

**Recommendation to Interdepartmental Team,
Seattle City Council and Office of the Mayor
on Statement of Legislative Intent**

July 30, 2015

Seattle Green Spaces Coalition

This Memorandum puts forward ways for the City of Seattle to activate and steward City-owned surplus¹ property.

Underutilized surplus properties present opportunities to retain and enhance Seattle's green infrastructure while furthering our environmental goals and goals of environmental equity.

The options address funding sources and public/private partnerships. Some of these options are innovative; others are tried-and-true and have been used by municipalities in similar contexts. Throughout the City, neighbors are eager to create new uses of surplus land for public benefit. Seattle Green Spaces Coalition recommends that you implement options to retain and enhance our green infrastructure.

The options are intended to complement Seattle's existing green belts and park system, and not to compete with the Department of Parks and Recreation ("DPR"). Rather, the options are to address unmet needs outside of DPR's current capacity. Further, the options can complement solutions to our need for more affordable housing as well as other needs.

Seattle's Green Infrastructure is a Vital Asset

Seattle's green infrastructure is a vital public asset. Our urban forest is a key component of Seattle's infrastructure, providing essential services with environmental and economic benefits. Seattle's Forest Ecosystem Values, Analysis of the Structure, Function and Economic Benefits, Green Cities Research Alliance, August 2012.

Approximately 414 acres of city-owned land is considered "excess" or "surplus" by city departments. Much of this land is open space that has been part of our living ecosystem for generations. Many parcels are wooded, with plants and tree canopy; they catch storm water runoff and provide wildlife habitat. These assets

¹While this document refers to "surplus" property, this recommendation is not limited to those properties, which have been declared surplus, but can apply to include "excess" property, which has not yet been declared surplus, as well as other underutilized City-owned properties.

have been providing clean air, play space, health benefits, and many other ecosystem service benefits. (See Executive Summary, 2013 Urban Forest Stewardship Plan, pp. 2, 5, 11 for a catalog of urban forest benefits.)

In 2011, the Trust for Public Lands reported that Seattle parklands and natural areas deliver nearly **\$500 million a year in benefits and savings** to the city, beyond the \$20 million they generate in revenue. The 2013 Urban Forest Stewardship Plan (UFSP) details \$23.4 million annually in air quality benefits and savings alone from urban forests – plus further tens of millions of dollars in storm water reduction, erosion control, habitat provision, heat island mitigation, property value enhancement, recreation and public health and community building. In total, **Seattle’s green infrastructure provides nearly three-quarters of a billion dollars in benefits and savings to the city every year.**²

Not only does our green space work for us, it is aesthetically beautiful. Seattle’s natural beauty, its trees and waterways is the primary reason why many people chose to live here and, in turn, why companies chose to do business here. Behind that beauty is an economic engine.

Open Space is Essential to Balance Our Growing Built Environment

As Seattle’s built environment grows, our concurrencies must grow as well, including our vitally important green infrastructure. Our growing population requires more open space³ to make urban neighborhoods livable.

Seattle 2035 Draft Environmental Impact Statement says that under all Alternatives for a new Comprehensive Plan, adding more households would widen existing gaps between the aspirational goal of 1 acre of open space per 100 residents. (Draft EIS, 1-24) **According to the Draft EIS, the City would need to add 1,400 acres of “breathing room” open space to meet our open space goals.**

²See also Seattle’s Forest Ecosystem Values, Analysis of the Structure, Function and Economic Benefits, Green Cities Research Alliance, August 2012, pp. 14-16, quantifying values of Seattle’s urban forest in removing pollutants, sequestering carbon, and saving Seattle millions of dollars in energy costs.

³Puget Sound Regional Council defines open space as “a collective term for a whole range of green places, including natural and environmentally critical areas (such as steep slopes, wetlands, and aquifer recharge areas), parks and recreational areas, and natural resource lands (such as agriculture areas and forests).” VISION 2040, p. 36.

Yet as important as it is, Seattle lacks an integrated plan for open space, the “aspirational” goals of the current Comprehensive Plan are unmet⁴, and development is gobbling up open space. Further losses of open space will take place without proactive steps to secure surplus land. The Department of Finance and Administrative Services has identified approximately 414 acres of surplus property including open space that if sold by the City will further reduce our open space.

While city departments have identified possible uses or pilot projects for surplus property, there is no integrated approach to re-purposing the land for public benefit.⁵ The Draft EIS does not address how open space deficiencies will be remedied. It points out that the Parks District will provide funding for park maintenance, operation of community centers and developing new parks on previously acquired sites. (Draft EIS, 3.8-17). However it omits mention of acquisition of any other land for new park sites, except for the central waterfront project.

DPR’s ability to acquire open space is very difficult given the cost of land, the need to pay fair market value and the lack of available space for purchase. (Draft EIS, 3.8-28) Even with Parks District funding, DPR is focusing on maintenance of existing parks, not acquisition, and it is taking steps to make inroads into our natural areas to accommodate recreational needs.

⁴Eleven out of 32 urban villages do not meet open space goals. (Seattle 2035 Draft EIS, 3.8-16) Many other deficiencies are identified in the Draft EIS (see Draft EIS, 3.8-16) With projected population growth, there will be more demand for parks, recreational facilities and open space. (Draft EIS, 3.8-25) Significant gaps in open space in certain single-family areas are likely to continue under all alternative scenarios. (Draft EIS, 3.8-28) See also DPR’s An Assessment of Gaps in Seattle’s Open Space Network: The 2011 Gap Report Update (2011).

⁵The Comprehensive Plan contains aspirational goals of using surplus sites for open space, among other uses. Other city-sponsored studies have identified additional beneficial public uses for Seattle’s city-owned surplus land. (E.g. 2015 Seattle Sustainable Neighborhoods Assessment Project (surplus land can provide green infrastructure benefits); Seattle’s 2012 Food Action Plan (recommending unused City-owned land as potential sites for urban farms and gardens); Integrating Food Policy in Comprehensive Planning: Strategies and Resources for the City of Seattle, Puget Sound Regional Council, August 2012, p. 11 (recommending use of surplus property for community food sources); Horst, M. Growing Green: An Inventory of Public Lands Suitable for Community Garden in Seattle, Washington, University of Washington, College of Architecture and Urban Planning (2008) (inventorying Seattle’s vacant, excess and unused properties as potential sites for urban agriculture).

Public/Private Partnerships Provide a Way to Keep Public Land for Public Benefit

Seattle has a laudable and extensive history of re-purposing sites of historical, cultural and environmental significance, such as Gas Works Park, the Burke-Gilman trail and MOHAI, to name just a few. These make our city unique, celebrate our heritage and add dimension to the fabric of our lives. People love to visit and spend time in places that mean something to us. This past experience can be brought to re-purposing our surplus land.

Seattle also has a strong history of numerous, successful public/private partnerships, such as the Pike Place Market, and Green Cities Partnership. City Fruit and Seattle Tilth have expressed interest in expanding their urban agriculture programs on City-owned surplus property. There are other potential partners in the private and non-profit sectors.

Throughout the City, people have demonstrated strong motivation to be involved in planning for and activating open space in our neighborhoods. Seattle Green Spaces Coalition is working with neighborhoods⁶ to identify how to re-purpose our surplus land to meet needs and desires as determined by the neighborhoods (be it green space, community gathering places, low income housing, electronic charging stations, art installations, amphitheaters, solar demonstration projects, community gardens, emergency hubs, storm water swales, botanical gardens, etc.). The surplus land presents an opportunity for neighbors to “seed something” positive for the city.

Re-Purposing Our Public Land Provides Opportunities for Social Justice

Scientific studies confirm that having trees in communities can make places more walkable, reduce crime, ease feelings of stress and depression, and boost property values. Such services and benefits contribute to public health and urban sustainability. (Seattle’s Forest Ecosystem Values, Analysis of the Structure, Function and Economic Benefits, Green Cities Research Alliance, August 2012, p. 20.)

All residents of the city deserve equitable access to these benefits. The City of Seattle’s commitment to equity as part of the Race and Social Justice Initiative provides a foundation for addressing socio-economic differences across the city,

⁶Delridge Neighborhood Development Authority is actively working to secure funding to restore a wetland on a surplus Seattle City Light property, neighbors in the Sunset Hill area of Ballard have planned a solar project at a surplus substation, Eastlake Community Association members are interested in securing a submerged surplus parcel to ensure shoreline views. Fauntleroy residents wish to build a botanical garden on a surplus site.

enhancing both social and environmental benefits for all residents of the city.

Options

1. Align the Policy of “Disposition” of Surplus Property with the City’s Climate Action Plan and Goals of Environmental Equity.

Our policy with respect to surplus land can be improved to ensure that surplus land is used to meet our environmental goals and our goals for environmental justice. The current disposition process can be improved to (1) account for ecosystem services benefits of our public land, and (2) prioritize use of surplus land for open space.

A. Accounting for Ecosystem Services

Too often, the department charged with “disposing” of surplus property defers to the judgment of the “owning” departments as to the environmental impacts of sale of the property. Further, unless communities can afford to purchase the property, the default is to sell the property.

The current disposition of City surplus property sets the sale price at fair market value. This pricing system neglects the ecosystem services benefits of the land to the City. Further, it fails to take into account the added value of neighborhood participation in activating and stewarding the land. The history of Seattle’s disposition of surplus property shows that on numerous occasions, neighborhood groups’ efforts to re-purpose land has been rejected for lack of funds, without adequate consideration to the economic and noneconomic value which their involvement and re-purposing would bring.

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An integrated approach with looks to our long-term policy goals, and values stewardship of our urban forest would better serve our environmental goals. Until we meet our open space goals, urban forestry canopy goals, climate action plan goals, and goals of environmental equity are met, it is imprudent to sell valuable assets, which are part of our green infrastructure.

Millions of dollars of ecosystem services value to the City of its lands, as reported by the Trust for Public Lands do not appear in any city budget or asset management category. The city simply does not account for them, which gives the impression that the City does not value its green infrastructure beyond the current real estate appraisal value. We assert that millions of dollars' worth of benefits present the city with a fiduciary responsibility to protect and steward our assets.

Improving our surplus property policy can be viewed in the context of our public lands as a whole. We recommend that the city undertake an analysis of our green infrastructure, how it serves the city, what the future demands will be, and how it will meet our future demands. We recommend that the surplus property policy would include an analysis of ecosystem services of surplus property.⁷ Improved metrics to value our city-owned land as well as an improved "re-use" process that appropriately values these lands are justified because these assets are too valuable and too hard to be replaced, to be sold for short-term market rates.

Seattle Green Spaces Coalition has requested that economist David Batker, co-founder of Earth Economics, brief the City Council on using ecosystem values and pricing to improve green infrastructure stewardship and asset management.

B. Prioritizing Surplus Land for Open Space and Affordable Housing.

HALA, the Housing Affordability & Livability Advisory Committee, recommends that the City evaluate surplus and underutilized land as resources that could be used for the development of affordable housing, adding that **"Seattle Comprehensive Plan goals, such as open space, should also be considered."** HALA recommends that the City prioritize using surplus and underutilized properties for affordable housing and explicitly allow the sale or lease of City-owned land at less than fair market value for affordable housing purposes. (HALA Recommendation, p. 19.)

Including open space with affordable housing makes sense. Affordable housing and open space are not in competition, rather they complement each other, as HALA recognizes in pointing to the Comprehensive Plan open space goals. Therefore we recommend that open space be made a component of any plan to

⁷This proposal is consistent with the 2013 Urban Forest Stewardship Plan (UFSP) which proposed that the city (1) develop comprehensive systems of monetizing urban forest benefits, including public health benefits, energy benefits and climate-change impacts, (2) develop a more detailed method for quantifying storm water and water-quality benefits with respect to trees, and (3) analyze research on data with respect to benefits of the urban forest as a race and social justice issue for community improvement and cultural engagement.

use surplus property for affordable housing and that use of surplus land for open space at below market rate be similarly prioritized.

2. Integrate Departments and Partner with Utilities to Capture the Value of Ecosystem Services which Open Space Provides.

Our natural lands are essential to life: clean air, clean water, and a healthy environment. The value of ecosystem services can now be recognized in economic terms. The City has the opportunity to integrate how departments work with each other and how they partner with other agencies on projects that enhance the “ecosystem services” public lands provides. For example, DPR has partnered with Seattle Public Utilities (SPU) on solid waste and water quality projects, and with SPU and City Light on conservation projects that have reduced load demand on the utilities. The City has the opportunity to continue to work to integrate departments in using our surplus public land to provide ecosystem services.

3. Create a Public Development Authority for Open Space

State law authorizes cities to create Public Development Authorities (“PDAs”), separate entities from the City governed by a board of citizen volunteers.

To date, the City has chartered eight PDAs to preserve, develop, operate and maintain such city assets as the Pike Place Market, Historic Seattle/Home of the Good Shepherd and Pacific Medical Center and its surrounding campus, a historic Seattle landmark. They have flexibility under State law to administer federal funds, combine public taxes and private donations, and own public land.

Seattle could benefit from establishing a PDA for open space because a PDA can offer the opportunity to involve private sector participants in project decision-making. A PDA could own and manage the surplus properties, lease sites for various purposes (such as to nonprofits for agriculture) and maintain sites with a private entity similar to Green Cities partnership. Seattle Green Spaces Coalition has proposed a PDA for open spaces to be used for a wide variety of community-based projects. See ECOSpaces proposal, attached as Appendix 1.

This proposal is similar to HALA’s recommendation to explore establishing a Public Development Authority to purchase, receive, hold, and transfer properties for affordable housing development. We suggest that a joint PDA for affordable housing and open space might pair housing with community-activated open space. This complementary can create a win-win for affordable housing and meeting open space goals.

4. **Support Creation of Conservancies**

The City could assist interested parties create conservancies to care for and maintain existing open space. The City can support private parties in seeking funding for conservancies. For example, to the extent that DPR does not fully apply for state or county funds for land acquisition, the City can support private parties in seeking funding for acquisition of surplus land. This would create benefit for the City with no loss to the budget of DPR.

5. **Use Development Impact Fees and Zoning Incentive to Support Open Space as a Component of Our Infrastructure**

Under the State Growth Management Act (GMA), Seattle has the authority to impose impact fees on new development. The City currently does not use this authority for open space. Impact fees can be imposed on new development, with the fees used to mitigate the impacts of that particular new development on open space within an area proximate to the development. While there are some limitations on the use of GMA fees⁸, there is strong growing public support for developer impact fees. Having developers “pay their fair share” of infrastructure, includes providing necessary open space. By using surplus property as a “match”, the City has the opportunity to grow its green infrastructure.

Seattle has a system of development bonuses as an integral part of its zoning system. These bonuses provide incentives for developers and property owners to incorporate desired public amenities beyond those required in the zoning code. Bonuses have been provided for various design elements and for public benefits.⁹ This model could potentially be used to generate funds for open space.

Other adjustments in the zoning code could be made to allow developers to contribute to a fund for the development, improvement, and/or maintenance of nearby public parks when the Director of Planning and Development determines such an investment would provide greater public benefits than meeting the on-site open space requirements in the current code.

6. **Apply Project Mitigation Funding for Open Space Funding**

⁸Fees cannot be used to make up existing system deficiencies; fees can be used only to fund capital improvements identified in the Comprehensive Plan; the funds must be encumbered within six years after collection; fees cannot constitute 100 percent of the costs, thus requiring a matching source).

⁹In 2000, the City of Seattle used the zoning code to create “salmon TDRs,” a bonus program that allowed additional development in the Denny Triangle in return for the purchase of threatened salmon habitat along the Cedar River.

The City can pursue funding for open space as mitigation for the environmental impact of development. There are numerous example of the City seeking appropriate mitigation when public and/or private projects affect Seattle's public land. For example, the City negotiated an agreement with SPRINT to pay for development of a portion of the Burke Gilman Trail in exchange for the use of the trail right of way to bury its cable. Also, the City used mitigation funds from Metro's Duwamish Head Outfall project to improve the parks along Alki Beach and create Seacrest Park.

It would be appropriate to use mitigation funding to further the City's environmental goals and enhance our green infrastructure because mitigation is designed to compensate for environmental harm. Using mitigation funding for open space is a very direct way to compensate for environmental harm.

7. **Establish an Open Space Opportunity Fund and Commit to Working Actively with Neighborhood Groups to Re-Purpose Land.**

It is very difficult for neighbors and community members to identify surplus property, galvanize, and locate resources to re-purpose surplus sites, especially when faced with a short time frame. Also, many times there are parcels of land that are extremely important to community groups and neighbors but do not fit into DPR's parameters or budget.

We propose that Department of Neighborhoods and Office of Sustainability & Environment be charged with actively working with neighborhoods to re-purpose surplus land. With the support of city departments, neighborhood groups can seek uncommitted County and State funding without competing with DPR for resources with DPR.

8. **Transfer of Development Rights Can Be Used for Open Space**

Transfer of development rights ("TDRs") is a market-based, voluntary program whereby cities can redirect growth away from certain areas (called "sending areas") by allowing developers to purchase rights for additional development in other areas (called "receiving areas"). Sending areas can be environmentally sensitive properties, open space, agricultural land, wildlife habitat, historic landmarks or any other places that are important to a city. Pruetz, Rick AICP. "Transfer of Development Rights Update." Approaching the Millennium: 1999 APA National Planning Conference.

TDRs are not just for saving agriculture land or forests in the outskirts of King County. Seattle has used TDRs within the City to support the preservation of a historic building (YMCA), and the development of a performing arts center. In 2004, the City Council approved the sale of TDRs for low-income housing and to

pay off existing debt for Benaroya Hall. In exchange, the Washington Mutual Bank and the Seattle Art Museum (“SAM”) were allowed increased density in the new office tower, and SAM had room to grow. Seattle.gov website <http://www.seattle.gov/news/dtail.asp?ID=4264&Dept+28>. See also, Torgelson, Nathan, “Transfer of Development Rights A Critical Tool to Preserving Affordable Housing in Seattle, Community Trade and Economic Development, 2008 (Seattle TDR program has resulted in over 45 transactions—helping with the preservation of 950 affordable housing units in addition to the preservation and creation of such Seattle treasures as Benaroya Hall, Olympic Sculpture Park, the Paramount Theater, Eagles Auditorium ACT Theater and the Dorothy Day House, a downtown residence for homeless women.) Also, with an interlocal agreement with King County, Seattle was able to accept more density in the Denny Triangle area in exchange for King County funds for public amenities. We propose that the city consider TDRs for acquisition and maintenance of surplus properties for open space.

9. Create an Integrated Master Plan for Open Space: Hope without a Plan is Just a Dream.

We propose an integrated, master plan for open space. Without a plan for our public, green infrastructure, the city is served up “leftovers,” those parcels of land that developers could not use. DPR’s “Gap Analysis” looks to plug holes where the lack of open space is particularly dire. These are not rigorous methods for a sustainable, green infrastructure.

We propose that the City identify its open space goals, not just “aspirations,” and create a targeted work plan to implement these goals into realities.

10. Create a Mitigation Program under RCW 35.92.430 to Re-Purpose Seattle City Light Surplus Property.

Seattle City Light owns numerous surplus properties within the City of Seattle. At the direction of the City Council, these properties have largely been maintained in attractive, park-like conditions with mature trees and vegetation.

Seattle City Light contends that a legal case, Okeson v. City of Seattle, 150 P.3d 556 (2007) prohibits it from using the surplus parcels in an way that is not a benefit to ratepayers and that the law requires Seattle City Light to sell the properties at no less that fair market value.

In 2007, the Washington State Legislature enacted RCW 35.92.430¹⁰, overturning *Okeson v. City of Seattle*, 150 P.3d 556 (2007). See generally Irwin, *Okeson v. Seattle, Sustainable Development Law & Policy*, Vol. 8 (2008). The new law that as part of its utility operations, a city may make a plan to mitigate environmental impacts of its operations. The statute states that the mitigation may include, but is not limited to, those greenhouse gases mitigation mechanisms recognized by independent, qualified organizations.

Seattle City Light and the City Attorney have indicated to Seattle Green Spaces Coalition that RCW 35.92.430 does not allow the City to use surplus SCL property for greenhouse gases mitigation because such a program would not be robust enough, and that only certifiable greenhouse gases mitigation programs outside of the city are viable under RCW 35.92.430.

We believe that this interpretation is very narrow and overlooks the large-scale and positive environmental benefits that re-purposing the substations can have

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RCW 35.92.430
Environmental mitigation activities.

(1) A city or town authorized to acquire and operate utilities for the purpose of furnishing the city or town and its inhabitants and other persons with water, with electricity for lighting and other purposes, or with service from sewerage, storm water, surface water, or solid waste handling facilities, may develop and make publicly available a plan to reduce its greenhouse gases emissions or achieve no-net emissions from all sources of greenhouse gases that the utility owns, leases, uses, contracts for, or otherwise controls.□□

(2) A city or town authorized to acquire and operate utilities for the purpose of furnishing the city or town and its inhabitants and other persons with water, with electricity for lighting and other purposes, or with service from sewerage, storm water, surface water, or solid waste handling facilities, may, as part of its utility operation, mitigate the environmental impacts, such as greenhouse gases emissions, of its operation, including any power purchases. The mitigation may include, but is not limited to, those greenhouse gases mitigation mechanisms recognized by independent, qualified organizations with proven experience in emissions mitigation activities. Mitigation mechanisms may include the purchase, trade, and banking of greenhouse gases offsets or credits. If a state greenhouse gases registry is established, a utility that has purchased, traded, or banked greenhouse gases mitigation mechanisms under this section shall receive credit in the registry.[2007 c 349 § 2.]

Notes:

Finding -- Intent -- 2007 c 349 § 2: "The legislature finds and declares that greenhouse gases offset contracts, credits, and other greenhouse gases mitigation efforts are a recognized utility purpose that confers a direct benefit on the utility's ratepayers. The legislature declares that section 2 of this act is intended to reverse the result of *Okeson v. City of Seattle* (January 18, 2007), by expressly granting municipal utilities the statutory authority to engage in mitigation activities to offset their utility's impact on the environment." [2007 c 349 § 1.]

on a citywide basis. We request that the City engage an independent consultant to explore a workable greenhouse gases mitigation program using the substations, and seek an Advisory Opinion from the Attorney General on the application of RCW 35.93.430.

11. Examine How Surplus Properties can Contribute to Race and Social Justice and Environmental Equity

One of the key principles of environmental justice is that those most affected by environmental inequities are able to participate in the process and develop solutions. For this reason we request that the City examine how surplus properties can be re-purposed in a way to contribute to race and social justice and environmental equity.

The Office of Sustainability & Environment is well suited to examining this issue. It is essential that all communities be involved in the process or determining how best to use our surplus property. These sites represent our heritage and our future and all voices must be heard.

Conclusion

The timing is right for Seattle to take the opportunity to make the most of its public lands. Throughout the city, people are talking about the need to balance our build environment and to protect the character and well-being of our city.

We recommend that you consider the above options to ensure that our public lands will continue to be vital parts of our ecosystem for generations to come.

Sincerely,

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