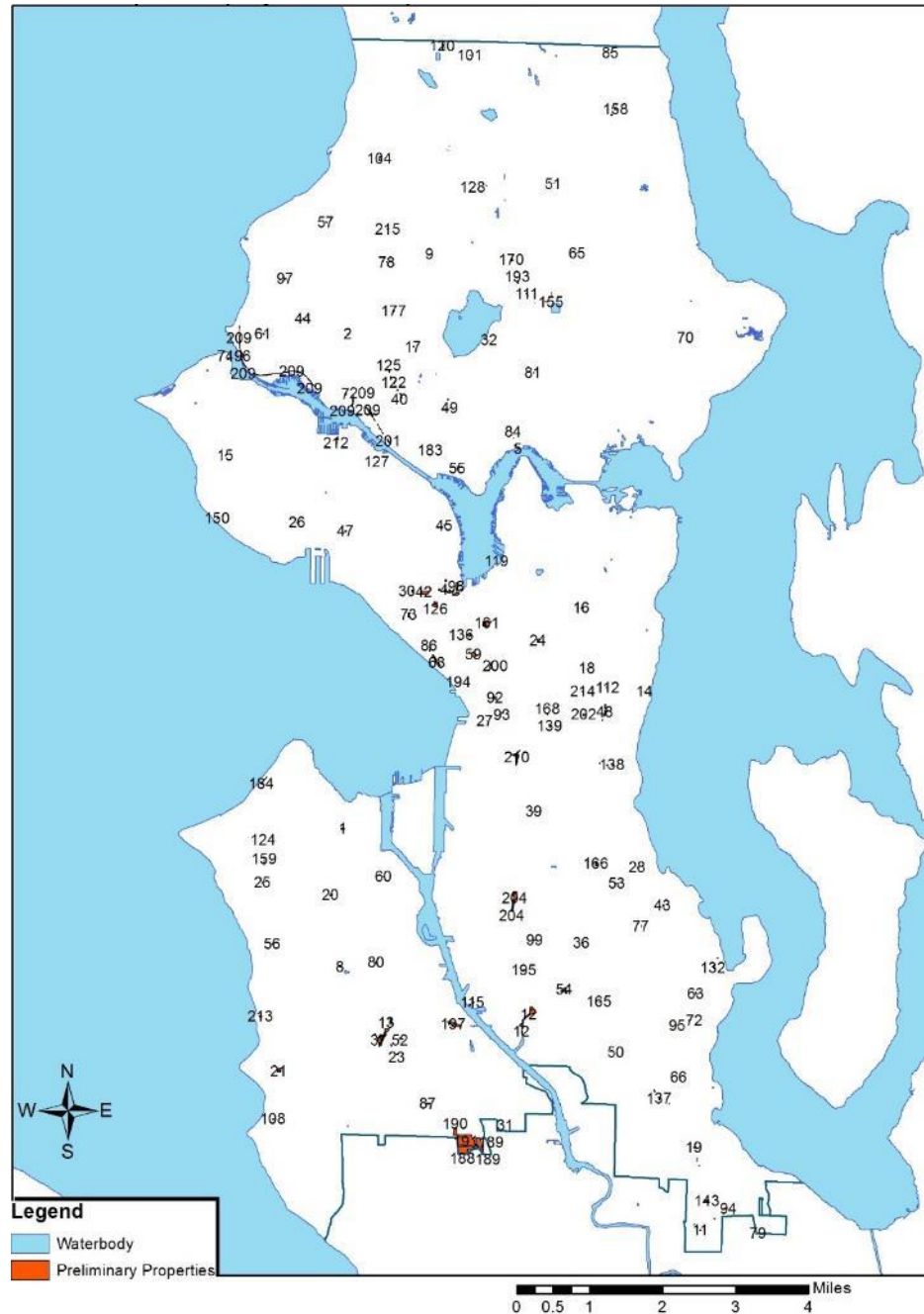
project is shown in **Figure 4.2** and is discussed further in a case study in Chapter 5.

Source: Walsh Construction Company (2015)

**Figure 4.2. 12<sup>th</sup> Avenue Arts Building<sup>264</sup>**

Qualifying non-parking public properties as underutilized based on an area of an existing site “not interfering with the primary use of the property” is difficult. In dense, urban infill properties, any space not occupied by a building is likely being used as support space for activities such as parking, pedestrian circulation, trash and recycling removal, and deliveries, among other needs. Qualifying properties based on intermittent use is also challenging. It requires a determination of how many days of the year that a site is in active use by a city department, as well as the establishment of a threshold for the minimum number of days that the property is in use enough to not be considered “intermittent.” This information is not readily available and would likely require a review of properties by the respective city departments that own them. Even if some threshold for both scenarios could be met and proven, there is the political obstacle of coercing a city department into accepting the encumbrance of housing construction in order

to share their property with private housing. Therefore, for the purposes of this thesis, only city properties currently designated as “underutilized” or used as surface parking lots will be considered in this analysis. The qualified properties are shown in **Figure 4.3** below and are labelled by Property Management Area (PMA) number, used by the city for tracking properties, to be more visible at the map’s scale.



Source: Author

**Figure 4.3. Map of Properties that Qualify for Consideration of Multifamily Housing Development**

## Methodology to Determine Minimum Land Requirements

“Affordable housing” can be built in all shapes and sizes. The reality is that “affordable housing” is simply housing for which a portion of the costs to occupy the space have been subsidized, so any type of structure that a person can inhabit can be made to be affordable to the occupant. At the smallest scale, housing can be built in the scale of “tiny houses” or detached accessory dwelling units (often called “DADUs” or “backyard cottages”). Tiny houses typically have a footprint smaller than 100 square-feet and have been built in Seattle on private lots to house the homeless population<sup>265</sup>. DADUs are one-story structures built on single-family properties with an existing house to rent out for additional income or support more family members. These structures are usually less than 800 square-feet in area and have myriad physical and logistical requirements to be permitted<sup>266</sup>. Mobile homes and pre-manufactured housing may be slightly larger in size, followed by single-family houses, and then duplexes and triplexes.

There are many publicly-owned parcels throughout the city of Seattle for which policies may be written allowing for the occupation of these sites by smaller housing units. However, the HALA Strategy L.1 specifically refers to using “quality infill sites for multifamily development.” Additionally, for the majority of nonprofit developers, economies of scale in construction and operation costs are required to maximize the number of housing units that may be produced for the cost of investment, before the returns on investment become too marginal to justify. That is to say, building 100 tiny houses on 100 properties is less efficient and arguably more expensive than building 100 housing units in a multifamily apartment building on a single site. Affordable housing developers are also often concerned not only with providing a mix of unit sizes for different family structures, but for providing other amenities and community services in these facilities as well.

There are a number of “rules of thumb” for the minimum site area and density to produce efficient multifamily apartments. The Housing Element report for the city of San Diego indicates that the state



Department of Housing and Community development “generally utilizes a threshold of 30 units per acre as the minimum density needed to potentially provide housing units for low- and very low-income households in urban areas”<sup>267</sup>. The 2014 Housing Element of San Francisco’s General Plan suggests that “most nonprofit developers of affordable housing consider 0.5 acres as the minimum lot size necessary to meet economies of scale”<sup>268</sup>. The Affordable Housing Checklist used by King County (discussed in Chapter 2) considers properties as small as 0.25 acres (approximately 11,000 square feet) as sufficient for affordable housing. Seattle’s Office of Housing has been quoted as reasoning that 100-unit buildings require a minimum of 15,000 square feet, or approximately 0.35 acres<sup>269</sup>. For the purposes of this analysis, the minimum parcel size considered for affordable multifamily housing development is 0.35 acres.

A second constraint to consider is the property’s dimensions. There are many parcels owned by the city that are large in area, but may be landscaping strips, roads, or right-of-ways that are narrow in width and very long in length. It would be unrealistic to assume that efficient housing could be developed on these sites. See **Figures 4.4** and **4.5** for a property in the Ballard neighborhood with sufficient length but a narrow width. For the purposes of this analysis, the minimum dimension for either length or width of all properties is 50 feet, based on the author’s experience to date in residential housing development.



Source: King County Parcel Viewer (2013)

**Figure 4.4. Parcel 1176000585 in Ballard**<sup>270</sup>



Source: Google Maps (2016)

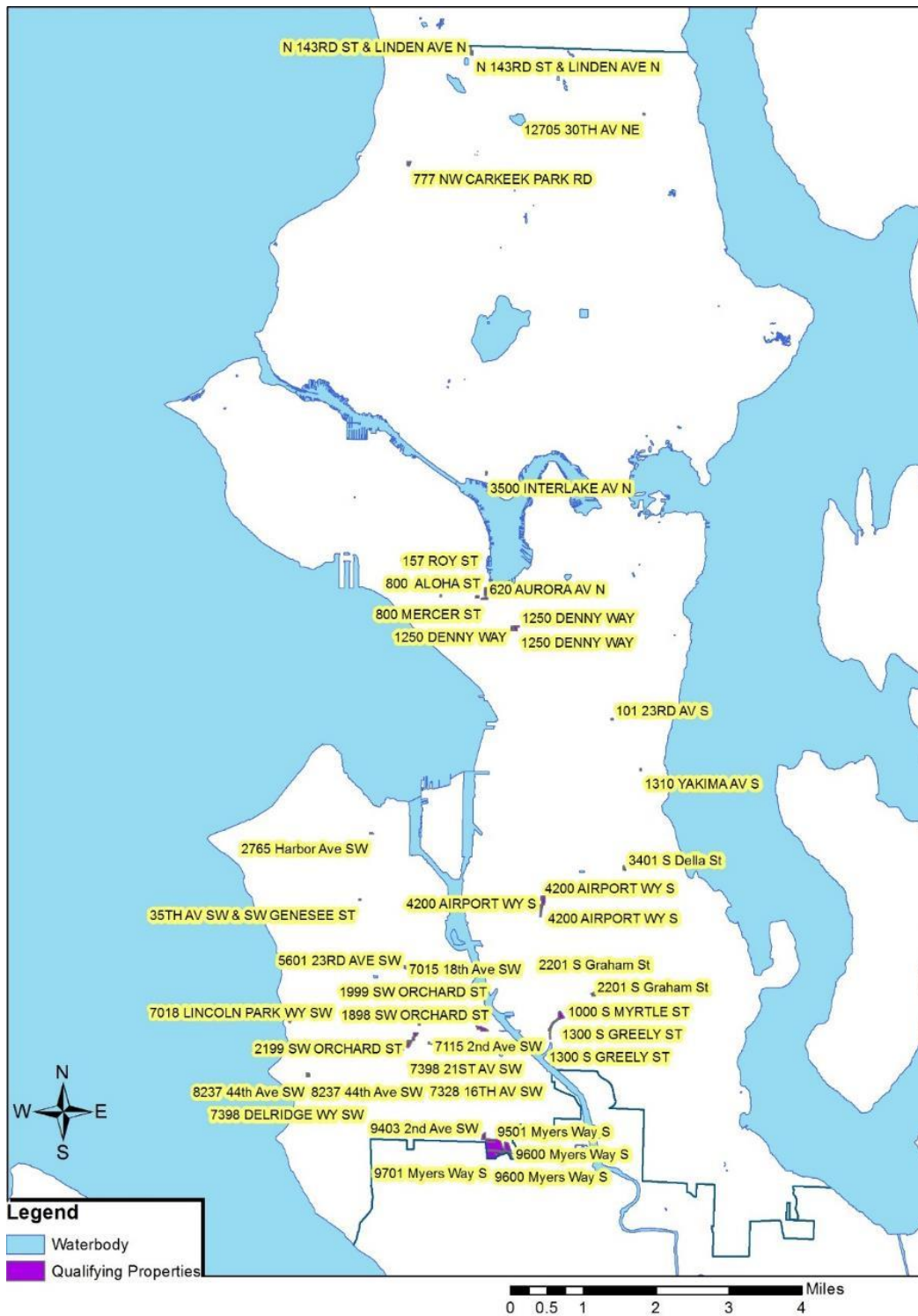
**Figure 4.5. 5980 Seaview Ave NW Property**<sup>271</sup>

Finally, the analysis considers only publicly-owned properties that are contiguous to be single sites. In many instances, RES will categorize adjacent parcels as separate properties, but these could realistically be combined into a larger property if transferred together to a developer. The larger site still needs to meet the minimum area and dimensional requirements, though. It should be noted that this analysis will *not* consider properties as applicable if, when combined with an adjacent vacant privately-owned property, the combined properties would meet the minimum area and dimensional requirements. In situations where a nonprofit developer already owns the vacant land, it would be reasonable to propose that the city sell the adjacent publicly-owned land to them to facilitate affordable housing development. If the land is not owned by the housing developer, however, there is no guarantee that it will be available at an affordable price, nor that the private owner even desires to sell it. Therefore, this situation will not be considered in the analysis. Properties that qualify for both minimum area and dimensions are shown in **Figure 4.6** in purple and labelled by Property Name to make them more visible at the map's scale.

### Methodology to Classify Remaining Units for Development Suitability

Minimum size and lot dimensions are important to apply to understand, at a basic level, how much land the city owns that is large enough to support multifamily housing. However, these parameters alone do not capture whether these sites are feasible to develop nor whether they are ideal for affordable housing. In order to answer the second question of this chapter (what are the characteristics of their physical and locational development suitability?), these properties were further analyzed through a series of filters and then classified into one of five "*development suitability classes*" labelled "A" through "E," where "Class A" properties have the highest development suitability and "Class E" properties have the least development suitability (see the descriptions below for more details). These classes are intended only to provide a *gauge* of a site's potential developmental capabilities; they do not replace the need for a feasibility analysis on any given site by a potential developer. The site's classification is intended to

articulate the legal, construction, and operational challenges that would be associated with development of these properties.



Source: Author

Figure 4.6. Map of Properties that Meet Minimum Land Requirements for Multifamily Housing

*Class E properties*

“Class E” properties are defined as those properties for which there are *additional legal constraints* (excluding zoning) associated with the use of the site. If a nonprofit developer must toil through significant legal paperwork in order to make a site viable for construction or operational purposes, it is not likely a viable property for development. Two sources of data were used to determine any legal limitations on the use of the site: the King County Department of Assessments (KCDA) and the National Historic Landmark Register. The specific parameters to be checked against from the KCDA include:

- Department of Natural Resources Leases;
- Historic Site;
- Easements;
- Deed Restrictions;
- Waterfront Restricted Access;
- Waterfront Access Rights; and
- Development Rights Purchased.

The existence of any of these restrictions would not necessarily prevent the site from being developed, but would introduce other legal requirements to be addressed that might reduce the ability to develop on the property.

*Class D properties*

“Class D” properties are defined as those properties for which there are *environmental issues* associated with the site. In some cases, these will be issues that can be mitigated through design and construction, but will incur additional costs, such as brownfield cleanup. In other cases, these will be issues that could introduce either environmental concerns (i.e. reductions in greenbelt, loss of natural drainage areas), site resiliency concerns (building housing in a floodplain), or additional legal challenges (i.e. the presence of endangered species). The qualification for “Class D” properties was determined in four ways.

First, the site was reviewed against both the 100-year floodplain and any known water bodies in GIS.

Second, the site was checked against parameters associated with the property from the KCDA, including:

- Contamination;
- Adjacent Greenbelt;
- Native Growth Protection Easement;
- Coal Mine Hazard
- Critical Drainage;
- Erosion Hazard;
- Landfill Buffer;
- Hundred Year Flood Plain;
- Landslide Hazard;
- Steep Slope Hazard;
- Stream;
- Wetland;
- Species of Concern; and
- Sensitive Area Tract.

Third, the sites were checked against lists of known brownfield sites from both the Washington Department of Ecology and the Environmental Protection Agency. Finally, any sites currently identified by the city as being used for “slope protection” or “drainage” purposes were excluded from consideration.

#### *Class C properties*

“Class C” properties are defined as those properties for which there are *topographical challenges* associated with the site. When extensive re-grading is required to develop a site, this introduces both design costs associated with grading the site to meet accessibility requirements under the Americans with Disabilities Act as well as construction costs associated with soil excavation, soil removal, additional below-grade waterproofing requirements for the building envelope, and the need for concrete retaining walls, among other increases in scope. These challenges can substantially increase the project cost. In some cases, these properties may have already been organized as “Class D” because of the property’s

potential as slope protection or its use as a landslide buffer for adjacent, down-hill properties. This analysis was conducted using GIS to determine the mean slope across a site from a digital elevation model (DEM) of Seattle based on two-foot elevation contours. The maximum threshold beyond which a site was considered topographically challenging to develop was 15%, based on research that slopes larger than this value are qualified as “steep slopes” in many jurisdictions and are undesirable to change from an environmental perspective<sup>272</sup>.

### *Class B properties*

“Class B” properties are defined as those properties for which there are other factors impacting the selection of the site for housing development, but for which these *factors add little to no additional development cost*. There were three primary factors analyzed in this class- *zoning; access to public transportation; and air quality*. In the first case, the property was checked against the site’s existing zoning (available through KCDA data) to determine if the site was currently zoned for multifamily housing. In the event that it was not, there could be additional costs associated with obtaining permit approval for a change in zoning. Zones that currently allow multifamily housing include low-rise (LR), mid-rise (MR), high-rise (HR), Seattle-mixed (SM), commercial (C), neighborhood commercial (NC), and downtown (D).

For the second consideration, GIS was used to determine whether the potential site was located within a ¼ -mile from *more than one* existing bus or transit route. Affordable housing developers are often concerned with the neighborhood amenities available to their residents, including access to parks, medical facilities, groceries, and public transportation. The latter can represent a significant cost impact for residents, and thus the location of the site relative to transit is key for determining whether it is ideal for affordable housing. The city of Seattle has a well-established transit system in place, so access to a single metro route is fairly common. The most ideal sites will have access to multiple routes, though. A ¼-mile distance equates to an approximately 5-minute walk.

The final consideration is air quality. Access to public transportation is vital for addressing the social justice element of housing needs, but the proximity of affordable housing to high concentrations of airborne pollutants may prompt concerns of environmental injustice. The highest concentrations of pollutants occur near major freeways with heavy automobile usage. Research supports that community resources should be located beyond a 500-foot buffer from roadways with a minimum of 100,000 vehicles per day<sup>273</sup>. A buffer was used in GIS around the Alaskan Way Viaduct, Interstate-5, and Washington State Route 520 in Seattle to distinguish properties more susceptible to air quality concerns than others.

#### *Class A properties*

All remaining properties through this analysis were categorized as “Class A.” These are properties for which there are *no known legal or developmental constraints* impacting the ability to develop the site and for which the location and zoning can support multifamily housing.

The methodology above is outlined in **Figure 4.7**. Once these properties were classified, a buildable lands analysis was performed to establish an approximate number of housing units that could be built on these properties.

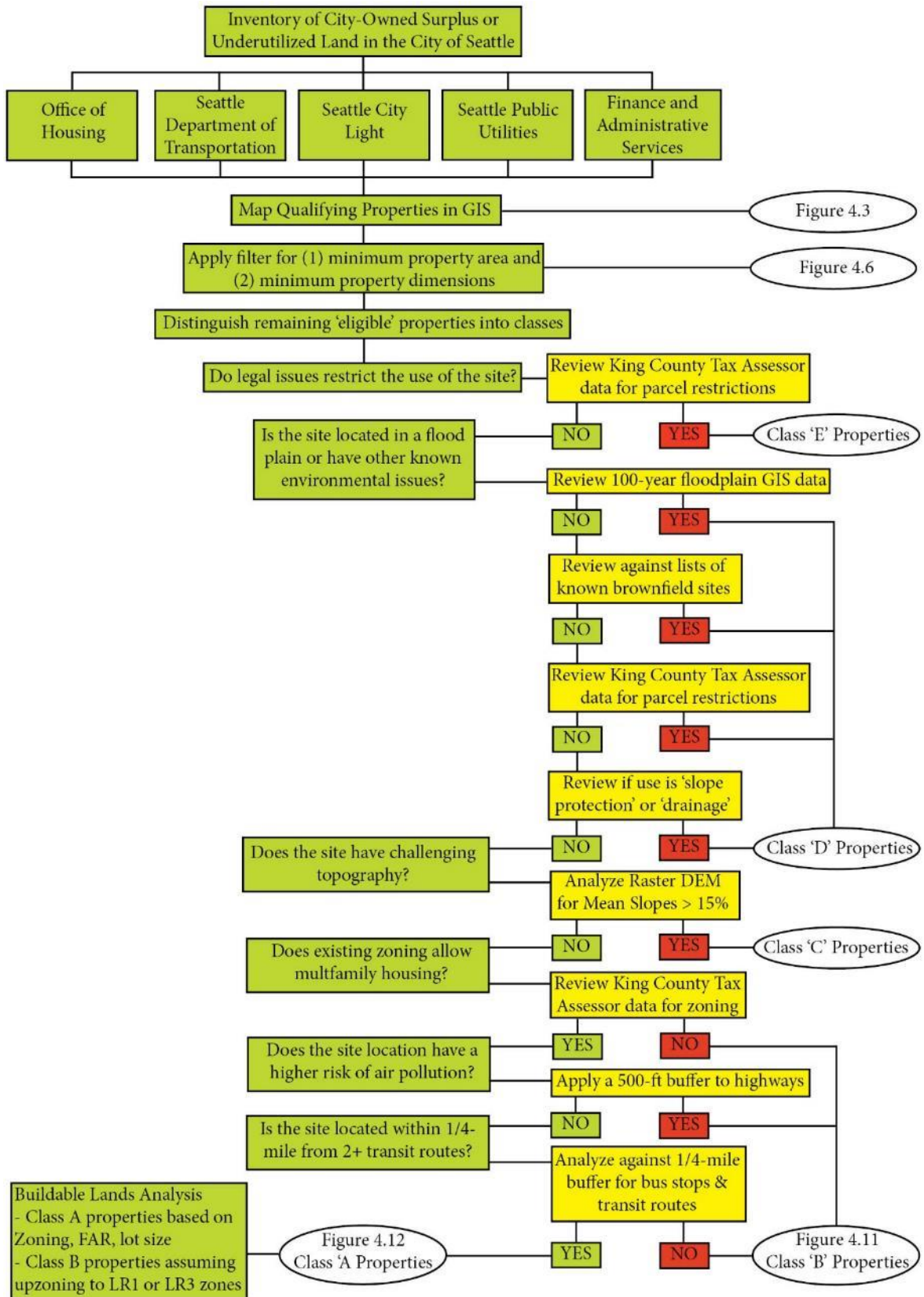


Figure 4.7. Conceptual Diagram of Development Suitability Class Analysis



## Buildable Lands Analysis

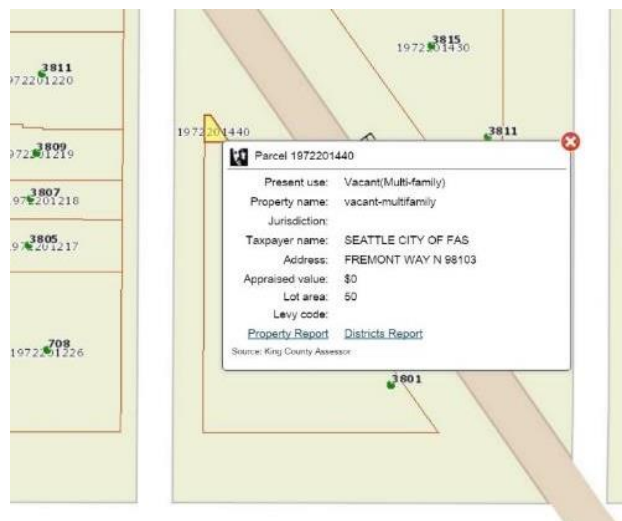
A buildable lands analysis is performed by reviewing a land inventory at the parcel level and using the achieved density determined for the area containing that parcel, the allowable floor-area-ratio (FAR) per local zoning code, and minimum lot size permitted by local zoning codes to determine the maximum number of theoretical housing units that could be developed on a given vacant or “redevelopable” parcel. FAR refers to the amount of building area permitted for construction as a proportion of the existing lot size. For example, a landowner with a 5,000 square foot lot and an allowable FAR of 2.0 per local zoning could would be allowed to build 10,000 square-feet of new floor space. The number of floors that this area could be distributed to would be a function of the allowable height for the specific type of building within the zone, but this is not necessary to know to continue the analysis. Densities are intended to be based on the actual density observed within a zoned area over the previous five-year period rather than the maximum amount of development allowed by zoning. The Seattle Comprehensive Plan 2035 Development Capacity Analysis (DCA) report specifically notes that “landowners and developers often building less than the maximum allowed by zoning because of market conditions, financing, construction costs, and other constraints”<sup>274</sup>. Public properties are typically excluded in this analysis, but the proposal under review in this thesis is unique.

The “observed” densities and FARs used in this analysis were obtained from the DCA report<sup>275</sup>. In this analysis, the observed density and FAR were used for residential-zoned properties to determine the number of potential housing units that could be constructed. For mixed-use and commercially-zoned properties, the maximum density allowed for apartment buildings in the LR-3 zone (1 housing unit per 800 square feet) was applied where densities were not observed while the observed FAR values for each zone per the DCA report were used to determine the number of potential housing units per property. For “Class B” properties, it was assumed that properties in single-family neighborhoods would be upzoned to an LR-3 zone in urban villages and an LR-1 zone at all other locations at the *bare minimum*. The logic

behind this assumption is that the HALA goal is to increase the amount of affordable housing units in Seattle, and therefore if the city is going to consider using public property for affordable housing, it should consider a higher density to maximize the use of the lot. However, a modest upzone to the LR-1 zone is arguably more politically acceptable as some existing Seattle residents in single-family neighborhoods continue to oppose upzoning<sup>276</sup>. Although there were cases where no density limit would be enforced if the project met “additional standards regarding parking location and access, alley paving, and green building performance,”<sup>277</sup> it is unknown if these additional measures could be built without a full feasibility analysis of each property and were therefore not applied.

## Findings and Results

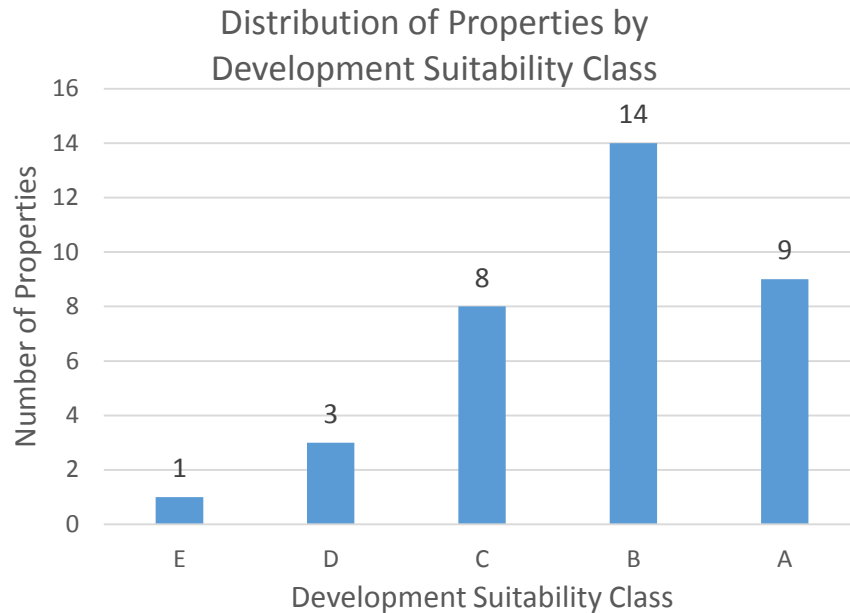
The city owns approximately 1,189 properties, including those both in the city of Seattle and within other neighboring jurisdictions. Within this inventory are 198 properties designated as excess or surplus; six (6) properties designated as underutilized; and five (5) surface parking lots (parking garages were excluded in this analysis). These 209 properties were considered in the analysis, although many of these properties also included multiple parcels. Of the surplus properties included, 169 did not meet the minimum lot area requirement of 15,000 square feet. In fact, many surplus properties were either planting strips adjacent to roads or small slivers of land between houses that were likely mistakes during the platting process that were deeded to the city (see Figure 4.8 for one example). Only one property designated as underutilized did not meet the minimum lot area requirement.



Source: King County Parcel Viewer (2013)

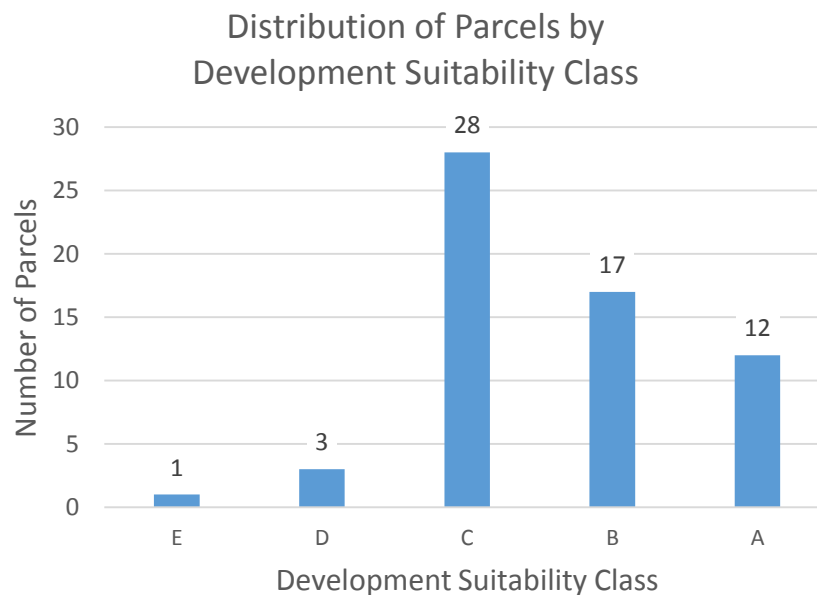
**Figure 4.8. Parcel 1972201440 in Fremont<sup>278</sup>**

When applying the development suitability criteria, the properties that applied were distributed per development class as shown in **Figure 4.9**. These properties often included multiple parcels. The distribution of parcels by development suitability class are shown in **Figure 4.10**.



Source: Author

**Figure 4.9. Distribution of Properties by Development Suitability Class**



Source: Author

**Figure 4.10. Distribution of Parcels by Development Suitability Class**

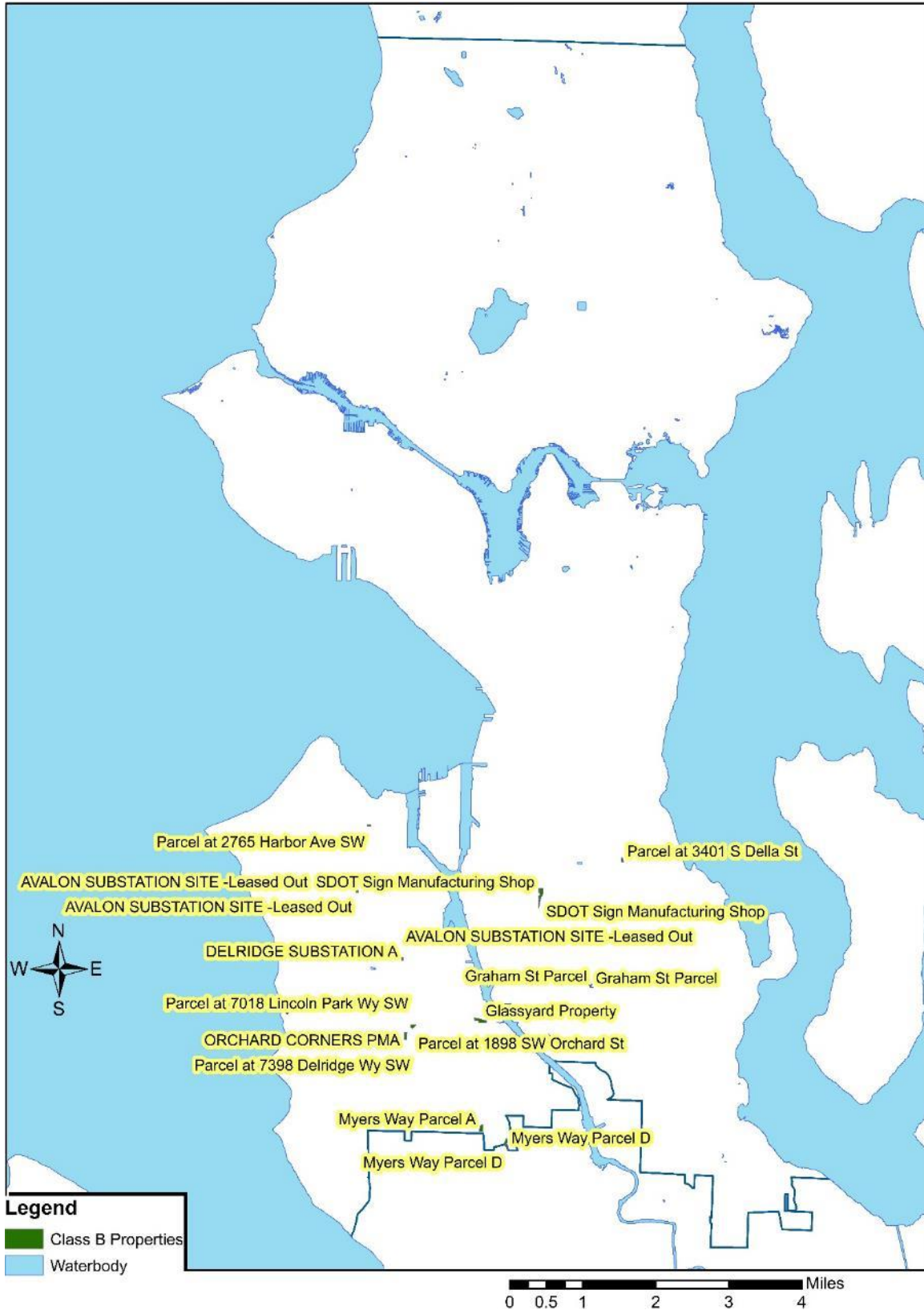
The properties that qualified as “Class B” are shown in **Figure 4.11** while those properties that qualified as “Class A” are shown in **Figure 4.12**. It is worth noting here that there were two parcels that may have qualified as “Class A” based on the analysis, but were adjacent to “Class C” properties such that they would not be distinguishable when developing the property for housing. By themselves, these properties were less than the 15,000 square-foot minimum requirement and were thus categorized based on the adjacent parcels. The number of multifamily housing apartment units that could be produced through a buildable lands analysis among “Class A” properties is shown in **Table 4.1**.

PMA Name	Address	Lot Area (sq-ft)	Current Zoning	Density	Observed FAR	Housing Units
MERCER CORRIDOR PROJECT: 800_816 MERCER	714 MERCER ST	14920	SM-SLU 160/85-240	1 unit /800 sf	14.00	
MERCER CORRIDOR PROJECT: 800_816 MERCER	800 MERCER ST	23997	SM-SLU 160/85-240	1 unit /800 sf	14.00	
MERCER CORRIDOR PROJECT: 800_816 MERCER	816 MERCER ST	15336	SM-SLU 160/85-240	1 unit /800 sf	14.00	
		<b>54253</b>		1 unit /800 sf	14.00	
Parking for Linden Tree Apts	14301 Linden Ave N	30071	C2-65	1 unit /800 sf	4.25	159
Parking for Linden Tree Apts	14301 Linden Ave N	14310	LR3	1 unit /957 sf	-	14
Building at 620 Aurora Ave N	620 AURORA AV N	24186	SM-SLU 160/85-240	1 unit /800 sf	14.00	423
Fire Station No. 39 (Old)	12705 30TH AV NE	16848	C1-65	1 unit /800 sf	4.25	89
Roy Street Shops	800 ALOHA ST	65677	SM-85	1 unit /800 sf	6.00	492
Power Control Center	157 Roy St	15376	NC3-40	1 unit /800 sf	3.00	57
Old Fire Station 6 - SPD	101 23RD AV S	19606	LR3	1 unit /957 sf	1.30	26
<b>Subtotal:</b>						<b>2209</b>
<b>Myers Way Parcel B</b>	9501 Myers Way S	<b>518330</b>	C2-65	1 unit /800 sf	4.25	<b>2753</b>
<b>Total:</b>						<b>4962</b>

Source: Author

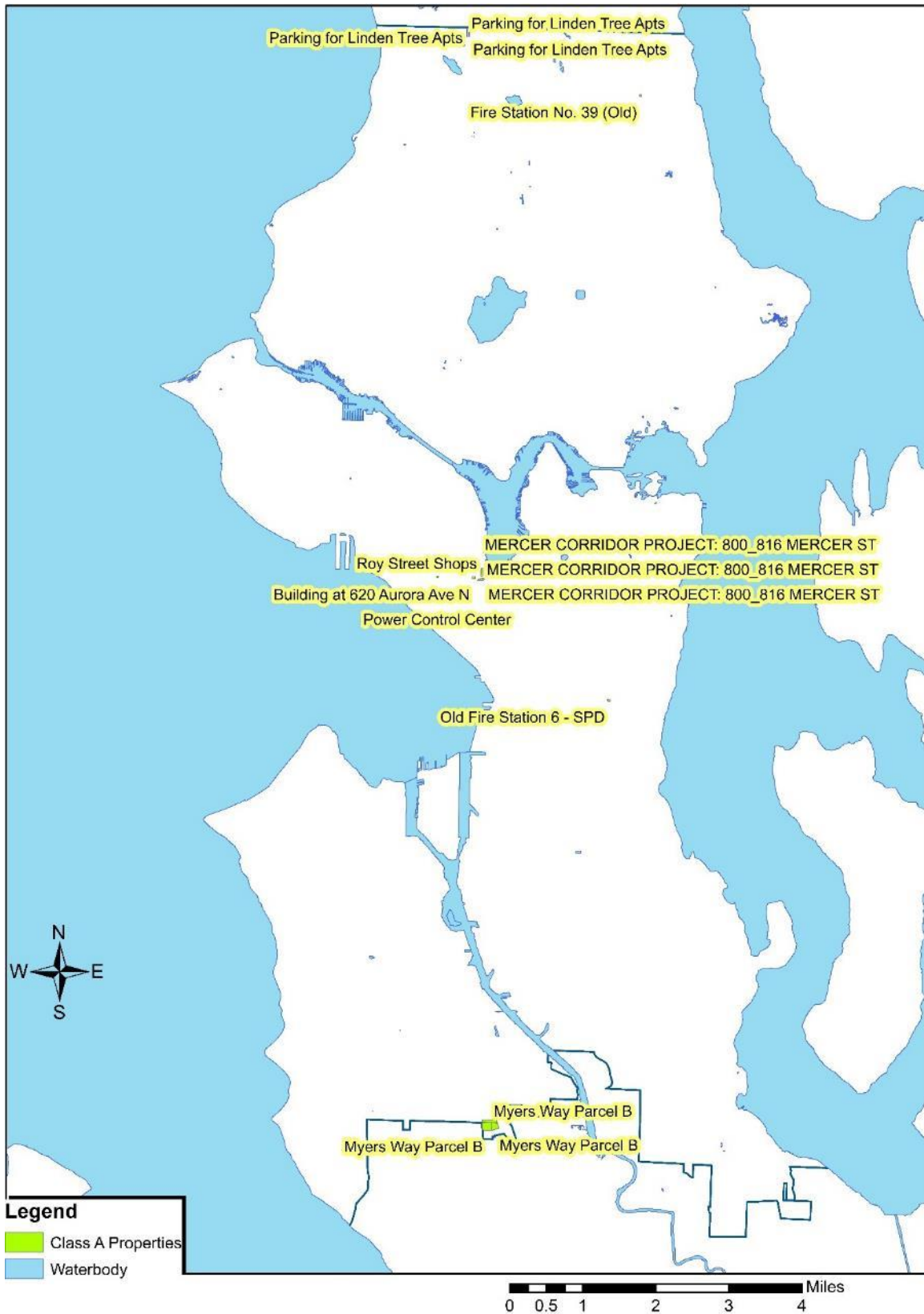
**Table 4.1. Results of ‘Class A’ Buildable Land Analysis**

The number of multifamily housing apartment units that could be produced through a buildable lands analysis among ‘Class B’ properties if the single-family residential zones are modestly upzoned to a Low-Rise LR1 zone (assuming again that this upzone would be politically acceptable) are shown in **Table 4.2**.



Source: Author

Figure 4.11. Map of 'Class B' Properties



Source: Author

Figure 4.12. Map of 'Class A' Properties

# Public Land for Affordable Housing: An Evaluation of a HALA Proposal in Seattle

PMA Name	Address	Lot Area (sq-ft)	Current Zoning	Density	Max FAR	Housing Units
Parcel at 3401 S Della St	3401 S Della St	36262	SF 5000	1 unit per 1800 SF, LR1	-	20
Parcel at 7398 Delridge Wy	7398 Delridge Way	16931	SF 5000	1 unit per	-	9
ORCHARD CORNERS PMA	2199 SW Orchard St	72000	SF 5000	1 unit per 1800 SF, LR1	-	40
Parcel at 7018 Lincoln Park Wy SW	7018 LINCOLN PARK WY SW	18197	SF 5000	1 unit per 1800 SF, LR1	-	10
Graham St Parcel	2201 S Graham St	31824	SF 5000	1 unit per 1800 SF, LR1	-	17
DELRIDGE SUBSTATION A	5601 23RD AVE SW	20016	SF 5000	1 unit per 1800 SF, LR1	-	11
Parcel at 1898 SW Orchard St	1898 SW ORCHARD ST	64751	SF 5000	1 unit per 1800 SF, LR1	-	35
SDOT Sign Manufacturing Shop	4200 Airport Way S	187551	IG2 U/85		-	
Parcel at 2765 Harbor Ave SW	2765 Harbor Ave SW	20115	IB U/85		-	
Glassyard Property	7115 2nd Ave SW	173280	IG2 U/85		-	
AVALON SUBSTATION SITE	4400 35TH AVE SW	17074	SF 5000	1 unit per 1800 SF, LR1		9
<b>Subtotal:</b>						<b>151</b>
Myers Way Parcel A	9403 2nd Ave SW	97142	SF 5000	1 unit per 1800 SF		53
Myers Way Parcel D	9600 Myers Way S	66215	C2-65	1 unit /800 sf	4.25	351
<b>Subtotal:</b>						<b>404</b>
<b>Total:</b>						<b>555</b>

Source: Author

**Table 4.2. Results of 'Class B' Buildable Land Analysis**

## Discussion

The purpose of this analysis is ultimately to evaluate whether the HALA Strategy L.1 to prioritize the use of city-owned public properties for affordable housing would have any impact on HALA's goal to facilitate the production of 20,000 more affordable housing units within the next ten years. ***Based on the buildable lands analysis, approximately 5,517 affordable multifamily housing units, or 27.6% of HALA's target for affordable housing units, could potentially be constructed on surplus or underutilized public property.*** The substantial number of units that resulted from this analysis should prompt city officials to reconsider how surplus and underutilized property could be used to support affordable housing needs.

However, it is vital that this number be re-visited for what it truly represents. Approximately 3,157 of those units came from the Myers Way properties, or 57% of all theoretical multifamily housing units. Meanwhile, another 1,372 units could be generated from just four (4) parcels alone located in the South Lake Union mixed use zone, or 25% of all potential multifamily housing units. This leaves 837 affordable housing units that could theoretically be generated on the remaining seven “Class A” properties and 151 affordable housing units on the remaining eight “Class B” parcels, or just under 18%.

It is very likely that even if all of these properties were made available for nonprofit developers to build multifamily affordable housing, they would not all be constructed. Many nonprofit developers serve different populations, from a variety of income brackets (the homeless, immigrants, low-income, middle-income, families, etc.) and in different areas of the city; just because a property is available does not mean that it is ideal for all developers equally. The financing necessary to move a project forward might prohibit the number of distinct projects that a particular developer would be able to construct in HALA’s ten-year time span. The use of a surplus or underutilized property for affordable housing may also be contingent on how aggressive any new disposition policy is enforced. Three scenarios have been produced to account for these factors- a low-build, medium-build, and high-build scenario.

#### *Low-Build Scenario*

In the low-build scenario, it was assumed that only four ‘Class A’ properties are developed. This scenario may be considered “business-as-usual” in terms of city efforts to find existing surplus and underutilized public land that could accommodate multifamily housing. It was assumed that larger projects, such as the Myers Way parcels, would require more financing to develop, and thus the smaller sites would be more likely to move forward first. One of these four sites- the Old Fire Station No. 39- has already been announced by the city and the Low Income Housing Institute that it will be developed into seventy (70) units of workforce housing, and will be examined more closely as a case study in Chapter 5.



This project has a theoretical build-out of 89 housing units, resulting in approximately 80% of the theoretical housing units being built. An 80% reduction in the number of theoretical units was therefore applied to account for site design and funding constraints that might limit the actual number of units built. In the low-build scenario, approximately **495 affordable housing units**, or 2.5% of HALA’s growth target, would be achieved (see **Table 4.3** for additional information).

PMA Name	Address	Lot Area (sq-ft)	Current Zoning	Density	Observed FAR	Housing Max	Housing Built
Parking for Linden Tree Apts	14301 Linden Ave N	14310	LR3	1 unit /957 sf	-	14	10
Old Fire Station No. 39	12705 30TH AV NE	16848	C1-65	1 unit /800 sf	4.25	89	70
Roy Street Shops	800 ALOHA ST	65677	SM-85	1 unit /800 sf	6.00	492	394
Old Fire Station 6 - SPD	101 23RD AV S	19606	LR3	1 unit /957 sf	1.30	26	21
<b>Subtotal:</b>							<b>495</b>

Source: Author

**Table 4.3 Low-Build Scenario Buildable Land Analysis**

#### *Medium-Build Scenario*

In the medium-build scenario, it was assumed that all “Class A” parcels would be developed except for the larger “Parking for Linden Tree Apartments” (“Linden Tree”) parcel, the Mercer Corridor Project parcels, and the Myers Way parcels. This scenario may be considered one in which the city takes a more aggressive approach to support affordable housing developments, but does not attempt to “push the envelope” for sites that could be more difficult to develop based on funding requirements or political pressures. The larger Linden Tree parcel does not appear to be a viable site for development upon further inspection (refer to the **Analysis Limitations** section at the end of this chapter for additional clarification) and was not included in this scenario. The Mercer Corridor Project and Myers Way parcels were also excluded because they would require significant more funding to develop than any of the other sites. It was assumed that approximately half of the units that could be produced on “Class B” properties would be developed. Aside from Old Fire Station No. 39, the remaining parcels were assumed to be developed

at 85% capacity in lieu of 80% capacity. In the medium-build scenario, approximately **1000 affordable housing units**, or 5% of HALA's growth target, would be achieved (see **Table 4.4** for additional information).

PMA Name	PMA Name	Lot Area (sq-ft)	Current Zoning	Density	Observed FAR	Housing Max	Housing Built
Parking for Linden Tree Apts	Parking for Linden Tree Apts	14310	LR3	1 unit /400 sf	-	35	30
Building at 620 Aurora Ave N	Building at 620 Aurora Ave N	24186	SM-SLU	1 unit /400 sf	14.00	846	719
Old Fire Station No. 39	Old Fire Station	16848	C1-65	1 unit /400 sf	4.25	179	70
Roy Street Shops	Roy Street Shop	65677	SM-85	1 unit /400 sf	6.00	985	837
Power Control Center	Power Control	15376	NC3-40	1 unit /400 sf	3.00	115	98
Old Fire Station 6 - SPD	Old Fire Station	19606	LR3	1 unit /400 sf	1.30	63	54
Parcel ar 3401 S Della St	Parcel ar 3401 S	36262	LR1	1 unit/400 sf	-	90	77
Orchard Corners PMA	Orchard Corner	72000	LR1	1 unit/400 sf	-	180	153
Graham St Parcel	Graham St Parc	31824	LR1	1 unit/400 sf	-	79	67
<b>Subtotal:</b>	<b>Subtotal:</b>						<b>2105</b>

Source: Author

**Table 4.4. Medium-Build Scenario Buildable Land Analysis**

#### *High-Build Scenario*

In the high-build scenario, it was assumed that all 'Class B' and 'Class A' parcels would be developed except for the larger Linden Tree parcel. This scenario may be considered one in which the city takes on a very aggressive approach to using public land for affordable housing, transferring as many properties as possible and facilitating development with staunch city support. Aside from Old Fire Station No. 39, the remaining parcels were assumed to be developed at 90% capacity. In the high-build scenario, approximately **4,450 affordable housing units**, or 22.25% of HALA's growth target, would be achieved (see **Table 4.5** for additional information).

## Public Land for Affordable Housing: An Evaluation of a HALA Proposal in Seattle

PMA Name	Address	Lot Area (sq-ft)	Current Zoning	Density	Observed FAR	Housing MAX	Housing Built
MERCER CORRIDOR: 800 816 MERCER ST	816 MERCER ST	54253	SM-SLU 160/85-240	1 unit /800 sf	14.00	949	852
Parking for Linden Tree Apts	14301 Linden Ave N	14310	LR3	1 unit /957 sf	-	14	12
Building at 620 Aurora Ave N	620 AURORA AV N	24186	SM-SLU 160/85-240	1 unit /800 sf	14.00	423	380
Old Fire Station No. 39	12705 30TH AV NE	16848	C1-65	1 unit /800 sf	4.25	89	70
Roy Street Shops	800 ALOHA ST	65677	SM-85	1 unit /800 sf	6.00	492	443
Power Control Center	157 Roy St	15376	NC3-40	1 unit /800 sf	3.00	57	50
Old Fire Station 6 - SPD	101 23RD AV S	19606	LR3	1 unit /957 sf	1.30	26	22
Myers Way Parcel B	9501 Myers Way S	518330	C2-65	1 unit /800 sf	4.25	2753	2478
Parcel at 3401 S Della St	3401 S Della St	36262	SF 5000	1 unit /1800 sf	-	20	18
Parcel at 7398 Delridge Wy SW	7398 Delridge Way SW	16931	SF 5000	1 unit /1800 sf	-	9	8
ORCHARD CORNERS PMA	2199 SW Orchard St	72000	SF 5000	1 unit /1800 sf	-	40	36
Parcel at 7018 Lincoln Park Wy SW	7018 LINCOLN PARK WY SW	18197	SF 5000	1 unit /1800 sf	-	10	9
Graham St Parcel	2201 S Graham St	31824	SF 5000	1 unit /1800 sf	-	17	15
DELRIDGE SUBSTATION A	5601 23RD AVE SW	20016	SF 5000	1 unit /1800 sf	-	11	10
Parcel at 1898 SW Orchard St	1898 SW ORCHARD ST	64751	SF 5000	1 unit /1800 sf	-	35	32
AVALON SUBSTATION SITE	35TH AV SW & SW GENESEE ST	17074	SF 5000	1 unit /957 sf	-	17	15
<b>Total:</b>							<b>4450</b>

Source: Author

**Table 4.5 High-Build Scenario Buildable Land Analysis**

As of this writing, the Myers Way properties are currently undergoing the disposition process, with the anticipation from the city that “the most likely purchaser would probably be a large distribution warehouse”<sup>279</sup>. The Preliminary Recommendation Report discussed in Chapter 2 has not been issued yet, but would provide more clarification on RES’ reasoning before City Council eventually takes a vote on it. For additional discussion on the Myers Way properties, a case study is included in Chapter 6.

### Analysis Limitations

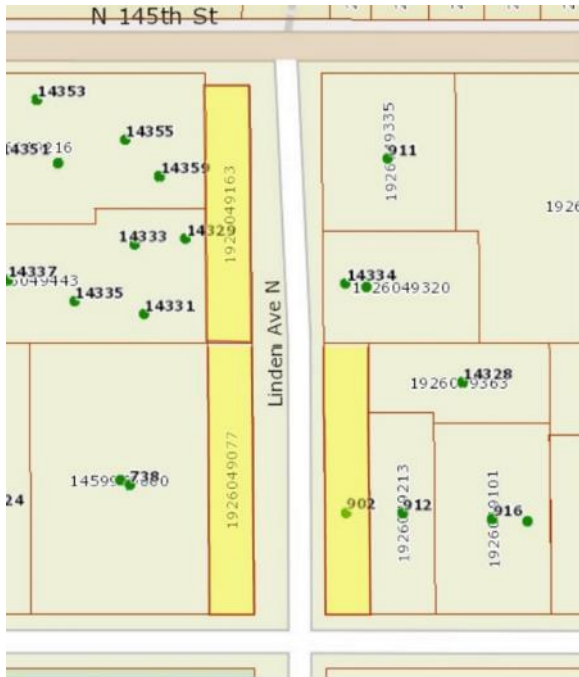
An important qualification included in the development suitability classes methodology earlier in this section was that the classes were “intended only to provide a *gauge* of a site’s developmental capabilities; they will not replace the need for a feasibility analysis on any given site by a potential

developer.” This is important to repeat- there are many other considerations that go into the valuation of a property for development, including access to amenities, the state of the real estate market, and more detailed zoning and land use requirements, among others. Further, there may be issues with the site- legal, environmental, or otherwise- that were missed in this analysis because the available data simply did not include it. Some sites may currently be undocumented brownfields for which the soil quality won’t be known until the existing buildings have been demolished and soil testing has been performed. Others may have legal restrictions that the KCDA simply did not include in their records.

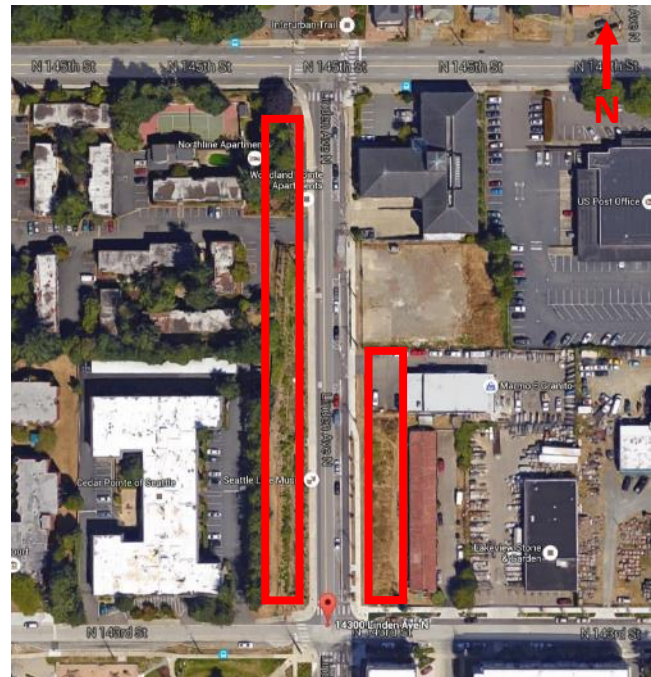
Another qualification was the limited definition of “underutilized” properties. Realistically, a thorough review of each property owned by a city department would need to be performed with that department to determine which properties they would be willing to either part with or redevelop in order to facilitate the addition of private housing to the property. Departments are given substantial leeway to determine what properties they need to continue running their operations efficiently, and picking and choosing potential sites for housing among 1,000 or so “fully utilized” or “interim use” properties is futile without departmental support or a mandate at the executive level.

Among the results for ‘Class A’ and ‘Class B’ properties, which are the most realistic properties to be buildable from the analysis, are a number of properties that, when viewed in the real world as opposed to the world of GIS, development of those sites doesn’t always seem to be straightforward. One example is the property “Parking for Linden Avenue Apartments,” owned by Seattle City Light and with PMA identification number 546 (see **Figures 4.13** and **4.14**). The property actually consists of two long and narrow parcels, bisected by Linden Avenue North (resulting in, essentially, two distinct properties). The west parcel, zoned multifamily, is largely a plantings and drainage area (potentially with utility lines) adjacent to an existing multifamily housing development, and its viability for development is questionable in spite of the analysis results. The east parcel, zoned single-family, is a more manageable plot of earth adjacent to a one-story, six-unit housing structure. Conceivably, the city could work with a private

nonprofit developer to sell them the east parcel if the developer were to acquire the adjacent property in order to build a larger, more efficient multifamily housing complex on the combined lots, but as noted earlier, this analysis did not consider any joining of city-owned parcels with other privately-owned parcels.



Source: King County Parcel Viewer (2013)



Source: Google Maps (2016)

**Figure 4.13. Parcels 1926049077<sup>280</sup> & 1926049163<sup>281</sup> Figure 4.14. 14300 Linden Avenue North Property<sup>282</sup>**

## Chapter 5: An Evaluation of the Feasibility of using Surplus Public Land for Private Affordable Housing in Seattle

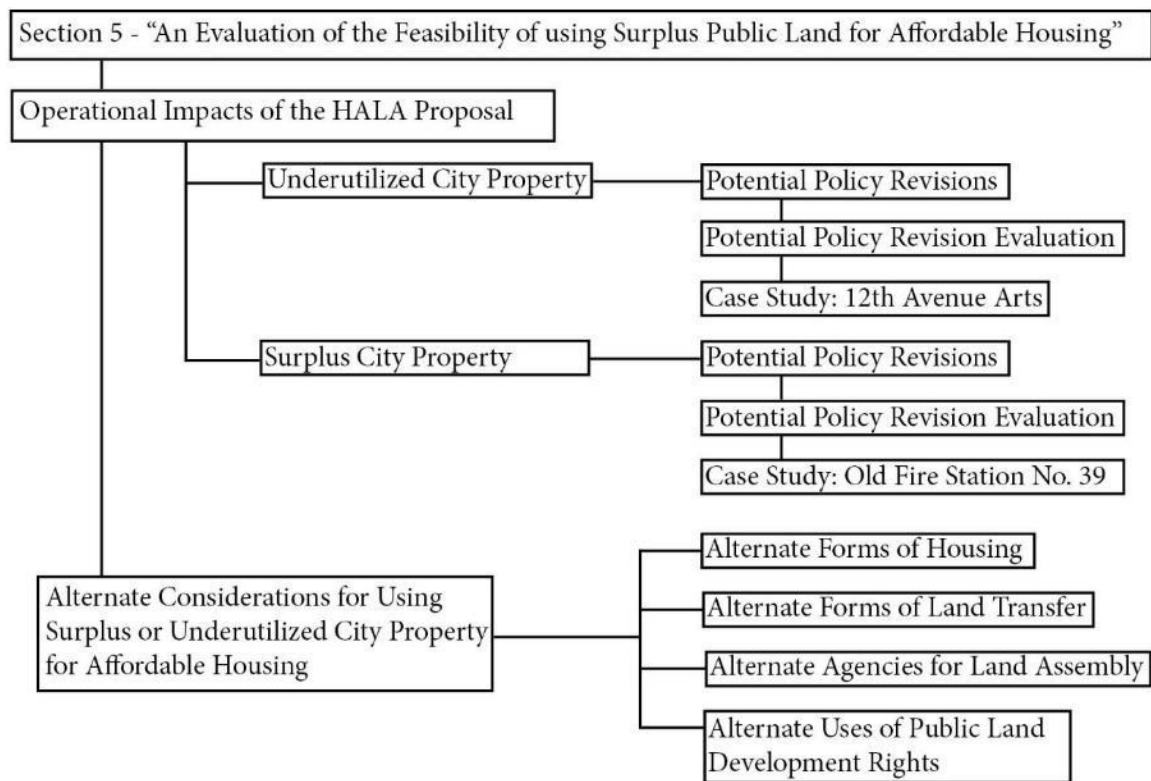
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### Introduction

The previous chapters of this thesis explored whether the strategy included in the Housing Affordability and Livability Agenda (HALA) final report recommending modifying the existing reuse and disposition policies of the city of Seattle to prioritize the use of surplus and underutilized publicly-owned land for affordable housing would be a feasible and effective policy through three lenses. The first lens, discussed in Chapter 2, investigated Seattle's policies in-depth to understand both operational and legal implications of any potential changes. The second lens, discussed in Chapter 3, involved an exploration of other reuse and disposition policies in other comparable metropolitan cities dealing with affordable housing issues. The third lens, discussed in Chapter 4, reviewed the existing supply of surplus and underutilized public property and included a buildable lands analysis to estimate the number of affordable housing units that could conceivably be built on public land with minimal developmental challenges.

In this chapter, the results from these studies are discussed collectively to produce a holistic analysis of the question driving this thesis. First, modifications to the city's existing reuse and disposition policies to meet the HALA proposal's goal are considered in order to investigate how these changes would impact the current operations for property disposition. Benefits, disadvantages, and feasibility challenges are addressed to determine how these policies could work, if at all, to provide more affordable housing in Seattle. Next, two case studies are discussed as a part of this investigation to examine how the process has worked or is working at different stages of disposition- the 12<sup>th</sup> Avenue Arts Building in the Capitol Hill neighborhood of Seattle (affordable housing built on underutilized city property) and the old Fire Station No. 39 (surplus property in the process of being transferred from the city to a developer for affordable housing). Finally, adjustments to the HALA proposal are discussed to consider other ways in which the proposed policy change may be rewritten or alternatively implemented in order to better address some

of the challenges associated with using existing public property for affordable housing. These modifications include (1) the consideration of other forms of housing besides multifamily housing; (2) the use of leases or deed restrictions (similar to those of a community land trust) on publicly-owned property; (3) the implementation of a land banking type of agency to facilitate land assembly for affordable housing; and (4) the use of the transfer of development rights (TDRs) on public land to encourage more development. For an outline of this chapter, refer to **Figure 5.1**.



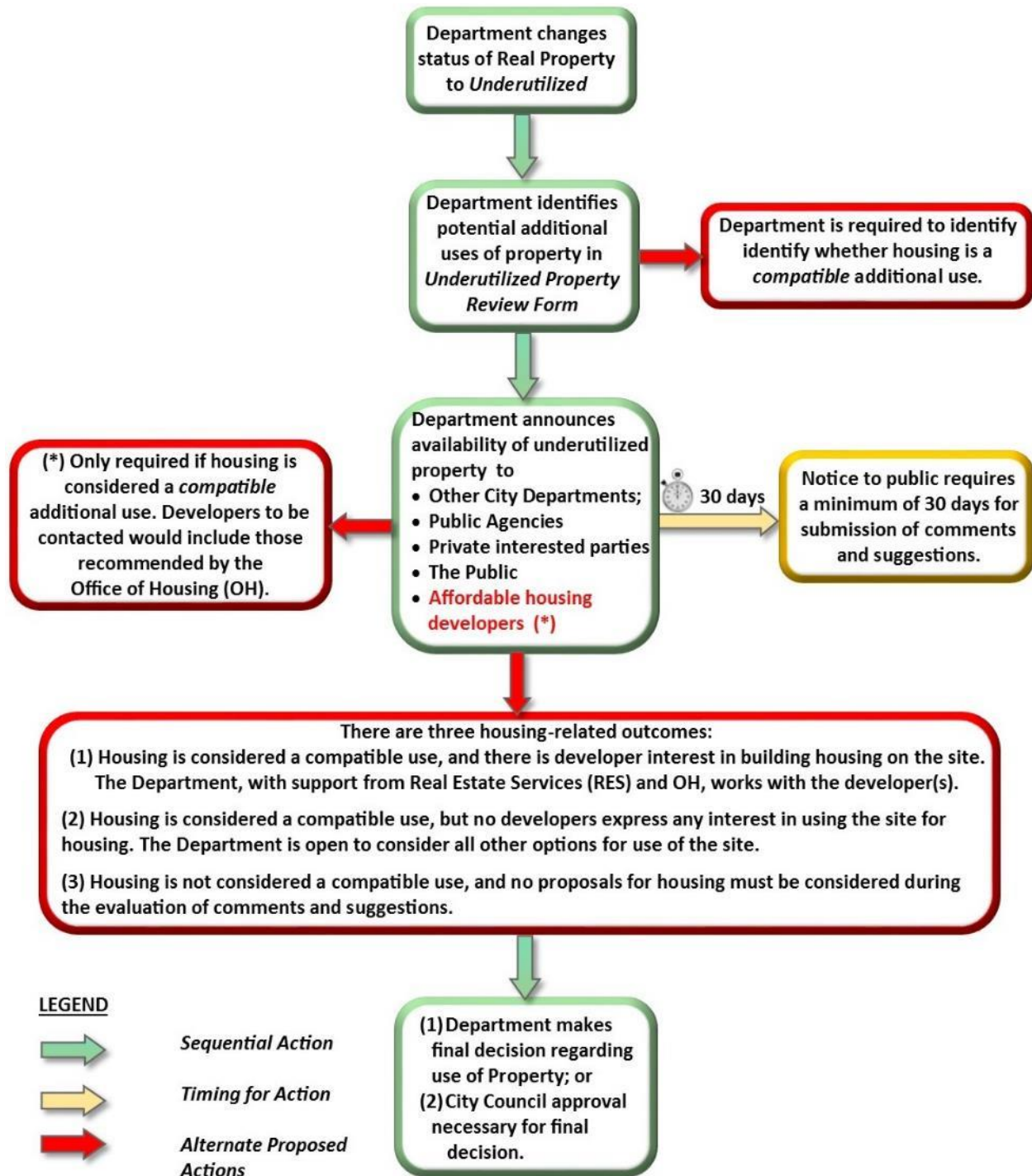
**Figure 5.1. Outline of Chapter 5**

### Operational Impacts of the HALA Proposal

The HALA proposal is for the city of Seattle to prioritize affordable housing among the potential uses for its surplus and underutilized properties. This provision would most likely be an amendment to the existing reuse and disposition policies through a new resolution, modifying the policies last adopted in Resolution 30862. It would affect the processes for reviewing underutilized properties (previously



analyzed in **Figure 2.3**) and surplus properties (**Figures 2.5** and **2.6**). A proposed alternate process for determining joint uses for underutilized properties is illustrated in **Figure 5.2** and will be discussed first.



Source: Author

**Figure 5.2. Alternate Actions for Prioritizing Affordable Housing for Underutilized Public Property**



*Underutilized Publicly-Owned Property - Potential Policy Revisions*

Using the existing joint use city policies and King County Ordinance 12394's requirements as a starting point, it would be logical for a city department to be asked early on in the reuse process to identify whether or not the site in question would be compatible for the addition of housing. Ordinance 12394's only legislated criteria for housing are that the parcel is in a zone that allows for housing, the area is within the Urban Growth Area (not an issue anywhere in Seattle), and that the neighborhood is compatible for housing. The implementation of Ordinance 12394 considers other factors for property suitability for housing, however, as noted in Chapter 2. The inclusion of a need for compatible zoning makes sense, but compatibility in this instance also means that the department would be able to continue performing its intended functions on the site without being substantially inhibited by any other uses. As noted in Seattle City Light's (SCL) *Real Property Use Guidelines*, any proposed building of any kind is an unacceptable incidental use.

If the department identifies housing as an incompatible use, then there's no need for this process to be continued further. If it *is* considered compatible, then presumably the city would want to reach out to affordable housing developers as part of its notification process of the public property in consideration for a joint use. The Office of Housing (OH) would be the ideal city department to support these outreach efforts, as the department has experience working with numerous developers through its Rental Housing Program, Multifamily Program, Homeownership Program, and Bridge Loan program. Assuming that the thirty-day period for public comments and suggestions is maintained, the department would have to make a decision about the joint use of the property following this period. Any interest from another city department for dual use to provide essential governmental services would still take precedence. If no other departmental needs were identified and a developer or developers expressed interest in the property for housing, then there would be some obligation for the department to begin negotiations for how the site would be utilized for housing. The negotiation process doesn't mean that the city would be

required to accept the developer's proposal, but that it would need to evaluate the proposal in good faith before making a decision on whether terms could be agreed upon. If no developers expressed interest in the property for affordable housing, then other uses could be considered and the department would make a final recommendation about the proposed joint use for review by Real Estate Services (RES) and the Real Estate Oversight Committee (REOC).

*Underutilized Publicly-Owned Property – Potential Joint Use Policy Revision Evaluation*

The reuse of underutilized public property to support affordable housing is incredibly challenging. There are myriad obstacles that come with sharing a public space or service with private housing. Any city department that would contemplate the addition of private housing to its site would have to consider:

1. Legislative risks. In public-private partnerships where the public partner retains ownership of the asset, they typically assume regulatory or legislative risks for any modifications required for a project through legislation, which could entail additional costs to the public<sup>283</sup>.
2. Increased liability insurance. The addition of residential housing would increase the property and casualty insurance requirements along with general liability insurance requirements. Some of these policies may be carried by the organization serving as housing manager as long as they are under contract, but the city would need to carefully identify all potential liabilities to mitigate its exposure to litigation.
3. Security risks. The sharing of a site with two competing uses requires a clear delineation of which users have access to which areas and facilities. Security measures are necessary to keep private residents out of restricted public areas; public employees out of private residences; and the general public out of both areas unless warranted as part of normal operations.
4. Political risks. All development projects carry the risk that members of the public will not approve of a project, especially if it fails to be completed for any reason.

5. Availability of loans for construction. While nonprofit agencies may have access to a variety of public funds for development, loans would be required to cover any funding gaps not addressed with private equity or tax credits. The lack of ownership of the property may reduce the ability for a developer to qualify for a loan.
6. Noise incompatibility. The existing use of the site may require operations that extend into evening and twilight hours and could be incompatible with private housing.
7. New or additional infrastructure requirements. A site currently in use by the city may not have all the infrastructure in place to support housing functions, including water, sewer, electric, gas, and fiberoptic lines. The installation of these lines may add costs and complications to any potential project, especially if it is intended that the existing use remain in operation when joint uses are considered.
8. Reduced Tax Collection. Public property is exempt from tax collection per Revised Code of Washington (RCW) section 84.36.010(1). A leasehold excise tax would not likely be collected from the private use on public property either, as subsidized housing uses are exempt from the tax per Washington Administrative Code (WAC) section 458-29A-400(5).
9. Site Maintenance. Any contract with a nonprofit agency for the management of private housing on public land would need to include clear responsibilities for site maintenance along with penalties for improper or neglected maintenance. This can become further complicated depending on what, if any, facilities are shared between uses.

These factors are a long way of saying that if the opportunity for a joint use required that the existing public use remain in place as is, then housing is virtually incompatible in all scenarios. However, there are two alternatives for addressing these concerns, even if they present other challenges. The first alternative is that the city could review the use(s) of the underutilized property and attempt to find other city-owned locations to share that use to free up the land of the underutilized property. This may not

always be a viable option, but it would be more economical for the city and help address the need to provide affordable housing. City departments may be reluctant to give up control of the property they manage, whether speaking in terms of “Department A” relinquishing the property in question or “Department B” now sharing its space with “Department A.” In many cases, the sale of the property must be channeled back into the department that owns the property. This alternative would also require city staff allocate additional time and resources into exploring shared uses.

The second alternative is that if the opportunity for a joint use is possible with the redevelopment of the site to serve multiple purposes, then housing could be constructed on the site with the aforementioned factors addressed through site redesign, careful building design, new joint use building operations, and carefully-written contracts. A transfer of the property into a private nonprofit developer’s hands with restrictions on the sale ensuring the agreed upon reuse of a portion(s) of the property for public use would address even more of the issues associated with joint use. An excellent example of how this scenario could be implemented is the 12<sup>th</sup> Avenue Arts building in the Capitol Hill neighborhood, previously mentioned in Chapter 4.

*Case Study: 12<sup>th</sup> Avenue Arts (1620 12<sup>th</sup> Avenue)*

The 12<sup>th</sup> Avenue Arts building is a 153,000 square foot mixed-use project featuring<sup>284</sup>:

- 88 apartments for both individuals and families earning 60% of area median income;
- Two (2) “blackbox” community theater spaces;
- Office spaces for community nonprofits (including the headquarters of its primary developer, the public development authority Capitol Hill Housing);
- Three (3) street level restaurant spaces; and
- 114 underground parking stalls for the Seattle Police Department (SPD).

The project is located on the site of a former SPD's East Precinct parking lot and fueling station (see **Figure 5.3**). The project began with interest from Capitol Hill Housing (CHH) in the late 1990s<sup>285</sup> and took approximately 17 years and four mayoral terms of preparation to complete<sup>286</sup>.



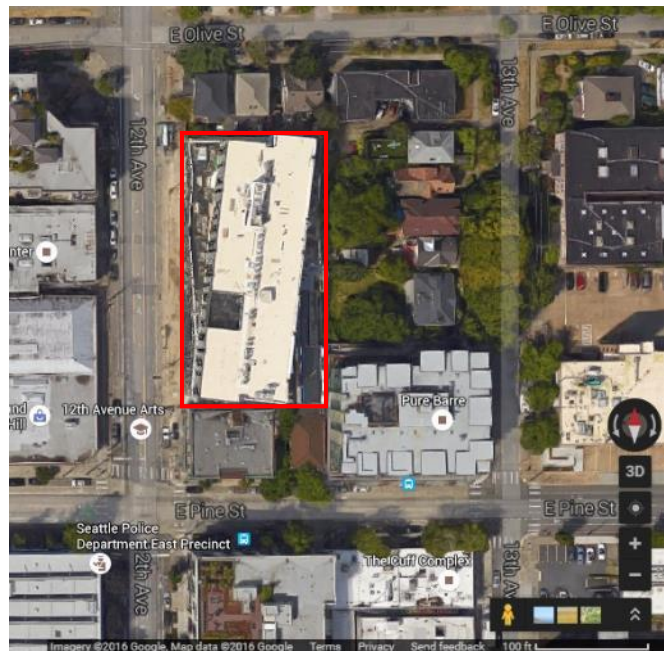
Source: City of Seattle, Department of Finance and Administrative Services (2011)

**Figure 5.3. Map of Seattle Police Department Parking at Fueling Station<sup>287</sup>**

Neighborhood residents first proposed in the 1998 Capitol Hill neighborhood plan that the area including the parking lot be re-zoned to Neighborhood Commercial and that, as a general policy, the city pursue joint-use parking agreements to optimize the use of the space<sup>288</sup>. Former Seattle Mayor Paul Schell supported the proposal, announcing that the property would be redeveloped for affordable housing at the Community Conference on Affordable Housing in 1998<sup>289</sup>. Politically, the project was attractive to community members energized by its arts component and elected officials eager to support a large mixed-

use, transit-oriented development. As CHH Foundation executive director Michael Seiwerath worded it, “You couldn’t find an elected [official] that didn’t like it”<sup>290</sup>. However, the city took the formal position in 1999 that development on the site “was infeasible due to SPD’s fueling station requirement”<sup>291</sup>.

CHH re-opened the discussion of using the property in 2007, but the process for coming to an agreement with a variety of city stakeholders on the project’s scope and requirements remained a challenge. “It is really hard to develop someone else’s land,” noted Seiwerath when discussing the project<sup>292</sup>. One particular obstacle was the number of parking stalls to be included in the new building. The existing lot contained 77 spaces and CHH proposed 75 underground parking spaces for the SPD to replace those parking spaces lost. The SPD purportedly demanded “double that to provide adequate parking for its employees,”<sup>293</sup> which would have added significant construction costs to the project that CHH would not support. The project remained in limbo until former Seattle Mayor Mike McGinn took interest and “rallied city departments to make it happen.”<sup>294</sup> A letter of intent was signed between the city and CHH in May 2011<sup>295</sup>, and the formal surplus property disposition process began the following fall. The building officially opened in late 2014 (see **Figure 5.4** for a current map of the property with the new building).



**Figure 5.4. Map of 1620 12<sup>th</sup> Avenue**<sup>296</sup>

It is questionable how quickly the project would have been built, if at all, without the political support from McGinn, who was quoted as saying during the project’s groundbreaking, “There are a lot of complicated pieces to this... There were a lot of reasons to say no, but you have to sit down with all the parties and find the reasons to get to yes, which is what happened”<sup>297</sup>. The complications of the various

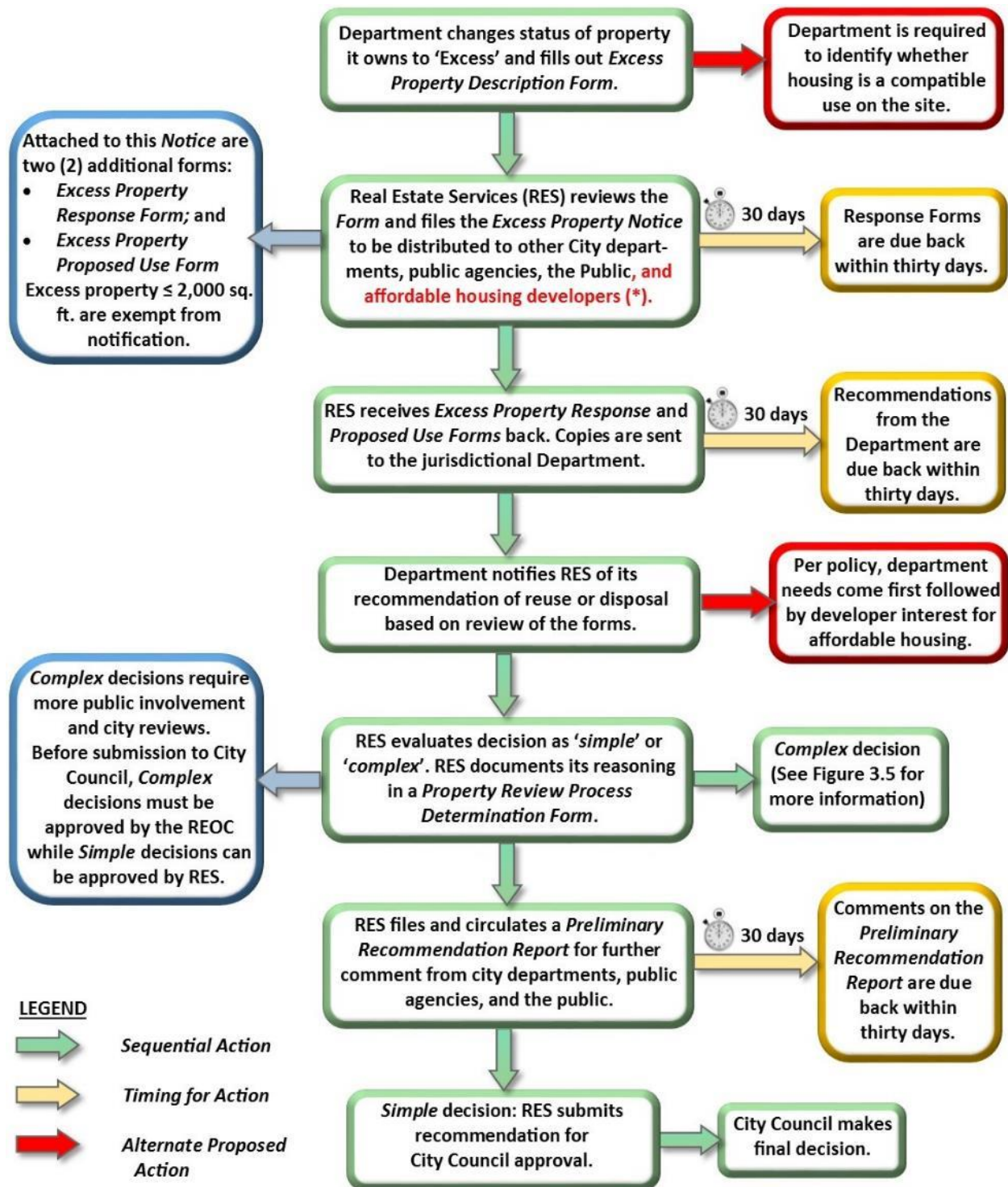
uses occupying a single site certainly added to the design challenge while another typical development obstacle was related to funding acquisition. The financing for the project required \$23 million for the residential component of the project and another \$24 million for the office spaces, commercial spaces, theater spaces, and the 114 police parking stalls<sup>298</sup>. Any large-scale affordable housing development project is going to face financial hurdles, however, and the biggest takeaway from this case study is that there may be opportunities to redevelop publicly-owned property to address affordable housing issues, but it requires substantial city support to move beyond words and intentions. A revised policy for prioritizing affordable housing might be a reasonable start for getting city departments to think about how their property may be better utilized, but a change in disposition policies would likely not be sufficient to spur city departments to think more critically about their “fully utilized” or “interim use” properties. Any successful joint use project on an underutilized city-owned property needs dedicated political support and nonprofit partners with the ability to formulate the vision and carry it through the long and arduous process of obtaining funding and community support.

#### *Surplus Publicly-Owned Property – Potential Policy Revisions*

A proposed alternate process for reusing or disposing of surplus or excess publicly-owned property is illustrated in **Figure 5.5**. The need to identify whether a property is compatible for affordable housing would follow the same logic as that of underutilized publicly-owned property and King County Ordinance 12394. One way to incorporate this exercise into existing policies would be to expand the existing *Excess Property Description Form*. An example of the current form is shown in **Figure 5.6** for the property at Yakima Avenue South and South Irving Street. This was a property made available in 2013 for disposal but remains in the city’s inventory today. In the analysis conducted in Chapter 4, this property was identified as ‘Class C’ due to the site’s steep slopes. The current form includes development issues with the property, recommended restrictions upon transfer, site size, and zoning. These items are already



factors to be considered for housing compatibility; to add a section for housing compatibility would require minimal additional work to establish (possibly a second page).



Source: Author

Figure 5.5. Alternate Actions for Prioritizing Affordable Housing for Surplus Public Property



EXCESS PROPERTY DESCRIPTION
<b>Property Name:</b> PMA # 1594
<b>Property Location:</b> The northeast corner of the intersection at Yakima Ave S and S Irving, Seattle, WA 98144
<b>Legal Description:</b> Lots 5 through 11, Block 3, Jackson and Rainier Street Addition recorded in Volume 3 of Plats, page 65, Records of King County, Washington
<b>Tax Parcel I. D. Number(s):</b> 364410-0185, 364410-0190, 364410-0195, 364410-0200, 364410-0205, 364410-0210 and 364410-0215
<b>Map/Photo:</b> See attached
<b>Jurisdictional Department:</b> Department of Finance and Administrative Services (FAS)
<b>Site History:</b> Acquired in 1964, Authorizing Ordinance 92971, as a tax property sale from King County Treasury Department for unpaid assessments for possible use as right of way. The property became an asset of the Tax Property Sales Fund which was transferred into the LID Guaranty Fund pursuant to Ordinance 110170. Once sold proceeds will be transferred to the General Fund.
<b>Development Issues:</b> Approximately 40% of the property is steep slope with an average 30' drop in elevation from east to west. City GIS shows no other environmental critical areas. Unopened S. Irving St. lies directly south of this PMA, with a pedestrian pathway running between Yakima Ave. S. and 30 <sup>th</sup> Ave. S.
<b>Current easements, covenants and restrictions:</b> None identified.
<b>Recommended easements, covenants and restrictions upon Transfer:</b> None identified.
<b>King County assessed value:</b> \$67,000 per lot (2013 tax assessment)
<b>Size:</b> Seven rectangular contiguous lots, totaling 16,477 square feet. Six of the lots measure roughly 2,400 Sq Ft apiece and 25'x96'; the corner lot is 1,920 Sq Ft and 20'x96'.
<b>Zoning:</b> Lowrise 1 (LR1)

Figure 5.6. Example Excess Property Description Form.

If there are other affordable housing suitability criteria worth reviewing, this could potentially add more time to the documentation process, but it would depend on the level of information sought. Additional criteria discussed in Chapter 4 that could be included in this form are:

## Public Land for Affordable Housing: An Evaluation of a HALA Proposal in Seattle

- Does the site have any known environmental issues, such as flooding, slope protection, a known brownfield, etc.;
- Is the site located within 500 feet of a highway and susceptible to higher air pollution?
- What public transportation routes are available within a ¼-mile from the site?

Criteria mentioned in King County ordinances as additional factors may include:

- Is water available at the site? If not, how close is the nearest connection?
- Is sewer available at the site? If not, how close is the nearest connection?
- Has the site previously been designated for open space?
- Is the site close to community services such as grocery stores and shopping centers (assuming that “close” is defined as a ½-mile or roughly a 10-minute walk)?
- Is the site adjacent to an airfield and/or residential development is prohibited as part of the Federal Aviation Administration Noise Remedy Program?

If the site was designated as compatible for housing, then affordable housing developers would be included among the usual notification recipients, following the same recommendations as made earlier for underutilized public property. The remaining disposition process would remain virtually the same, with the exception that following other city department needs, the use of the property for affordable housing (assuming expressed interest from a developer) would come second. RES would review the department’s recommendation and potentially assist in the negotiations with developers.

### *Surplus Publicly-Owned Property – Potential Policy Revision Evaluations*

The earlier example of the Yakima Avenue South properties illustrates one obstacle mitigating the potential benefits of the HALA Strategy L.1’s goal. The existing disposition policies may not prioritize affordable housing as the single desired use for surplus property, but they do not prohibit it either. There is nothing from a legislative standpoint preventing an affordable housing developer from inquiring about

the purchase of these properties today to build housing. As mentioned in the Excess Property Description Form and shown in Chapter 4, the steep slopes at the Yakima Avenue South properties are most likely the reason that no development of any kind has occurred there. The implication of this is that the city cannot create interest in a property for which none exists, other than to perhaps take extra efforts in communicating to the public and to affordable housing developers of these properties' existence. Unlike the other cities in North America with similar affordability issues discussed in Chapter 2, though, the city of Seattle has already made both its reuse and disposition policies and its inventory of publicly-owned land much more visible and accessible to the public (aside, perhaps, from San Francisco).

Where the policy proposed by HALA could really make an impact on the reuse of surplus properties for affordable housing is for *future* parcels that the city wishes to dispose of once they are no longer needed. It is difficult to gauge whether or not affordable housing developers would be interested in these properties until they are made available, as well as whether or not they would even be compatible or feasible for affordable housing development. The proposed changes to the excess property disposition process would not substantially alter the current policies, though, and would arguably incur minimal transaction costs to execute the additional steps. City Council's willingness to allow SCL to test alternate guidelines for its properties would suggest that, at the very least, it could also consider a pilot proposal for the Department of Finance and Administrative Services (FAS) to see whether these alternate steps would result in any more affordable housing units being constructed in the city.

These proposed policy revisions can be further evaluated against how existing surplus properties have been or are in the process of being transferred. One surplus property owned by the city, identified as a 'Class A' property in Chapter 4, that has already been agreed upon *verbally* by the city to be transferred to a nonprofit developer for affordable housing is the old Fire Station No. 39 (PMA #136 and Department PMA ID #A50139). The disposal of this property provides additional insight into how any

revision to the city's existing policies would need to be implemented in order to be effective at producing additional affordable housing units.

*Case Study: Old Fire Station No. 39 (12705 30<sup>th</sup> Avenue NE)*

The original fire station supporting the Lake City neighborhood, built in 1949, was identified in the mid-2000s as requiring “significant work” to be rehabilitated to meet current structural and life safety building code standards as well as incorporate modern firefighting equipment<sup>299</sup>. The city determined that it would be more cost effective to rebuild the facility on the existing site and sell the remaining area to the east (see **Figure 5.7** for a site plan). That remaining area is now in the process of being sold to the Low Income Housing Institute (LIHI) for the development of 70 units of workforce housing, split among studios, one-, two-, and three-bedroom apartments. Four (4) preschool classrooms will be built on the first floor<sup>300</sup>. The project will provide eleven (11) units for those earning no more than 30% of area median income (AMI), four (4) units for those earning no more than 50% AMI, and the remainder for those earning 60% AMI. The current timeline for this project includes design in 2016, construction beginning in August 2017, and construction completing by October 2018.

The process that led to this point began with Resolution 31292, adopted on May 2, 2011, regarding “services for homeless people who may not currently be served by the existing shelter system; and creating a work plan and timeline for analyzing alternatives and recommending actions that meet the long term housing and immediate survival and safety needs of homeless people who do not have access to safe shelter”<sup>301</sup>. This resolution identified “renovating Fire Station 39 as a possible long-term shelter or housing facility” as one recommendation for addressing homelessness along with five other alternatives for City Council review<sup>302</sup>. Then-Mayor Mike McGinn had previously approved for a temporary relocation



Source: Google Earth (2016)

**Figure 5.7. Old Fire Station No. 39 Site Plan<sup>303</sup>**

of the “Nickelsville” homeless encampment on the site in the winter of 2010<sup>304</sup>, and made the executive decision to support an interim proposal for the site for the following winter (between November 2011 and April 2012) from the Union Gospel Mission- using the old Fire Station No. 39 as a temporary, 100-bed men’s shelter at no cost to the city<sup>305</sup>. These uses informed the potential viability and need of the site to

support homeless housing, but also raised the ire of single-family housing residences in the neighborhood that did not want to see additional homeless housing built in the neighborhood<sup>306</sup>. Previous comprehensive plans for the Lake City neighborhood called for that particular site to be reused for community open space or a permanent Farmer's Market<sup>307</sup>.

The push-back from residents prompted Mayor McGinn and City Council to request that FAS and OH submit a "Statement of Legislative Intent" (SLI 35-1-A-2) for the redevelopment of the old Fire Station No. 39 for the 2012 City Budget. This budget was adopted in Resolution 31361 in February 2012, and was followed up with a report in mid-June 2012 from OH providing further detail. This report called for the Fire Station redevelopment to include, "at a minimum, long-term housing for low-income or formerly homeless individuals and/or families"<sup>308</sup>. It included the Preliminary Report and Recommendation for the property from FAS, issued June 1, 2012, that called for affordable housing on-site for individuals earning less than 30% AMI (\$26,400 for a family of four in 2012) as well as on-site support services for this constituency<sup>309</sup>. This report provided context for the FAS decision, including the site's location within the Lake City Urban Village; the existence of retail and multifamily housing nearby (with single-family housing in the surrounding area); and the distances to Lake City public amenities, such as the branch library, community center building, and several parks. It provided alternate uses for the site and reasons against these alternatives, such as economic development (the neighborhood is "overdeveloped with retail uses"), parks and open space (the Department of Parks and Recreation acquired property in the neighborhood to develop a park already and there was no funding to support a second community center), Sound Transit-related development (not within walking distance of a light rail station), and community gardens (no expressed interest from the neighborhood or Department of Neighborhoods). It also included a Public Involvement Plan, highlighting the process followed to inform residents within a 1,000 foot radius of the property and their subsequent comments. FAS followed OH's recommendation

for using the property for affordable housing, citing “low-income housing” as a priority municipal need in Resolution 29799.

The OH report provided a Needs Assessment (at the direction of the Mayor’s Office) outlining why affordable housing was an important need to be addressed with this particular site in lieu of the other recommendations submitted by neighbors (predominantly for a second community center for local teens or as a park). The Needs Assessment included:

- Demographic data from the Census and American Community Survey;
- Data on homelessness in Seattle;
- Housing unit goals from the King County 10-Year Plan to End Homelessness;
- The city’s existing capital investment in homeless housing;
- Existing affordable housing projects in Lake City;
- A survey of clients at North Helpline Food Bank;
- Key informant interviews; and
- Comments received through FAS’s Community Notification on site disposition.

The report identified OH as the lead agency to be involved with any housing redevelopment due to its administration of the 2009 Housing Levy, though it also listed the Human Services Department as a second party to assist with the project developer selection and any proposal for the use of the ground floor space. The report identified a budget of \$950,000 in funds for one-time capital costs with support from the City Budget Office along with specific funds from the property sale for the Fire Facilities and Emergency Response Fund.

The OH issued a request for proposals (RFP) in October 2012 for the development of the site, which is a relatively flat, rectangular parcel approximately 120 feet by 140 feet (16,835 square-feet in total)<sup>310</sup>. The original fire station, still to be demolished, was built prior to the city’s annexation of Lake

City in the 1950s and was built of wood, brick, and concrete block construction. It is currently located in a C1-65 Zone (allowing for a height of 65-feet) and has all utilities available on the site. The proposal called for the ground level to be used for services space in lieu of a homeless shelter as a means to address some of the community concerns for using the site for wider community needs, though it left this definition flexible in order to allow for a greater range of uses that would not require further funding from the city for operations. The original schedule submitted with the Preliminary Report and Recommendation called for the developer to be selected by December 2012, site control to be transferred by April 2013, construction to begin in June 2014, and a grand opening in the fall of 2015.

What happened instead is that the city received just one proposal, submitted by LIHI, for the development of the site for homeless housing. At this time, it is unknown why only one developer expressed interest in the property, but the OH works with the Housing Development Consortium when issuing RFPs to tap into their network of affordable housing developers<sup>311</sup>. Facing continued opposition from neighbors and the Lake City Neighborhood Alliance, the city held off on formally announcing LIHI as the selected developer to allow for more community engagement between LIHI and Lake City residents to alter the project such that it would be more politically palatable upon public announcement. The project will now provide workforce housing in lieu of homeless housing and the ground floor space will provide preschool classrooms for use by residents and the wider community in lieu of a homeless shelter. LIHI is moving forward with design services, but at this point in time (April 2016), it has only received verbal approval of their selection- City Council has not yet voted to approve the project or the property transfer. In the meantime, the site has been rented out to landowner Pierre Properties for vehicle storage while they develop other sites in the area formerly used for car dealerships.

The process that resulted in old Fire Station No. 39's redevelopment reiterates one issue addressed earlier in this chapter. The RFP for affordable housing development on the site resulted in a single response. It is unknown at this time why other developers did not express an interest, but if the city



had not received LIHI's proposal, the ability to develop housing on the site would have been greatly diminished. A new issue raised is the impact of the political process on development. LIHI was as interested in providing housing for the homeless on the site as much as the city, but pushback from Lake City neighbors forced both partners to relax the income restrictions and change the nature of the project to workforce housing. The political process may have resulted in a project that has been better accepted by the local community in 2016 than in 2012, but the project will now be completed three years later than originally expected and will not support those individuals and families with the greatest needs. Any future policy to prioritize the use of public property for affordable housing therefore needs to be robust and actively enforced by the city regardless of neighborhood complaints if it is going to support the HALA goal of providing 20,000 additional affordable housing units in the next ten years.

### **Alternate Considerations for Utilizing Surplus or Underutilized Property for Affordable Housing**

The purpose of the HALA proposal is essentially to find land not currently in use and/or at the mercy of speculative private investors and make it available to private developers to address affordable housing needs. This sub-section reconsiders some of the factors and assumptions made during the course of this evaluation that relate to the city's policies towards surplus public property and affordable housing in order to investigate other potential modifications to the HALA proposal and city policies.

#### *Alternate Forms of Housing*

This thesis only considered multifamily housing development in its evaluation of existing city-owned property in Chapter 4. This was due in part to the wording of the HALA proposal and because the Office of Housing encourages "larger projects (120+ units) on which greater scale enhances efficiency of development, financing, and operations" in its Notice of Funding Availability documentation<sup>312</sup>. However, there are other forms of housing that, while less efficient in scale, could still be provided on lots too inefficiently shaped for multifamily housing to address affordable housing needs. In particular, "tiny

houses” have been utilized by the Low Income Housing Institute (discussed earlier for their involvement with the old Fire Station No. 39) for the homeless (see **Figure 5.8**). Based on their experiences to date, they have advised those groups interested in following suit to build units approximately 96 square feet (12’-0” x 8’-0”) in size to be exempt from building permit requirements per the 2012 Seattle Building Code (SBC) section 106.2, though any mechanical, electrical, or plumbing work still requires the respective permits<sup>313</sup>. There are other requirements that need to be addressed to consider tiny housing on public property depending on the location and size of any overall encampment under the Type I Master Use permit and potentially the State Environmental Policy Act as well.



Source: Low Income Housing Institute (2016)

**Figure 5.8 Tiny House by LIHI** 314

Other forms of housing that may fit on smaller lots but for which the existing requirements may not directly support its use on other sites include detached accessory dwelling units (DADUs) and micro-housing (also called ‘apodments’ or ‘small efficiency dwelling units’). DADUs are “small residential structures sharing the same lot as a house, but self-contained and physically separate from the primary house”<sup>315</sup>. Where they are permitted in Seattle, they are allowed with a *maximum* building footprint of 800 square feet<sup>316</sup> on lot sizes with a minimum 4,000 square feet and minimum lot dimensions of 25-foot wide by 70-foot long. DADUs don’t work without an existing house on the lot (hence the definition *accessory*), but the construction of smaller housing units on public property too inefficiently shaped for multifamily housing could warrant public support. Micro-housing is traditionally built as multifamily housing with minimum unit size of 220 square feet (with a sleeping area equal to 150 net square feet of floor area)<sup>317</sup>. Bathrooms and food preparation areas are required in each unit, with varying levels of design review triggered depending on the size of the lot. The spatial and functional requirements for

DADUs and micro-housing provide another comparison for considering how affordable housing could be organized on smaller surplus city properties.

A variance would likely be required to adapt any of these types of units to fit smaller surplus lots owned by the city, especially if the units were to be built outside a single-family residential neighborhood or within the Shoreline District. However, the purpose of the HALA proposal is to think about using city-owned land, otherwise sitting vacant, for affordable housing. There aren't any straightforward revisions to the existing reuse and disposition policies that would be necessary to reflect these types of alternate housing units, but if an analysis of housing suitability was to be considered as an additional step (as discussed earlier), then the city could consider a provision that exceptions for compatibility would be allowed depending on developer interest and the needs of the population to be served. That is to say, city staff may not be expected to spend extra time during the evaluation process trying to be creative about how a given site could be used to develop affordable housing, but if a developer submitted a proposal even after housing was determined to be 'unsuitable,' the city could still be expected to consider it.

#### *Alternate Forms of Land Transfer*

Chapter 2 discussed that the city is generally prohibited from selling publicly-owned land for less than fair market value (unless it is willing to go to court to test its assumptions). The city has entered into leases with other private interests on surplus public property, however, until such time that the property could be sold or utilized for another purpose. There are three (3) surplus properties currently listed as leased out to other parties:

- Parking lot at 199 6<sup>th</sup> Avenue South (owned by Office of Housing);
- 8,000 square foot single-family residence at 3814 4<sup>th</sup> Avenue, NE (owned by Seattle City Light and adjacent to Ivar's overflow parking lot); and

- 7,400 square foot lot adjacent to two other 4,800 square-foot surplus lots at 4400 35<sup>th</sup> Avenue SW, currently “leased” to Beni Hoshi Teriyaki. This business has not been in operations since 2014 and had been sub-leasing to another party, who still holds the lease. All three lots are owned by Seattle City Light, and were classified in Chapter 4 as Class B properties.

The advantage of a lease is that the city maintains fee simple ownership of the property even if it sells leaseholder interests to another party. Restrictions and easements may be written into the lease contracts to protect city interests in the event of misuse of the property or financial distress by the leaseholder. One particular example that exemplifies how a longer lease can be agreed upon in a mutually-beneficial public-private partnership is the Mercer Arena Ground Lease, arranged in 2008 between the city and the Seattle Orchestra. Mercer Arena, built in 1927, was closed in 2003 due to the need for rehabilitation to be compliant with structural and life safety requirements<sup>318</sup>. Through Ordinance 122630 (and later amended in Ordinance 123399), the city agreed to a 30-year lease (with an option for an additional 30 years) in which the Seattle Orchestra would be able to redevelop and eventually occupy the site for use as rehearsal spaces, costume and set construction facilities, and administrative offices.

In a similar means, the city of Seattle could arrange leases for affordable housing development on city-owned property, not unlike that of a community land trust. Conventional community land trusts (CLTs) are nonprofit corporations that “hold and manage scattered parcels of land on behalf of a place-based community, with the intent of owning this land forever”<sup>319</sup>. In practice, the organization realizes this principle by acquiring property and selling off any buildings or structures on the property, whether existing or to be constructed later, while maintaining ownership of the land beneath through a ground lease agreement. By maintaining land ownership, the organization may set controls on the original home sale and all resales through deed restrictions, allowing for a perpetual supply of affordable housing. These lease controls may include fixed percentages for the amount that a home may be sold for in the future compared to the original sales price; first options for the CLT for purchasing back the home at the resale-

restricted price; and if the CLT does not purchase the home, a requirement that the home be sold to an “income-qualified” individual<sup>320</sup>. The CLT may also set restrictions on how the property may be used or subleased to ensure that the homeowner is not renting it out at market rates, undermining neighborhood affordability goals. The definition of “affordable” for this model of home ownership is not universal to all income groups, but it has been successfully implemented in the United States as a means to maintain affordability for lower-income first-time home buyers.

In most cases where cities have partnered with local CLTs, city-owned land has been transferred completely out of the city’s control to the CLT for their repurposing. There have been cases where municipalities have formed partnerships using city-owned land, though, including:

- *Jubilee Homes, Syracuse, New York*: In 1986, the city of Syracuse formed a development corporation with the Time of Jubilee Congregation called Jubilee Homes of Syracuse Inc., for the development, construction, marketing, and sale of single-family homes to low-income families. The land was sold to the Time of Jubilee after the homes were sold<sup>321</sup>.
- *Arbolera de Vida (Orchard of Life), Albuquerque, New Mexico*: When the Sawmill neighborhood of Albuquerque began to experience development pressures from public and private growth, the city heeded the advice of the Sawmill Advisory Council<sup>322</sup> (which was changed to the Sawmill CLT in 1997) to purchase 27 acres of vacant land and change the zoning from industrial to residential<sup>323</sup>. The land was eventually transferred to the Sawmill CLT for development of affordable housing. With the addition of 7 acres of adjacent property, the master planned community now offers 93 units in the form of single-family detached houses, duplexes, townhomes, and live/work spaces<sup>324</sup>.
- *Proud Ground, Portland, Oregon*: As the city of Portland was facing increasingly high housing prices in the late 1990’s, the city’s Bureau of Housing and Community Development led efforts to convene CLT practitioners and promote the development of what eventually became the Portland

Community Land Trust (later changed to *Proud Ground*)<sup>325</sup>. Once organized in 1999, Multnomah County transferred tax-foreclosed properties to the CLT for kick-starting their efforts<sup>326</sup>. The CLT has since expanded to support other counties, including Clark County in Washington. As of December 31, 2015, Proud Ground has served 310 new home buyers and maintained the median sales price of homes to less than half the market value<sup>327</sup>.

It is arguably not in the city's best interest to implement the CLT model as an operator, especially when there are existing CLTs in the region and in Seattle, such as the Homestead Community Land Trust, that have the organizational capacity to market and manage this model much more efficiently. Leasing land to CLTs with deed restrictions in place for property redevelopment, income restrictions, and re-sale restrictions would just be one way to provide perpetually affordable housing while mitigating lending of credit issues. Even if the land were eventually transferred to CLT ownership, the reduced price of the homes and re-sale restrictions could support a lower "fair market value" than if the properties were sold with such restrictions attached. In terms of comparable cities, Portland provides support to Proud Ground while San Diego identified providing city-owned land to CLTs as a recommendation in its Housing Element 2013-2020 report (program 13 under Goal 4)<sup>328</sup>. As Michael Seiwerath of Capitol Hill Housing remarked, "Ownership is not the only way to go... You can't sell the land? Great- give us a 99-year lease"<sup>329</sup>.

#### *Alternate Agencies for Land Assembly*

It was discussed in Chapter 4 that the analysis of city-owned parcels that could be assembled for affordable housing would not consider adjacent privately-owned properties, vacant or otherwise, for land assembly into a larger plot that would meet the minimum lot size requirements. The reason for this was that there would be no way to certify not only whether the property would be cheap enough for a developer to purchase for the purposes of land assembly, but whether or not the private property owner would desire to sell it. The city could always exercise its authority of eminent domain, but this would

neither be a politically viable nor economically sound application of the government's power. In other cities around North America, however, quasi-governmental agencies called "land banks" have been developed to act as intermediaries between developers and governmental agencies for the purpose of efficiently redeveloping properties for reuse. They have traditionally been organized in shrinking cities to re-purpose large inventories of vacant property, both public and private, for reinvestment.

Seattle may not have issues with an overabundance of vacant land as may be found in shrinking cities, but there are still advantages that a land banking agency could provide for addressing a lack of affordable housing. These agencies have a clear agenda to facilitate land transfers for a particular purpose, and can take the lead on assembling parcels for reuse that may not be a priority for traditional municipal housing agencies. In some states, legislation has been passed to provide these agencies with additional powers that grant them advantages in land acquisition against private entities. Examples of these organizations are as follows:

- The Michigan Land Bank Fast Track Act granted the Genesee County Land Bank "broad and flexible authority to acquire, manage, clear, demolish, rehabilitate, and develop tax-foreclosed land"<sup>330</sup>.
- Pennsylvania's Land Bank Act, Act 153 of 2012, authorizes local governments to form locally controlled land banks with the ability to acquire tax-foreclosed properties<sup>331</sup>. In Pennsylvania, tax-foreclosed properties may go to bid in two phases- first by an upset sale, whereby the highest bidder receives the title clear of public taxes or liens, and if there are no bidders, then by a judicial sale, whereby all public and private liens are cleared and the land bank may enter into exclusive agreement for the purchase of the property, regardless of whether there are other bidders or not.
- The 1990 Georgia Land Bank Statue authorized the formation of land banks co-sponsored by cities and counties for the purpose of "returning land which is in a non-revenue-generating, non-tax-producing status to an effective utilization status"<sup>332</sup>. Land banks were given the power to clear away property taxes on tax-foreclosed land, with future amendments including school district

taxes as well. The Fulton County/City of Atlanta Land Bank was formed as a tax-exempt non-profit 501(c)(3) in 1991 and remains active today.

- The study of comparable cities in Chapter 2 introduced the Vancouver Affordable Housing Agency (VAHA), a “city-controlled but legally separate entity from the city” of Vancouver, British Columbia, with the task of developing affordable housing on city-owned property. The agency acts on behalf of the city with the sole focus of strategically developing housing projects, including the acquisition of private property to add to the city’s inventory.

These examples do not directly relate to any proposed revision of the city of Seattle’s existing reuse and disposition policies, but they do speak to another provision of HALA Strategy L.1 that was not the primary focus of this thesis- that “the City should work with other jurisdictions including the State of Washington, King County, Port of Seattle, Seattle School District, and Sound Transit, to create an inventory of public properties and evaluate these to determine potential opportunities for affordable housing.” A land bank for affordable housing addresses the intent of the HALA proposal in question- the utilization of public land for affordable housing and the co-development of public land owned by different public entities. It is arguably not in the city’s best interest to try to develop new organizational capacities to assemble properties for affordable housing, but the creation of a tax-exempt, quasi-governmental agency, similar to a public development authority, for the sole purpose of assembling land for affordable housing development (until such time that funding is available to move an affordable housing project forward) would help facilitate the connection between the city’s real estate interests and those of affordable housing advocates. The only existing legislation regarding land banks in Washington state supports the banking of land for environmental and ecological purposes<sup>333</sup>, but legislation similar to that of Georgia’s, advocating for joint efforts between a county and municipality, could support efforts to address the larger issues discussed in this thesis- the high costs and dwindling supply of land for affordable housing within Washington’s urban growth area.



*Alternate Uses of Public Land Development Rights*

The analysis conducted in Chapter 4 highlighted the fact that not all surplus properties are equally developable. In some cases, there may be environmental issues such as wetlands or critical areas impacting the ability to develop the site. In other cases, steep slopes that provide drainage and landslide protection to downhill neighborhoods may be better suited to remain open space rather than be redeveloped at high cost. One alternative that the city could consider is the dedication of these sites to open space and the subsequent transfer of the property's development rights to another developer to encourage higher densities in more suitable areas of the city for growth.

King County developed its transfer of development rights (TDR) program in 1999 as a means to offset financial losses for owners of property located outside of the Urban Growth Area (UGA) required by the Washington state Growth Management Act. It is operated by the King County TDR Bank with the "primary function" to "facilitate the market in transferable development rights by engaging in high conservation priority transactions to open new markets for private TDR participants in cities that partner with King County."<sup>334</sup> The program provides a financial benefit for owners of property located outside of the UGA through the sale of the property's development rights (enforced through the addition of a conservation easement on the property, effectively preventing any future development on the property even if the UGA were to increase) while also providing a financial incentive for the buyer of the rights through the ability to further develop another site in a high-density incorporated area within the county to potentially improve the return on investment on a new development. This program is codified into King County Code (KCC) section 21A.37. As of 2016, eleven (11) properties in Seattle have received development rights to build at higher densities in new developments. These properties are located primarily in the South Lake Union and Downtown neighborhoods (see **Figure 5.9** for exact locations).

Surplus city property within Seattle is not currently eligible for the program due to the specific language of KCC 21.A.37 and the Interlocal Agreement between the city of Seattle and King County.

Section 21.A.37.020.A states that “Sending sites may only be located within rural or resource lands or urban separator areas with R-1 zoning, as designated by the King County Comprehensive Plan... ***Land in public ownership may not be sending sites***”<sup>22, 335</sup>

In other words, if the intent of the TDR program is to support and preserve rural and resource lands outside of the UGB, preserving land within an incorporated city doesn’t meet the intent. The fact that these parcels are currently owned by the city also means that it would need to transfer ownership to a nonprofit organization first for it to even be

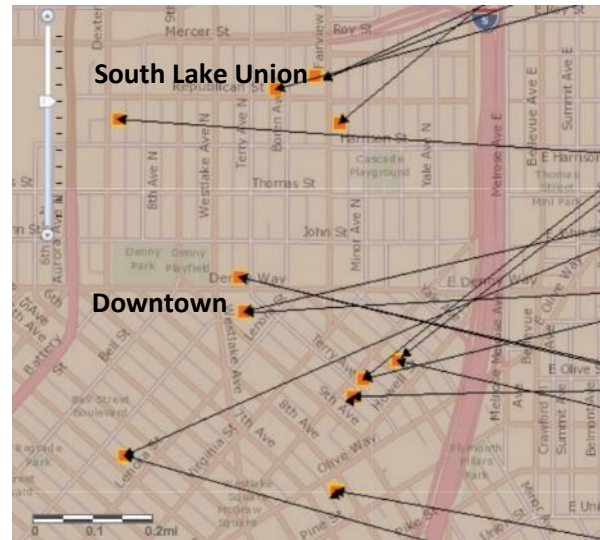


Figure 5.9 TDR Receiving Sites in Seattle<sup>336</sup>

considered eligible. The Interlocal Agreement reiterates these interpretations, calling for sending sites be “agricultural-, forest-, and rural-zoned lands within King County” or similarly-used areas in Pierce and Snohomish Counties<sup>337</sup>. King County’s TDR program is therefore not a realistic option for considering how to transfer development rights on surplus public property, unless the County were to consider revising the language and intent of its TDR Bank.

The city could adopt a separate, secondary program for preserving open space (and affordable housing) within its limits that could serve a similar purpose- and, in fact, it does. Seattle Municipal Code section 23.49.014 allows for the development rights of properties zoned *Downtown* to be transferred to new developments, provided that certain requirements are met. An expanded city-wide version of this code could support higher-density housing through preservation of otherwise undevelopable surplus public land. Implementation would require a delicate consideration of how to create a viable market for intra-city credit transfers without disrupting the King County TDR credit market.

<sup>22</sup> Emphasis provided by the author.

## Chapter 6: Conclusion

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### Introduction

HALA strategy L.1– “Prioritize use of surplus and underutilized public property for affordable housing and promote co-development in conjunction with public buildings”– is labelled a “highest impact recommendation” in the committee’s July 2015 final report. Until now, however, there has been no documentation or data to clarify just how *feasible* or *effective* of a recommendation this could be when considering the limitations imposed through physical development constraints, legal restrictions, political support, and the actual supply of land compared with the amount of housing units needed to be produced to meet the HALA mandate. The city of Seattle’s existing reuse and disposition policies are well-written, well-documented, and made available for public awareness much more so than other comparable cities, but the housing affordability crisis at the heart of the HALA concerns is not currently a focus of these policies. The amount of publicly-owned surplus and underutilized land currently available that could reasonably support multifamily housing construction is limited, but the city should be less concerned with the exact amount of affordable housing units that could be produced through a policy change as much as whether or not a policy change would result in any additional affordable housing units at all.

The purpose of this final chapter is to synthesize the content from the previous five chapters into five (5) key points that may serve as a blueprint for understanding challenges associated with housing development on surplus public property. These lessons are then applied to a final case study- the Myers Way South surplus properties, currently in the review stages for disposition.

### Key Point No. 1

***Modifying existing policies to prioritize affordable housing on surplus or underutilized property is a low-cost change.*** The changes discussed in this thesis would add minimal-to-no costs to the city’s existing property disposition processes to implement based on the length of time and resources it already

takes to move real estate projects forward. It may require as little as a second page to the *Excess Property Description Form* (refer to Figure 5.6 on page 142) to qualify a property's suitability for housing.

#### Key Point No. 2

***The idea of using surplus public property for affordable housing is not new, but is only actively supported by one other major western U.S. city and by King County.*** It can be politically challenging for any municipality to adopt a new or revised policy if it means being the first to test it. The prioritization of city-owned surplus land for affordable housing is not a new idea, however. It has been pursued in several other comparable cities like San Francisco, California, and to an extent, in Portland, Oregon and Vancouver, British Columbia. Denver, Colorado and San Diego, California, have registered the idea as a direction that their respective cities should move towards. Even closer to home, the idea has also been implemented in King County and considered a national best practice among affordable housing advocates.

#### Key Point No. 3

***Implementation of a land use prioritization policy requires robust, top-down political support.*** The biggest challenge to address with this proposal is how to apply it in a way that is actually meaningful. When considering competing land uses for any given property, there may be multiple uses that are reasonable to consider as well as specific uses that neighbors prefer over housing. Without explicit, active support from high ranking public officials, a "prioritized" use like affordable or low-income housing can still take a backseat to other uses through the course of normal operations. Consider these examples:

- San Francisco introduced its Surplus City Property Ordinance in 2002, but only 100 affordable housing units were built in the first eight years of its existence<sup>338</sup>. This prompted San Francisco's mayor to launch the "The Public Land for Housing Program" with the intent of taking a more active role in identifying public sites that could reasonably support affordable housing (though no new affordable housing units have been built on public land as of 2016). The program is guided by a

group of intergovernmental public officials that look closely at the surplus property inventory for parcels suitable for housing, with a public involvement process used to take comments as well.

- King County Ordinance 12394 resulted in approximately 400 affordable housing units being built over the first ten years of its implementation, but no units have been built since. Some surplus properties that may have been suitable for housing were sold and eventually developed into private housing that is now exorbitantly unaffordable. In May 2016, King County announced that it would lend its credit rating to help the King County Housing Authority (a public agency) acquire loans to develop or preserve affordable housing units, with the goal of producing and/or preserving 2,200 units over the next six years<sup>339</sup>. The use of surplus public land in conjunction with this new program could support King County in reaching its goals, but it requires a greater presence from King County executives to force public employees to take a harder look at the surplus property inventory.
- The 12<sup>th</sup> Avenue Arts building in the Capitol Hill neighborhood is a stellar example of how existing underutilized public property can be transformed into a neighborhood asset, but it took nearly 17 years to develop. Without aggressive support and leadership from former mayor Mike McGinn, the project may not have happened at all.
- The city is in the process of transferring the old Fire Station No. 39 to the Low Income Housing Institute (LIHI) for seventy (70) units of workforce housing and four preschool classrooms. The site was originally identified by the city and LIHI for homeless housing and support services, but neighbors protested and the current building program was produced instead. Without support from the city, the project may have been abandoned completely in support of other uses suggested by neighbors.

Key Point No. 4

***A policy change prioritizing the use of surplus and underutilized public property for affordable housing could produce between 495 and 4,450 affordable housing units depending on how aggressive the policy is supported.*** A low-build scenario producing 495 affordable housing units on surplus public property over the next ten years is a realistic, feasible direction for the city that would not require much more political support to realize. A medium-build scenario producing 1,000 units of affordable housing is also feasible, but it would require further support from higher-ranking public officials as well as a greater willingness by existing city departments to facilitate the identification and transfer of suitable sites for housing. A high-build scenario producing 4,450 units of affordable housing would be more difficult to pursue, as it would require a more zealously-supported policy to dedicating surplus properties for housing as well as the funding for much larger housing projects that may not be feasible for nonprofit developers.

The relative feasibility of each scenario (“base”) is compared to its effectiveness in **Figure 6.1** below<sup>23</sup>. For comparison’s sake, the feasibility and effectiveness of each scenario with smaller unit sizes (400 square feet in lieu of the observed density or 800 square feet, where applicable) is also shown. Although smaller unit sizes would produce higher densities and a greater number of overall affordable housing units, it would require changes to existing zoning codes and may not even be desirable for nonprofit developers and housing advocates in favor of a greater mix of unit sizes that could support families. The intent of this graph is to illustrate how a policy to prioritize the use of surplus and underutilized public land for affordable housing can be effective in producing affordable housing units, but the feasibility of achieving greater numbers of units becomes increasingly challenging depending on how aggressive a policy is enforced.

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<sup>23</sup> The feasibility identified for each scenario is based on the author’s interpretations of political, legal, and physical constraints and is intended for discussion purposes only. It is not based on a statistically significant analysis.

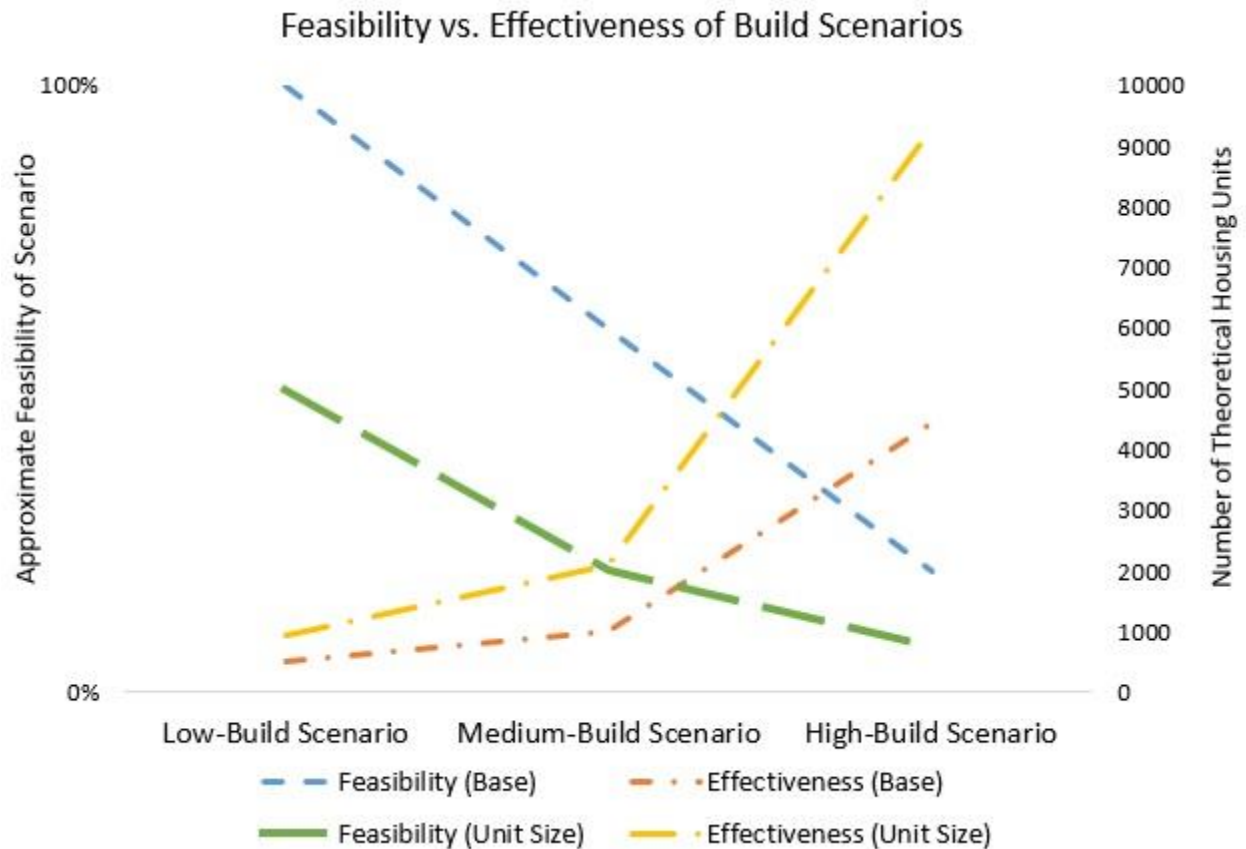


Figure 6.1. Feasibility vs. Effectiveness of Build Scenarios

#### Key Point No. 5

***Creative land use approaches, site sharing, and alternative housing types may facilitate the use of more surplus and underutilized public land for affordable housing.*** The feasibility of using surplus and underutilized public land for affordable housing can be improved as more creative approaches to development are realized. A reduced focus on solely multifamily housing may open up the possibility of using more public land for housing. A greater initiative from the city in evaluating its existing “fully utilized” or “interim use” properties may result in more efficient uses of existing properties as well as the subsequent identification of more public land suitable for affordable housing (either mixed-use or standalone). Long-term leases in lieu of full land transfers may reduce land costs for development, similar to how community land trusts preserve housing affordability. The creation of a quasi-governmental public

agency, such as a land bank, with the sole focus of identifying and assembling parcels, public and private, for affordable housing development may provide the greatest long-term support for nonprofit affordable housing developers, but would likely require financial support and organizational capacities greater than the city of Seattle could provide by itself. Regardless of which ideas gain traction over others, the city must simply avoid rigid definitions and policies for the identification and development of public land for affordable housing if it intends for any policy change to be as effective as possible in producing new affordable housing units.

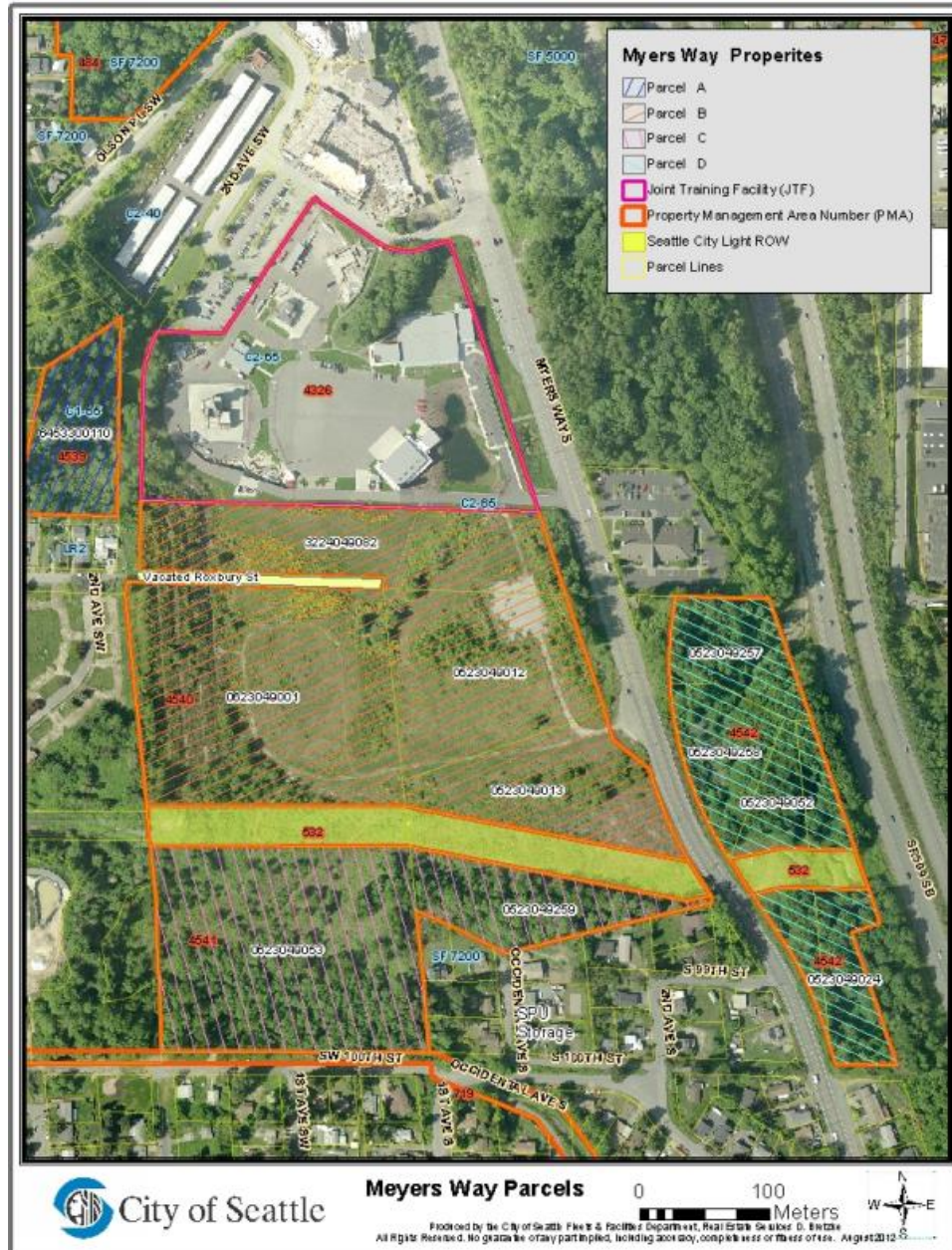
### Case Study: Myers Way South Properties

The Myers Way South properties that are currently in the process of being disposed of present another case for consideration of the existing policy's application and how any proposed revisions could impact the results. These properties were identified in Chapter 4 as having 'Class A', 'B', and 'C' developmental potential, with the potential capacity for 53 affordable housing units on Parcel A, 2,753 affordable housing units on Parcel B, and 351 affordable housing units on Parcel D, or 3,157 affordable housing units total. A site map produced by the city of Seattle is shown in **Figure 6.2**.

A study commissioned by the city in 2001 evaluating existing training facilities recommended that the Seattle Fire Department, Seattle Department of Transportation, and Seattle Public Utilities use a single site for future training to be more efficient and economical with their property<sup>340</sup>. The study also recommended that any new training facility include the space and infrastructure to train for a variety of scenarios, including "residential and commercial fires, high-rise fires, emergencies involving hazardous materials, high-angle rescues, and confined space rescues"<sup>341</sup>. On August 12, 2002, Seattle City Council passed Ordinance 120882 approving the purchase of fifty-one (51) acres of land from Nintendo of America (Nintendo) for "development and operation of a Combined Training Campus,"<sup>342</sup> referred to today as a Joint Training Facility (JTF). The ordinance also states that the agreed upon purchase price from Nintendo was for \$14.9 million and that "the City intends to resell a significant portion of the property for private



development to offset total project costs and to spur economic development in the Highpoint neighborhood.”<sup>343</sup> Hillary Hamilton, Acting Deputy Facilities Operations Director in the Department of Finance and Administrative Services (FAS), indicated to the author that the city was in a position to buy all or none of the land available, and chose to purchase all with the understanding (as written into the ordinance) that it would not retain all of the property for future use<sup>344</sup>.



Source: City of Seattle, Department of Finance and Administrative Services (2012)

**Figure 6.2. Myers Way Parcel Location Map<sup>345</sup>**

Per the Excess Property Notice filed in August 2012, the properties were officially declared surplus and to be sold in 2006 once the extent of the JTF was established<sup>346</sup>. Ordinance 122308, adopted on December 14, 2006, authorized the sale of the property to Lowe's Home Improvement Warehouse for the sum of \$9,713,000<sup>347</sup>, but environmental and permitting issues prevented the transfer from being completed while subsequent attempts at sales were slowed by the economic recession of 2008<sup>348</sup>. The environmental issues actually began in 2005 during the JTF's construction, when the U.S. Army Corps of Engineers (ACOE) issued a stop-work order for "unpermitted disturbance of waters of the U.S." related to eight (8) wetland areas impacted by the facility's construction<sup>349</sup>. The city has since conducted additional wetlands studies with the ACOE and appears prepared to recommend certain areas of the property remain as open space or wetlands<sup>350</sup>. Ordinance 123481 indicates that the city held off on selling the property while considering the site for the development of a Seattle Municipal Jail, but this potential use was abandoned in 2010<sup>351</sup>.

There is an existing Seattle City Light right-of-way between Parcels B and C that must remain in place. As shown in **Figure 6.3**, there is a water line that extends into the site at the east end while a fiber optic line runs parallel to the SCL right-of-way and parallel to Myers Way South. There are no other utilities otherwise available on site. Parcel C has a significant amount of area sloped over 40% along with wetland on the center of the site, limiting its development suitability. FAS previously recommended the sale of Parcels B, C, and D, while retaining Parcel A for environmental purposes. Other preliminary recommendations from FAS included:

- Payment price sufficient to reduce or cover the loan and interest costs used to purchase the property (estimated at \$13 million);
- Support a use of commercial development to support economic growth;
- Ensure satisfactory compliance with all applicable permitting requirements;
- Dedication of easements and covenants for critical environmental areas on the sites; and

- The establishment of a City vehicle parking area at the north end of Parcel B to support the JTF use (the city has a covenant with a nearby senior housing facility for shared parking, but anecdotal evidence suggests that this arrangement has not worked out operationally<sup>352</sup>).

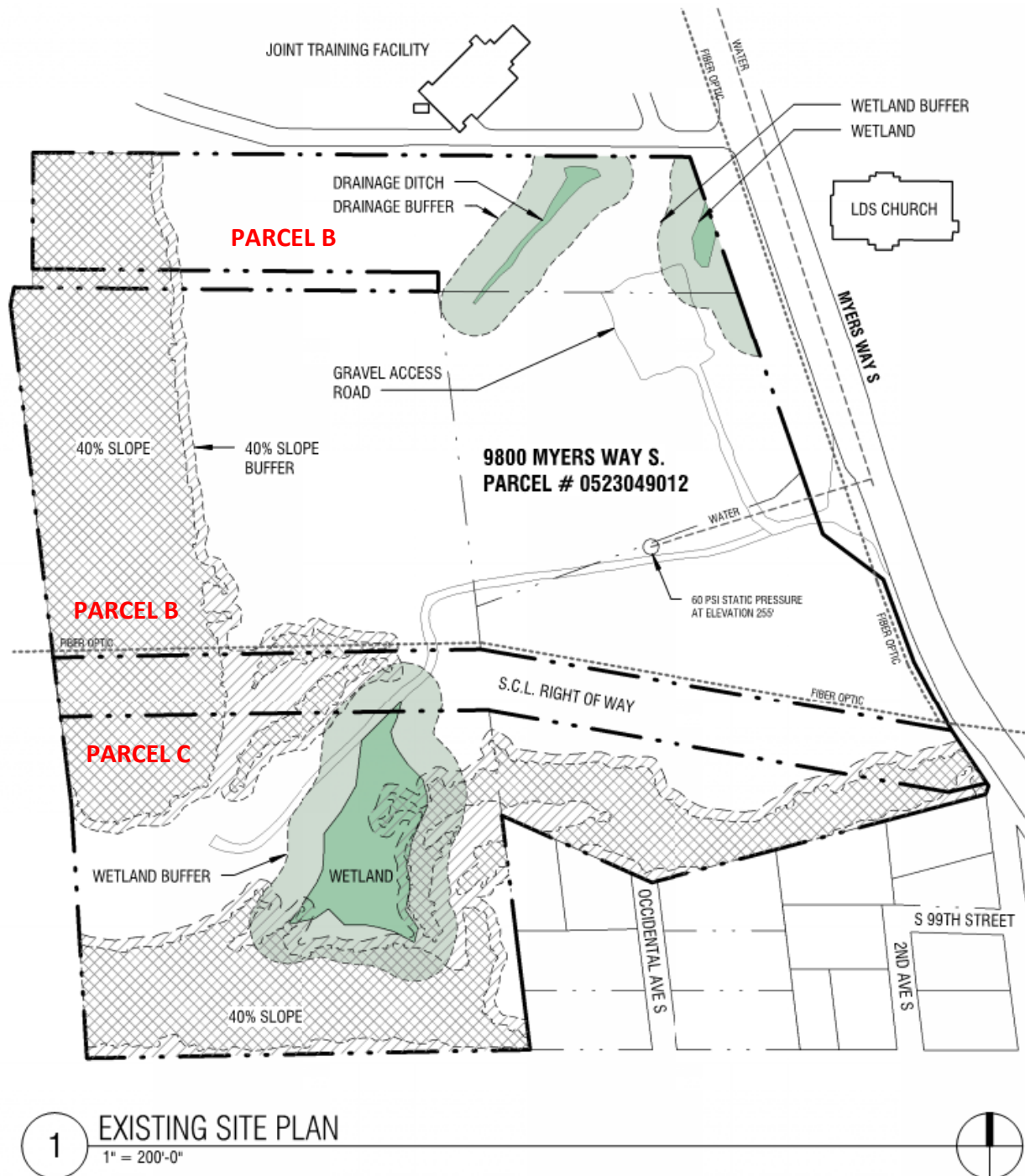


Figure 6.3. Site Analysis & Test Fit Study Prepared by SHKS Architects, 12/01/14

FAS completed its Preliminary Report and Recommendation in May, 2016 for the use of the property. The north end of Parcel B is intended to be retained for parking while the remainder is intended to be sold “at fair-market value.... [to] a developer that supports community needs such as job creation or mixed-use activities”<sup>353</sup>. Parcel C is recommended to be sold to a land trust for preservation as open space. Hamilton remarked that Parcel B wasn’t considered suitable for affordable housing “because of cement-kiln dust contamination left over from fill brought to the site decades ago” as well as the high cost of “roads, sewers, electricity, and drainage” that would be necessary for construction. Mayor Murray and current City council members have recommended that \$5 million from the sale that isn’t used towards repaying the \$13 million loan and interest costs be used to fund homeless housing<sup>354</sup>.

The Myers Way property sales are a valuable case study because the approach that the city appears to be taking is not illogical. The site does have some utilities available, but it would require additional sewer lines and electrical lines at a minimum (assuming they don’t need to increase the capacity of the existing water lines to support more development) and this would add construction costs to any non-profit-led affordable housing project. The surrounding neighborhood is supported with single-family residential housing and some lower-income multifamily housing, but has limited commercial development to support those neighbors. The JTF construction also raised awareness that the site’s location in the Hamm Creek watershed increases its potential for worsening the condition of the Duwamish-Green River<sup>355</sup> (though this would be the case for any development, whether it was commercial or residential). The way that the current reuse and disposition policies are written, the city has more flexibility in evaluating how a site may be disposed.

The concern at the heart of HALA, however, is that flat, vacant, developable land is incredibly difficult to come by for affordable housing developers in Seattle and the city is sitting on roughly 12-acres of it (assuming that Parcels C and D remain preserved for open space while portions of Parcel B are

preserved for additional JTF parking). Based on current observed floor-area ratio and 800 square-foot apartment spaces, Parcel B could support approximately 2,750 affordable housing units. If city policies were revised to prioritize the use of this site for affordable housing, there is no reason that they could not stipulate affordable housing for the Myers Way parcel B property in addition to a mix of other retail, commercial, office, or community spaces to address other concerns. It is irrelevant whether or not there is already lower-income housing in the area- the entire point of HALA is that there simply is not enough low-income housing available to accommodate the needs of the city in the present, let alone future. The city's proposal to use \$5 million from the sale of the property for homeless housing is better than not doing anything to address the issues raised in HALA, but the use of that land for the actual development of homeless or affordable housing *now* is arguably a better use of the existing resources available.

## Conclusion

There are not any realistic changes to the existing policies that would serve as a panacea for affordable housing woes, but the changes discussed in this thesis would add minimal-to-no costs to the city's existing property disposition processes to implement based on the length of time and resources it already takes to move real estate projects forward. In circumstances where either city departments are hesitant to relinquish control over underutilized property or neighborhood residents are reluctant to accept low-income housing in their neighborhoods, policy changes alone may not be sufficient to advance affordable housing projects forward, as realized in the 12<sup>th</sup> Avenue Arts and Fire Station 39 case studies. Continued proactive support and leadership from the Mayor and City Council members is necessary to steer land use decisions towards those that benefit the least advantaged. Considerations of alternative forms of housing and land transfer agreements of city-owned property would further support the HALA goals, but they may require additional political capital to implement. The incorporation of a land bank to facilitate the entire process and assemble parcels among multiple agencies, jurisdictions, and interests

might better address the issues raised with Strategy L.1, but would require substantially more political capital (city, county, and state support) to accomplish than revisions to the existing reuse and disposition policies. No matter which approaches the city takes to advance the construction of new affordable housing units on surplus and underutilized public land, continued political support and resourceful decision-making are necessary to steer land use decisions towards those that address the affordable housing crisis in Seattle.

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