

CITY OF YAKIMA

LEGAL

DEPARTMENT

200 South Third Street, Yakima, Washington 98901

(509)575-6030 Fax (509)575-6160

MEMORANDUM

January 11, 2017

TO: Chairperson Dulce Gutiérrez, Neighborhood and Community Building
Committee and Committee members Avina Gutiérrez and Carmen
Mendéz
Cliff Moore, City Manager

FROM: Sara Watkins, Senior Assistant City Attorney

SUBJECT: Community Renewal Law and Examples

Dear Chairperson Gutiérrez and Committee Members,

Please accept this memorandum as an outline of the Community Renewal Law, RCW Chapter 35.81, for your review and further discussion. This was done at the request of Committee member Avina Gutiérrez, who requested that staff look into the use of this statute. This memo outlines the law itself, as well as some legal issues surrounding use of the law. I also include some examples of projects and processes used by other cities utilizing this statute for your review and discussion.

1. The Community Renewal Law, Chapter 35.81 RCW: Background

The Community Renewal Law was originally passed in 1957 and updated in 2002. The purpose of the law is to address areas of municipalities suffering from blight and provide those municipalities a tool to acquire and redevelop blighted areas to stimulate economic development.

Under the law, “blighted area” is defined as:

an area which, by reason of the substantial physical dilapidation, deterioration, defective construction, material, and arrangement and/or age or obsolescence of buildings or improvements, whether residential or nonresidential, inadequate provision for ventilation, light, proper sanitary facilities, or open spaces as determined by competent appraisers on the basis of an examination of the building standards of the municipality; inappropriate uses of

land or buildings; existence of overcrowding of buildings or structures; defective or inadequate street layout; faulty lot layout in relation to size, adequacy, accessibility or usefulness; excessive land coverage; insanitary or unsafe conditions; size, adequacy, accessibility or usefulness; excessive land coverage; insanitary or unsafe conditions; deterioration of site; existence of hazardous soils, substances, or materials; diversity of ownership; tax or special assessment delinquency exceeding the fair market value of the land; defective or unusual conditions of title; improper subdivision or obsolete platting; existence of persistent and high levels of unemployment or poverty within the area; or the existence of conditions that endanger life or property by fire or other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency or crime; substantially impairs or arrests the sound growth of the municipality or its environs, or retards the provision of housing accommodations; constitutes an economic or social liability; and/or is detrimental, or constitutes a menace, to the public health, safety, welfare, or morals in its present condition and use.

RCW 35.81.015(2).

The statute encourages public-private partnership, stating, "A municipality, to the greatest extent it determines to be feasible ... shall afford maximum opportunity, consistent with the needs of the municipality as a whole, to the rehabilitation or redevelopment of the community renewal area by private enterprise." RCW 35.81.030. "Rehabilitation" and "redevelopment" are both specifically defined in the statute as follows:

"Rehabilitation" includes the restoration and renewal of a blighted area or portion or portion thereof in accordance with a community renewal plan, by (a) carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements; (b) acquisition of real property and demolition or removal of buildings and improvements thereon where necessary to eliminate unhealthful, insanitary or unsafe conditions, lessen density, reduce traffic hazards, eliminate obsolete or other uses detrimental to the public welfare, or otherwise to remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities; (c) installation, construction or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the area the community renewal provisions of this chapter; and (d) the disposition of any property acquired in such community renewal area for uses in accordance with such community renewal plan.

“Redevelopment” includes (a) acquisition of a blighted area or portion thereof; (b) demolition and removal of buildings and improvements; (c) installation, construction or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the area the community renewal provisions of this chapter in accordance with the community renewal plan; (d) making the land available for development or redevelopment by private enterprise or public bodies (including sale, initial leasing, or retention by the municipality itself) at its fair value for uses in accordance with the community renewal plan; and (e) making loans or grants to a person or public body for the purpose of creating or retaining jobs, a substantial portion of which, as determined by the municipality, shall be for persons of low income.

RCW 35.81.015(19) & (18) respectively.

A Community Renewal Plan must be formulated by the municipality as part of the process. Community Renewal Plans must also be consistent with the city’s comprehensive plan and updates, and, if necessary, any changes to the comprehensive plan must be made prior to approving the Community Renewal Plan and its projects. RCW 35.81.060(1).

Community Renewal Plans must have the following elements:

1. They must be consistent with the comprehensive plan;
2. They must be sufficiently complete to indicate the proposed actions to be carried out in the renewal area (i.e. demolition, land acquisition, improvements, etc.) and must outlining any zoning changes and public facilities improvements;
3. Must address the need for replacement housing if any housing is lost as a result of the plan; and
4. May include a plan to address persistent high levels of unemployment or poverty in the community renewal area.

RCW 35.81.015(6). Any community renewal project proposed as part of the Community Renewal Plan includes an undertaking that will eliminate or prevent the spread of blight, encourage economic growth through job creation or retention, and/or redevelop or rehabilitate the community renewal area. RCW 35.81.015(7).

2. Community Renewal Plans: Steps Necessary to Have a Plan Approved

There are a lot of steps that need to be taken prior to approval of a Community Renewal Plan. First, staff and a council member committee will need to look at what

areas of the city might fall under the definition of “blight” and determine if any would be appropriate for a Community Renewal Plan. There may be a number of areas in the city qualifying under the statutory definitions. Research and evaluation of economic and non-economic factors will need to be done to determine which location(s) should take priority based on best fit(s) for the city and private development within the statutory requirements. This research could include evaluating whether there are interested private developers interested in the area, whether community members in the area are supportive of the plan, and where funding will come from to accomplish components of the plan (if necessary—such as to purchase property or improve infrastructure).

Once areas are vetted and an area or areas are chosen to be further evaluated as part of a Community Renewal Plan, the City Council must pass an ordinance or resolution which finds the following:

1. One or more blighted areas exist in the municipality; and
2. The rehabilitation, redevelopment, or a combination thereof, of such area or areas is necessary in the interest of the public health, safety, morals or welfare of the residents of such municipality.

RCW 35.81.050(1). This creates the need for a community renewal agency to exercise power and authority with regards to the community renewal areas.

After the ordinance is adopted, the City Council can elect to have the agency and its powers exercised in one of three ways:

1. Appointing a board composed of not less than five members which must include both municipal and elected officials, appointed by the mayor and approved by the full council; or
2. The City Council can exercise authority with regards to the agency themselves directly; or
3. The City Council can form a new public corporation outside of the City Council to exercise the powers outlined in the statute.

In all events, the group of individuals exercising decision-making authority is considered the community renewal agency.

The agency evaluates the blighted areas outlined in the ordinance or resolution and comes up with a proposed Community Renewal Plan with proposed appropriate community renewal projects. In some cities, the agency set up ad hoc committees or resident advisory committees to get community input during the project planning process. Consultants have also been hired to help communities visualize how blighted areas can be improved to further economic development and enhance the community.

No Community Renewal Plan, or any project thereunder, can be approved by the City Council unless it is determined that the proposed plan and projects conform to the comprehensive plan. If the plan and projects do not conform to the comprehensive plan, the City Council cannot take action on the proposed Community Renewal Plan until the comprehensive plan or parts of the comprehensive plan for the area have been prepared as necessary. RCW 35.81.060(1).

Once it is determined that the plan is in conformance with the comprehensive plan, the City Council must hold a public hearing on the Community Renewal Plan and corresponding proposed project(s).¹ The notice requirements are different than a regular public hearing, and require two publications, one per week for two consecutive weeks not less than ten nor more than thirty days prior to the date of the hearing. RCW 35.81.060(3). Notice also must be mailed not less than ten days prior to the hearing to each property owner within the plan area. *Id.*

After the public hearing, the City Council can approve the plan and its projects if it makes the following findings:

1. A feasible plan exists for making available adequate housing for residents who may be displaced by the project;
2. The community renewal plan conforms to the comprehensive plan for the municipality;
3. The community renewal plan will afford maximum opportunity, consistent with the needs of the municipality, for the rehabilitation or redevelopment of the community renewal area by private enterprise;
4. A sound and adequate financial program exists for the financing of the project; and
5. The community renewal project area is a blighted area as defined in RCW 35.81.015(2).

RCW 35.81.060(4). Community renewal plans can be modified by the City Council. RCW 35.81.060(5).

Once the plan for the community renewal area is approved through ordinance, then the plan can be carried out through an RFP procedure, contracting, providing technical assistance, providing financial assistance, and to survey and appraise the property in preparation for projects, among other municipal powers as outlined in RCW 35.81.070.

¹ Regardless of how the agency is set up (i.e. new committee, City Council itself, or a new public corporation), the City Council is the ultimate decision maker on the Community Renewal Plan and its projects.

One significant power a municipality has to accomplish the community renewal plan is to acquire property through eminent domain. RCW 35.81.080. "Condemnation for community renewal of blighted areas is declared to be a public use...." However, using eminent domain for community renewal areas has been criticized as using public funds to acquire private property for private use, since the end result of community renewal projects is private housing and/or commercial economic development. Council will need to evaluate community renewal areas to determine if eminent domain is necessary, especially with regards to displacing residential property owners through eminent domain. Some cities' projects have not required eminent domain, instead agreeing to purchase properties rather than condemn them. There are many options available.

If the City acquires property as part of the community renewal plan, it can turn around and sell or lease the property for a community renewal project to a private entity. It can also retain the property, but only if the property is retained for parks, education, public utilities, public transportation, public safety, streets, administrative buildings or civic centers (as long as they are part of the community renewal plan). RCW 35.81.090. Bonding is also allowed to finance projects. RCW 35.81.100, *et. seq.* Contracts and RFPs will need to be specific to the community renewal project and its goals.

Local Improvement Districts (LIDs) are also authorized under the statute to allow the city to assess certain of the properties (or all of the properties depending on the improvement) for improvements to infrastructure, such as sidewalks or connection to sewer, for example. It should be noted that these LIDs are also available outside the Community Renewal Law forum to repair and replace sidewalks and other public facilities and infrastructure.

(RCW <http://app.leg.wa.gov/RCW/default.aspx?cite=35.43.040>)

3. Examples of Community Renewal Projects

A list of community renewal projects can be found here under Local Government Implementation:

<http://mrsc.org/Home/Explore-Topics/Economic-Development/Financing-Economic-Development/Community-Renewal-Law.aspx>

One example is the City of Shoreline, which declared an abandoned Sears building, and surrounding parking lots and commercial properties along Aurora Avenue, as blighted. It determined that the area constituted blight for a number of reasons, including that the layout of the Sears building created a physical barrier to and from other commercial sites to the north and south, that there were not adequate road or pedestrian connections to connect with all of the possible sites in the area, and that it wasn't delivering on its potential to be a large-scale walkable shopping center for

Memorandum to NCBC members
July 31, 2019
Page 7

Shoreline residents. See:

<http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/Ords/s55r333.pdf>

Shoreline then authorized the City Manager to start the process, obtain appraisals, acquire property, and take other actions to formulate a community renewal plan for the area. This original ordinance was passed in September 2012. Shoreline went through a significant environmental review throughout 2014 for its proposed improvements to the area. There were public hearings on the draft environmental impact statement in 2015. As far as I can tell, construction has not started. Here is the webpage that is dedicated to the plan and the overall redevelopment of the Aurora Square community renewal area:

<http://www.shorelinewa.gov/business/aurora-square-community-renewal-area>

As part of any community renewal plan discussions, there should be a discussion of the public relations issues—how information is disseminated, a website with updated information about the plan and its projects, and community meetings.

Vancouver, Washington, undertook an enormous challenge in its 2005 Fourthplain Community Renewal Plan, which included residential and commercial properties, an underutilized commercial corridor, and street and facility improvements. The Plan focused attention on specific areas and the overall goal was to make the area better for its residents. Vancouver prepared extensive documentation outlining the background for the plan, why the plan would benefit residents, and how the plan would be implemented. It engaged many stakeholders and had a public involvement program that targeted a diverse group of people, both residents and business people, to be involved. It engaged the community and made sure that committees and working groups reflected the community's diversity.

An extensive amount of time was put into the project before the plan was adopted to ensure that the plan was acceptable to the community and could be accomplished. Consultants were hired at various steps along the way to help with planning and process. The 78 page plan can be found in the link below, and I would encourage you to review it to get a sense of the process and resources necessary for community renewal planning. It is a good example of a plan and the process, including the public involvement components, of the community renewal law.

http://www.cityofvancouver.us/sites/default/files/fileattachments/community_and_economic_development/page/1415/fourthplainsubareaplan.pdf

4. Summary of Procedure

Here is a basic summary of the steps to enact a Community Renewal Plan/Projects, noting that some of the steps could take more time than others:

1. Research possible locations and determine if they meet the definition of “blight.”
2. Adopt an ordinance or resolution finding that specific areas (or area) are blighted and redevelopment of those areas (or area) is necessary in the interest of public health and welfare.
3. Decide how the powers allowed by statute will be carried out:
 - a. Formation of a new board or commission consisting of municipal and elected officials;
 - b. The City Council will act itself; or
 - c. Formation of a new public corporation.
4. Create a proposed Community Renewal Plan and proposed Community Renewal Projects.
5. Ensure the proposed plan and projects conforms to the Comprehensive Plan. If it does not, the Comprehensive Plan must be amended before the Community Renewal Plan or projects go before City Council.
6. Provide the proposed plan and projects to City Council.
7. Set and hold a public hearing on the proposed plan and projects.
8. Vote on the proposed plan and projects—the plan and projects must meet the statutory requirements and be acceptable to Council for approval. It should be noted that an approved plan and projects may be modified at a later date by the City Council if necessary.
9. Carry out the Community Renewal Plan (bidding, construction, infrastructure improvements, etc.).

5. Conclusion

The Community Renewal Law allows the City to evaluate lands that fall under the statutory definition of “blight” and encourage economic development through a community renewal plan and its projects. Before a plan can be drafted, there first needs to be a finding of “blight” in a specific area or areas of the City. To determine these areas, Council will need to instruct staff to review possible areas that could fall under the statute, and bring a list to Council, or committee, for review. Council may want to include community members, business owners, and other stakeholders during this initial review, and each step of the way.

Memorandum to NCBC members

July 31, 2019

Page 9

The law does not create a quick fix for blighted areas, or create funding for infrastructure improvements. It instead is a method to promote public-private partnerships to enhance economic development opportunities for cities. The process is extensive and time consuming, but other communities have been successful, and if the Council directs staff to move forward, staff will contact other cities to learn from their experiences.