ORDINANCE NO. C35680

An ordinance relating to the disposition of surplus real property; adopting new sections 12.10.005 and 12.10.050; and amending sections 12.10.030 and 12.10.040 of the Spokane Municipal Code.

WHEREAS, there is a significant need for housing in the city of Spokane for households with incomes under 80% percent of the area median income ("AMI"); and

WHEREAS, the City's Comprehensive Plan supports City efforts to assist in the development of affordable housing, via policies H 1.10 (Lower-Income Housing Development Incentives) and H 1.12 (Affordable Housing Funding Sources); and

WHEREAS, the City's strategic plan calls on the City to "[r]educe homelessness and protect vulnerable populations," and "[s]upport [the] smart use of public land while protecting natural resources"; and

WHEREAS, House Bill 2382 authorized cities to dispose of surplus property for, among other purposes, the development of affordable housing, provided that the city adopts rules and imposes certain requirements; and

WHEREAS, the City of Spokane owns real property and desires to examine, in the process of its real estate review committee process for the disposition of surplus real property, whether such property is suitable for affordable housing.

NOW THEREFORE, the City of Spokane does ordain:

Section 1. That there is adopted a new section 12.10.005 of the Spokane Municipal Code:

Section 12.10.005 Definitions

A. "Affordable housing" has the same definition as that stated in RCW 43.63A.510(4)(a), namely, residential housing that is rented or owned by a person who qualifies as a very low-income, low-income, or moderate-income household or who is from a special needs population, and whose monthly housing costs, including utilities other than telephone, do not exceed thirty percent (30%) of the household's monthly income.

B. "Public benefit" means affordable housing for low-income and very low-income households as defined in RCW 39.33.015(8)(a), and related facilities that support the goals of affordable housing development in providing economic and social stability for low-income persons.

Section 2. That section 12.10.030 of the Spokane Municipal Code is amended to read as follows:

Section 12.10.030 Real Estate Review Committee; Report.

A. Upon determining that no City department is using, or will use, an identified parcel of land within a reasonable timeframe, the Real Estate Review Committee ("RERC") shall review the subject property and prepare a written recommendation to the Mayor as to whether a particular parcel should be declared surplus and, if so, the method of disposition. The RERC shall meet on an as-needed basis, and shall include the following members or their designees:
   1. Asset Management Director,
   2. City Administrator,
   3. Finance Director,
   4. City Attorney,
   5. City Department or Division Head most directly affected by the surplus and disposition, if applicable,
   6. The two City Council Members who represent the district where the subject property is located, and
   7. Director of Neighborhood Services

B. The RERC report shall include at least the following information regarding the subject property:
   1. A description of subject parcel's size, zoning, existing improvements, condition of improvements, ingress/egress, neighborhood planning, environmental condition (findings of environmental reports), and other salient observations.
   2. A description of the acquisition and development history of property, including when was the property originally acquired by the City, the source of funds for acquisition, the source of funds for subsequent improvements, how the property is currently used or was used most recently, and the City department(s) involved, etc.
   3. A written comment from the City's Community, Housing, and Human Services ("CHHS") Department as to whether the property is suitable for affordable housing development, including a description of the factors supporting the conclusions contained in the written comment. Such factors shall include, without limitation, location, approximate lot size, proximity to

services, and access to transit.

4. The report should identify the City department or fund (e.g., revenue, general, special) which is most logically and/or economically linked to the property. In addition, the report should address the repayment of bonds, grants, or other financing instruments used to acquire the property or which have used the property as security.

5. Before a recommendation for surplus and disposition is made, the RERC shall announce to all City departments and the City Council that the subject property is being evaluated for surplus. If a City department expresses interest in using the property, that department must present a written explanation to the RERC, for inclusion in its recommendation report, of the interested department's interest, its intended use, timeline, and operational and financial rationale for maintaining City ownership of the property for use by the interested department.

6. The RERC's report must describe the efforts made by the RERC to obtain input from and consultation with elected officials, City staff, neighborhood councils, and other groups that may have developed ideas on re-purposing the subject property in alignment with City strategic goals.

7. The RERC report must also include an estimate of the subject property's market value. This can be accomplished by the use of a Member of Appraisal Institute ("MAI") /state certified appraisal, tax assessment, market comparables, and/or a City staff opinion of market value.

8. The RERC report should include any recommended covenants, conditions, or restrictions that the City should place on the subject property before disposed. Examples include access easements, air rights for adjacent property owners, purchase option or right of first refusal for City to reacquire property at a future date, among others.

9. The RERC report should recommend the preferred disposition method from among those listed in SMC 12.10.040. The methods are not mutually exclusive and some properties may require a mixture of the methods.

Section 3. That section 12.10.040 of the Spokane Municipal Code is amended to read as follows:

Section 12.10.040 Allowable Methods of Property Disposition

A. Surplus City real property may be disposed of using any of the following methods:

1. Direct Sale. Using City legal staff, third party title/escrow companies, and third party reports such as appraisals and environmental studies, the City may sell property directly to another party. This approach does not require the services of a professional listing broker or the additional considerations of a special disposition. Typical examples for which this method are most well-suited include:

    a. Remnants, defined as: 1) small parcels of land, usually smaller than 2,000 square feet, 2) irregular shapes, and 3) are unlikely to support any stand-alone development. Remnants are often the leftover parcels from right of way dedications and developments. The most likely buyer of a remnant property will be an abutting property owner.

    b. Unsolicited offers the City receives from public or private parties on city-owned real estate properties that have not been surplused or are not actively being marketed for sale.

    c. Sales to Public Development Authorities or Limited Redevelopment Authorities, provided that such sales comply with Chapter 39.33, RCW.

    d. Sales to non-profit or for-profit affordable housing providers, provided that such sales comply with Chapter 39.33.

2. Listing with Real Estate Broker. In order to generate the greatest return on the sale of a property, subject to applicable procurement laws, the City may contract with a professional commercial real estate broker who specializes in commercial or residential properties for broker listing in some cases. Broker listings are ideally suited for land parcels and improved properties in established neighborhoods for which (1) the anticipated use of the subject properties will be similar to their present uses, and (2) future development of the subject parcel is expected to conform to the well-established land uses prevalent in the subject property's vicinity.

3. Land Swaps. The City may also, as specifically authorized by chapter 39.33, RCW, dispose of real property via a land swap with another public entity, such as a school district, county, the federal government, or other municipal corporation.

4. Special Dispositions. Some City-owned real property may merit the use of a special disposition method because they can provide benefits that far exceed the limitations of monetary market value. Special disposition of these properties can further the objectives and goals of the City and can actually be a catalyst for economic development, affordable housing, and

expansion of community services. All special dispositions should be reviewed for compliance with RCW 39.33 and Article VIII, Section 7 of the Washington State Constitution, which generally prohibits gifting of City property.

a. Key characteristics qualifying a property for special disposition status include the following:

   i. Properties that have a nexus with a Public Development Authority, such as where the property is within the geographic area of a public development authority (PDA), or where a PDA has expressed specific interest in the subject property.

   ii. Properties within City-designated targeted investment areas or a neighborhood where redevelopment is a focus of revitalization efforts.

   iii. Properties with characteristics desirable when providing affordable housing units including access to transit, employment centers, healthcare facilities, schools, and the presence of other relevant factors as identified by the CHHS Department. The property's current land use and zoning designations shall not be considered prohibitive to providing affordable housing units.

   iv. Properties for which there is strong community interest, as expressed by neighborhood councils, local businesses, schools, and other community organizations.

   v. Properties which may, if the use is changed from the current use, create a substantial impact on neighboring property owners.

   vi. The needs of multiple stakeholders, including those mentioned above, may necessitate the use of a disposition method other than a listing or direct sale.

   vii. The City may use a special disposition method where the City anticipates that a likely buyer will request a zoning change, a street dedication, a right of way vacation, or zoning changes.

   viii. Special disposition methods may be appropriate where the City retains requires property rights after the sale of the property, such as access easements, air rights, purchase options, and other conditions not already addressed

elsewhere.

ix. The RERC report may contain a recommendation for the use of a special disposition method for reasons other than those listed above, based on the specific circumstances.

b. Prior to finalizing a report which recommends a special disposition method, the RERC shall hold a public hearing regarding the subject property. The RERC will issue a notice of public hearing no sooner than 10 days and no more than 25 days prior to the hearing. Notice will be sent to all property owners within 1,000 feet of the subject property and officers of the applicable neighborhood council. The RERC shall incorporate the public hearing comments in its recommendation report.

c. The primary means for performing a special disposition is a City-issued Request for Proposal ("RFP"). The RERC will develop the RFP criteria as part of any recommendation report which recommends disposition via a special disposition process. The criteria used in evaluating responses to the RFP will be enumerated and weighted on a property-specific basis. For instance, the RFP criteria on a residential parcel in one area of the City may vary significantly from that on an industrial property in another area.

i. Some RFP criteria may be:

A. Compatibility with adopted neighborhood plan

B. Compliance with the City of Spokane's Comprehensive Plan

C. <u>Potential number of affordable housing units which the property can provide, the income level(s) potentially served by such affordable housing development, and the proposer's experience or capacity in developing and managing affordable housing.</u>

D. Job creation potential

E. New tax base expansion or creation potential

F. Ultimate range of purchase price and earnest money

G. Relevant purchase contract conditions

H. Experience and capability of the buyer

I. Timeline for completing the project and/or project phases, as applicable

d. The RFP process may use a direct sale closing process or it may become part of the listing requirements with a licensed broker. Alternatively, the RERC may recommend a long term lease. The RERC report shall contain a recommendation concerning the method of disposition.

Section 4. That there is adopted a new section 12.10.~~050~~ 060 of the Spokane Municipal Code: 12-6-18

Section 12.10.~~050~~ 060 Surplus Property for Affordable Housing Requirements 12-6-18

A. The City desires to maximize the number of affordable housing units developed at or below 80 percent of Area Median Income (AMI).

B. Pursuant to RCW 39.33, the City of Spokane may dispose of surplus property, may transfer, lease, or use other methods of disposal of such property for public benefit.

C. Disposition of City surplus real property for affordable housing may be made to a public, private, or nongovernmental body on mutually agreeable terms and conditions, including a no-cost transfer, subject to and consistent with Washington Constitution article VIII, section 7, RCW 39.33, and this chapter.

D. Affordable housing units created through the disposition of public property under this section may be guaranteed upon request by the City of Spokane by a notation made on a recorded deed or other property conveyance instrument which includes both a covenant or other requirement that the property shall be used for affordable housing and appropriate remedies that apply if the recipient of the property fails or ceases to use it for affordable housing.

PASSED by the City Council on October 15 HP 3-29-18, 2018

Ben Stuckart

Council President

Attest:

City Clerk

Mayor

Approved as to form:

Assistant City Attorney

11.1.18
Date

November 28, 2018
Effect

Returned after Mayoral Signature Deadline
Returned: 11-1-18

CITY OF SPOKANE
WASHINGTON

Briefing Paper
Finance & Administration

Division & Department:	City Council
Subject:	Disposition of Surplus Property for Affordable Housing
Date:	9/17/18
Contact (email & phone):	Ben Stuckart/bstuckart@spokanecity.org/509-625-6269
City Council Sponsor:	Ben Stuckart
Executive Sponsor:	None
Committee(s) Impacted:	Finance & Administration; Urban Experience
Type of Agenda item:	☐ Consent ■ Discussion ☐ Strategic Initiative
Alignment: (link agenda item to guiding document – i.e., Master Plan, Budget , Comp Plan, Policy, Charter, Strategic Plan)	Comprehensive Plan – H 1.12 (Affordable Housing Funding Sources) Comprehensive Plan – SH 1.6 (Vacant, Condemned, & Real Estate Owned Buildings) Comprehensive Plan – SH 1.7 (Surplus City Real Property) RCW 39.33 Mayor Condon's Housing Quality Task Force The Road Home – Spokane Regional 10-year Plan to End Homelessness
Strategic Initiative:	Available Housing; Our Most Vulnerable
Deadline:	Will file after committee
Outcome: (deliverables, delivery duties, milestones to meet)	N/A

Background/History:

The lack of affordable housing is a root cause of poverty in Spokane (Spokane County & City of Spokane, 2008). More than half of all renters in Spokane are considered "rent burdened"[1] (Spokane Community Indicators, n.d.). Spokane's percentage of rent burdened[2] citizens outpace the rates of the rest of Spokane County as well as Washington and the United States averages.

The high cost and lack of available land can make it impossible for affordable housing development. Strong housing demand like we have seen recently in Spokane (Kramer, 2018) can drive land costs up (Hickey & Sturtevan, Public Land & Affordable Housing in the Washington DC Region: Best Practices and Recommendations, 2015). Discounted public land or properties transferred at no cost can be a valuable component of an overall effort to make affordable housing development financially feasible.

Many municipalities (Garrison, 2016), agencies (Cohen, No Cost Public Land Gives Seattle Affordable Housing Developers a Boost, 2017), and states have created policies that allow the transfer of public property to developers of affordable housing under the property's market value or at no cost (Local Housing Solutions, n.d.).

Surplus City properties, especially vacant land, can have a direct budget impact including costs for upkeep and foregone property taxes. Vacant public properties can also have safety issues and can have a negative impact on neighborhoods (Spotts, Hale-Case, & Abu-Khalaf, 2017).

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[1] 30% of renters in Spokane pay over half of their household income on rent. More than half of all renters pay at least 30% of their household income in rent.

[2] Moderate Cost Burdened – 30-49% of Income
Severe Cost Burdened – 50% of more of Income

The Mayor's Housing Quality Task Force recommended a policy to identify city-owned surplus property for transfer under the conditions that the property be used for affordable housing. (Mayor Condon's Housing Quality Task Force, 2016).

In 2018, the Washington State Legislature passed HB 2382 which authorizes local governments to dispose of surplus property for the development of affordable housing including land acquired with enterprise funds (Association of Washington Cities, 2018). The state has defined affordable housing (known as "public benefit") as <80% AMI.[3] There is a requirement for local governments to adopt regulations governing the transfer of public property for affordable housing authorized under HB 2382.

Executive Summary:

This ordinance:

- Requires that the Real Estate Review Committee (RERC) report include a determination of whether a surplus property is suitable for affordable housing. The City's CHHS Department may make a recommendation on whether a property is suitable for affordable housing. It creates no development/redevelopment preference for affordable housing.

- Establishes affordable housing as a key characteristic of properties that qualify for special disposition. Characteristics desirable for the development of affordable housing include close access to transit, schools, health facilities, and employment centers. A property's current land use designation does not prevent it from being considered as a potential site for affordable housing.

- Adds "potential number of affordable housing units, income level served, and length of time units are to be affordable" as criteria in RFPs for special dispositions. Maintains the flexibility for addressing each site in its own context.

- Notes that City property may be transferred at no cost if used for 'public benefit' per RCW 39.33. 'Public benefit' is defined as affordable housing for low-income and very low-income households as defined in RCW 43.63A.510, and related facilities that support the goals of affordable housing development in providing economic and social stability for low-income persons.

Budget Impact:

TOTAL COST: N/A

Approved in current year budget? ☐ Yes ☐ No ■ N/A

Annual/Reoccurring expenditure? ☐ Yes ■ No ☐ N/A

If new, specify funding source:

Other budget impacts: (revenue generating, match requirements, etc.):

The ordinance has no fiscal impact. The City may lose revenue in the future from the sale or transfer of surplus property for less than fair market value. The development of vacant properties may also result in an increase property tax revenue.

Operations Impact:

Consistent with current operations/policy? ☐ Yes ■ No ☐ N/A

Requires change in current operations/policy? ■ Yes ☐ No ☐ N/A

Specify changes required: The RERC must consider if surplus City properties could be used for affordable housing.

Known challenges/barriers: None

[3] Area Median Income

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