



MEMORANDUM

To: Teri Stripes

Date: November 13, 2014

From: Michael Stringer

Project: 0794.02.01

RE: The Yard: Brownfield Redevelopment Opportunity Zone Assessment

PURPOSE

Over the past several years, the City of Spokane and the Northeast Public Development Authority (NEPDA) has focused on the redevelopment of the Hillyard Industrial Area (The YARD) – a 500-acre area zoned for heavy and light industrial uses. The area has strong presenting assets with access to the US 395 North American Free Trade Agreement (NAFTA) corridor, BNSF rail, an existing T-1 freight route, access to utilities, and available properties. However, historical heavy industrial operations have left a legacy of environmental impacts that create both actual remediation needs and perceived stigma that are challenges to redevelopment.

Reforms to the state cleanup law, the Model Toxics Control Act (MTCA), passed in 2013, have created new tools to promote cleanup and redevelopment of brownfields. One of the most potentially important reforms to MTCA is the authorization to designate redevelopment opportunity zones (ROZ). A ROZ is an area designated by a port, city or county that is characterized by brownfield conditions. MTCA explicitly directs the Department of Ecology (Ecology) to prioritize funding resources in ROZ and allows a number of new tools that are only authorized for use in these zones. This memorandum examines how a ROZ could be applied to the YARD.

BACKGROUND AND DEFINITIONS

A ROZ can consist of one or more properties and can vary in size, but must meet the following criteria. The ROZ must be established through a city, county, or port commission resolution stating that these criteria are met. If a port establishes the ROZ, the city and county in which the zone lies must also approve the designation by resolution. Notably, the legislation does not explicitly require Ecology review or approval of a ROZ.

ROZ Designation Criteria

- At least fifty percent of the upland properties in the zone are brownfield properties whether or not the properties are contiguous
 - Note, the legislation does not clearly define whether the percentage of brownfields refers to number of parcels or the land area. Either measure could potentially be used.
- The upland portions of the zone are comprised entirely of parcels of property either owned by the designating agency (port, city or county) or whose owner has provided consent in writing to have their property included within the zone;

- The cleanup of brownfield properties will be integrated with planning for the future uses of the properties and is consistent with the comprehensive land use plan for the zone; and
- The proposed properties lie within the incorporated area of a city or within an urban growth area

Definition of a Brownfield

The 2013 MTCA reform bill included a definition for a brownfield which was previously lacking in the law. Designating a ROZ will require making a determination that at least 50% of the properties meet this definition

"Brownfield property" means previously developed and currently abandoned or underutilized real property and adjacent surface waters and sediment where environmental, economic, or community reuse objectives are hindered by the release or threatened release of hazardous substances that the department has determined requires remedial action under this chapter or that the United States Environmental Protection Agency [US EPA] has determined requires remedial action under the federal cleanup law.

The definition establishes three criteria that must be met for a property to be considered a brownfield

1. Property has been previously developed
2. Property is currently abandoned or underutilized. This can be evaluated using different measures¹ such as
 - a. Noting current use as abandoned
 - b. In commercial, industrial, and mixed-use zones, calculating the ratio of improvement to land value as determined by the County Assessor. A common threshold for underutilized is a ratio of < 0.5 , where the land was assessed at least twice the value of the improvements².
 - c. Comparing allowable density under current zoning to existing density by dwelling units per acre or floor area ratio (for example, allowed FAR is two times greater than existing FAR)²
3. Release or threatened release of hazardous substances. This can be determined through
 - a. Phase I or Phase II Environmental Site Assessment, or
 - b. Listing of a property on the Washington State Confirmed and Suspected Contaminated Sites List or Leaking Underground Storage Tank list, or
 - c. Listing of a property on the federal Comprehensive Environmental Response, Compensation, and Liability Information System

Note, the legislative language stating that Ecology or the USEPA has determined remedial action is required may make it necessary for a property to be included on a state or federal list. An alternative form of a determination may be a letter from Ecology or USEPA agreeing with the findings of a Phase I or Phase II Environmental Site Assessment that a property may be contaminated.

¹ Buildable Lands Program Guidelines. Washington State Community Trade and Economic Development 2000.

² King County Buildable Lands Report. 2007

ADVANTAGES OF ROZ

By establishing a ROZ, the Department of Ecology is authorized to exercise new policies that address common brownfield challenges.

Policy	Benefits	Challenges Addressed
Priority for Grant Funding	Legislation explicitly directs Ecology to prioritize funding and resources for projects within a ROZ. This will provide greater certainty for long-term funding for cleanup projects.	The City competes with other public agencies throughout Washington for Remedial Action Grant (RAG) funds. Statewide, the 10 year projected demand for RAG funds is \$1.1 B. The 10 year estimated budget for RAG funds is \$764M, a shortfall of \$350M.
Brownfield Redevelopment Trust Account	Protects funds needed for large and long-term cleanups. Creates an account within the state's budget, which sets aside funds for cleanups that extend beyond a biennial budget cycle	Currently, RAG funds are subject to re-appropriation by the legislature if they bridge a biennium budget cycle. To meet GASB accounting standards, local governments must book the full liability of a contaminated site, but can only claim grant funds available for the fiscal year as an offsetting asset. The Trust Account would allow a local government to credit the entire amount of funds available to offset the cleanup liability, since it is not subject to re-appropriation.
Prospective Purchaser Agreed Order (PPAO)	PPAO provides greater protection and greater expediency for innocent parties to take on brownfield properties than tools currently available in Washington State.	Surveys of private developers have shown that the strongest incentive for brownfield redevelopment is to provide certainty and risk management tools. The administrative pathways for redeveloping brownfields in Washington either provide limited certainty and liability protection or are very difficult to obtain. For example in Washington only 23 Prospective Purchaser Consent Decrees were executed from 1993 to 2012.
Mixed Funding	Allows Ecology cleanup funds to leverage prospective purchaser private investment where public funding is commensurate with a public benefit other than cleanup. Potential for significant financial incentive for private investment in brownfields	Washington State has a robust public grant program, but very limited financial incentives for private investment in cleanup.

BROWNFIELDS INVENTORY

In order to understand the impact that brownfields have in the YARD, it is important to understand how many there are and where they are located. The Washington State Department of Ecology (Ecology) and US Environmental Protection Agency (US EPA) maintain databases of known contaminated properties. These databases provide a baseline of information, but it is recognized that there are many contaminated properties that have not been reported as contaminated. There are real legal liability and financial concerns related to owning a property with known contamination, so owners are often very reluctant to report potential concerns.

Methods

An inventory of potential brownfield properties was conducted to compile information on the known, listed contaminated sites and to estimate the 'shadow inventory' of suspected, unreported brownfields. The methodology of the study is summarized below

1. Identify Vacant and Underutilized Properties—Based on Spokane County Tax Assessor data, identify properties that are designated as vacant and properties where the assessed value of improvements is less than 50% of the assessed value of the land.
2. Identify Known Contaminated Sites—These are properties listed in databases including Ecology's Confirmed and Suspected Contaminated Sites List and Leaking Underground Storage Tank database.
3. Identify Potentially Contaminated Sites--Narrowed population of parcels by removing properties on the Ecology and US EPA databases (already known to be contaminated), zoning (removed residential), and development status (focused on parcels identified as vacant or underutilized).
 - a. Conduct Historical Research—Reviewed historical business directories and aerial photographs to identify any previous uses typically associated with hazardous materials.
 - b. Field Verification—Conduct windshield surveys of properties to confirm conditions.
4. Estimate Total Potential Brownfields—Synthesize data on environmental conditions and development status to identify properties that meet the two part brownfield definition of (1) known or suspected environmental contamination and (2) vacant or underutilized status

Findings

The brownfields inventory confirms the common perception that environmental concerns are underutilized properties are widespread in the YARD. The inventory found that in addition to the legacy impacts associated directly with the former Great Northern rail yard, that there are known or suspected brownfield properties across the entire YARD district. Based on county tax assessor records, approximately 35% of the land in the YARD is vacant and over 60% is considered underutilized¹. Only

¹ Defined by the ratio of improved value to land value for a property being less than 50%.

8 of the 637 total tax parcels in the YARD are listed in Ecology databases because of confirmed contamination, but these include a number of large parcels, including the former Great Northern rail yard itself and cover approximately 100 acres of land. An additional 183 parcels (151 acres) were identified as “suspected” for contamination. This designation was based on the potential that historical or current uses of the properties, which include automotive repair and scrap yards and manufacturing facilities, could have caused releases of hazardous substances.

Table
Summary Brownfield Inventory Statistics

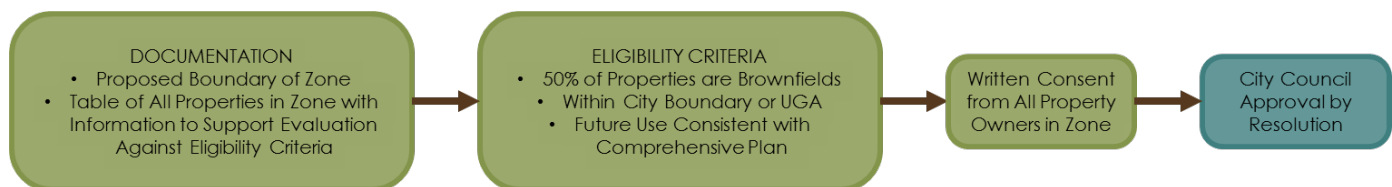
Designation	Environmental Concern		Brownfield (Environmental + Underutilized)	
	Parcel Count	Total Acres	Parcel Count	Total Acres
Known	8	100.3	3	97.8
Suspected	183	151.3	80	94.9
Total	191	251.6	83	192.7
% of All Parcels in Yard	30%	47%	13%	36%

ESTABLISHMENT AND OPERATIONS

The City and NEPDA both could have roles to play in establishing a ROZ in the YARD. The City Council will need to pass a resolution to establish the ROZ. The NEPDA can facilitate the outreach to property owners needed to support the effort.

As described above, the process for establishing the ROZ requires obtaining written consent from all property owners within the zone and approval through resolution by the City Council. The following diagram illustrates the process for establishing a ROZ in the YARD.

Figure
ROZ Establishment Process



The ROZ designation does not carry a significant amount of operational or management requirements. The ROZ provides eligibility for use of innovative policy and funding tools for properties within the zone, but none of these tools are required to be utilized and all are exercised by Ecology.

RECOMMENDATIONS FOR ESTABLISHING A ROZ

As part of the City’s overall strategy to promote redevelopment, a ROZ has the potential to be an effective tool to facilitate resolution of environmental concerns. While brownfield concerns are

pervasive in the YARD, the issue of not of large enough magnitude for the entire district to meet the 50% brownfields designation criteria. The following considerations will be important for establishing a ROZ in the YARD.

- Align ROZ Boundary with Focus Areas for Economic Development and Infrastructure Improvements—The ROZ can be established over a limited area to attract private investment in combination with other economic incentives and public infrastructure improvements. Based on the brownfield inventory, potential areas could designated along
 - Freya Street, which could leverage the large size of the former Great Northern rail yard to establish an ROZ along the entire avenue between Francis Avenue and Garland Avenue, or
 - East Dalke Avenue, which capitalizes on recent street improvements on Dalke and relatively large underutilized parcels that could allow for significant redevelopment projects without needing to assemble many properties
- Develop Property Owner Support—The requirement that all property owners in the ROZ sign letters of approval is likely to be a limiting factor in the YARD because of the high proportion of small properties (87% of parcels are less than 1 acre, and the median parcel size is 0.34 acres).
- Establish ROZ in Phases—The City and NEPDA can establish one ROZ and either expand is over time, or establish multiple zones in the YARD as the value of the designation is realized. Phasing would provide the opportunity for the YARD to brand itself as an environmental leader by being the first area in the state to create a ROZ and demonstrate commitment to the private sector that the public sector is a reliable partner that can assist them in resolving challenges to development. The legislative process for establishing the ROZ is relatively straightforward, so the administrative implications of expanding a ROZ over time or establishing multiple zones are considered minimal.