

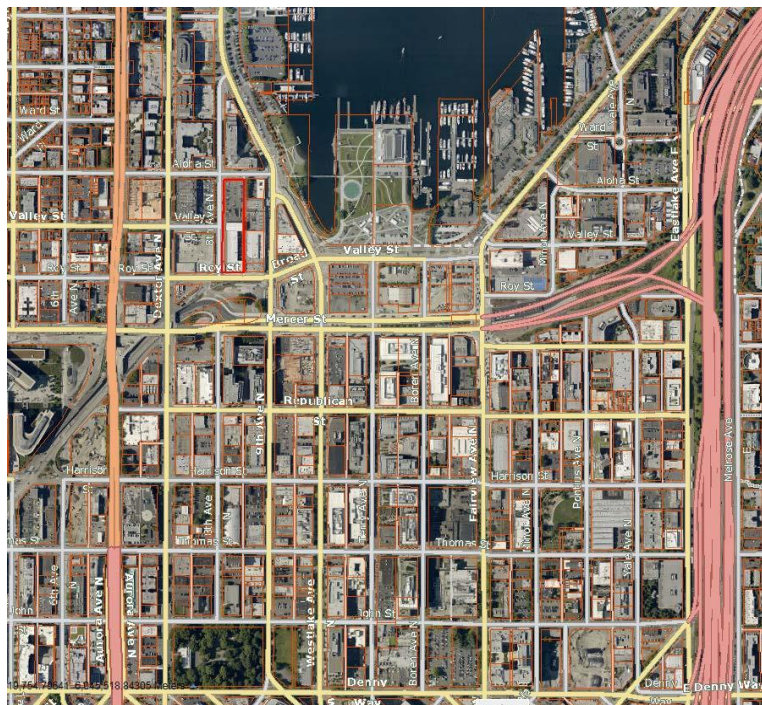
The Disposition of Seattle City Light's 8th & Roy Property: A Report and Recommendation in Response to the Requirements of Resolution 31424

Purpose of this report.

Resolution 31424 requires City Light to follow a set of procedures for circulation, public outreach, and public hearings for the disposition of surplus properties under its jurisdiction. The final step in this process is the transmittal of a report to the City Council on the circulation, community outreach, and community comments and suggestions, together with a recommendation for disposition of the property, and the necessary legislation to implement those recommendations. This document with its appendix is that report. It includes City Light's recommendation. The proposed legislation will be transmitted to the City Council separately.

Background.

The 66,000 SF property that is excess to City Light's needs and the subject of this report is located at 800 Aloha Street in the South Lake Union neighborhood. It is bounded by Aloha St on the north, 8th Ave N on the west, Roy St on the south, and an alley on the east. The property constitutes a half block. The south half of its area is covered by a two-floor structure of 54,456 SF. It's location in the neighborhood is shown by the following pictures.





The building was constructed by Puget Sound Power & Light as a warehouse, shop, office, and garage complex in 1926. Seattle City Light bought the building in 1959 and transferred it to Seattle Parks & Recreation in 1992 for fair market value at that time. It was transferred back to City Light in 2003, again for fair market value. The center section and north bay are largely vacant and used for City Light storage.

The following pictures give a ground level view of the property.



South side from Roy Street (above) and north side and parking lot from Aloha (below).



Description of the property.

There are several problems facing future use or redevelopment of the property. The building shell and all mechanical systems need major maintenance or replacement. Several underground storage tanks have been removed from the north parking lot but there is some

residual petroleum contamination of the soil there. There is a plume of dry cleaner solvent contaminants from the neighboring property extending under the property. The building has some lead paint and asbestos which would need to be abated.

Additionally, the building was established as a Seattle Landmark in 2013. The Landmarks designation focused on the exterior of the building and several first-floor interior spaces, but excluded the parking lot to the north. Any purchaser would need to preserve the building exterior and listed interior spaces, and negotiate a Controls and Incentives Agreement with the Seattle Landmarks Board.

The site was recently rezoned to SM-SLU 100/95, which allows a wide variety of uses such as residential, hotel, biotech, or offices. Height limits are 100 feet (commercial) or 95 feet (residential.) Recently adopted Mandatory Housing Affordability provisions would require commercial development to dedicate 5.0% of floor area to affordable housing or a \$8.00/SF payment. Residential development would need to dedicate 2.9% of its units to affordable housing or a \$7.50/SF payment. Altogether these requirements could yield up to 22,000 square feet of affordable housing or a \$3.5M contribution toward the development of affordable housing offsite.

The property was appraised last year at \$33.7M, excluding any devaluation from the site's environmental contamination.

Legal restrictions on the use and disposition of the property.

State law constrains the disposition of utility property. RCW 43.09.210 states in part:

“All service rendered by, or property transferred from, one department, public improvement, undertaking, institution, or public service industry to another, shall be paid for at its true and full value by the department, public improvement, undertaking, institution, or public service industry receiving the same, and no department, public improvement, undertaking, institution, or public service industry shall benefit in any financial manner whatever by an appropriation or fund made for the support of another.”

RCW 35.94.040 states in part:

“Whenever a city shall determine, by resolution of its legislative authority, that any lands, property, or equipment originally acquired for public utility purposes is surplus to the city's needs and is not required for providing continued public utility service, then such legislative authority by resolution and after a public hearing may cause such lands, property, or equipment to be leased, sold, or conveyed. Such resolution shall state the fair market value or the rent or consideration to be paid...”

In summary, City Light property cannot be used for any non-utility, general government or private purpose, without payment of true and full market value. Property transferred from City Light to another City department must be paid for at its true and full value.

Recent court decisions underscore the inability for the electric utility to subsidize general government activity (Okeson v. City of Seattle, Lane v. City of Seattle)

City Light’s Compliance with Resolution 31424

Resolution 31424, adopted in January of 2013 establishes the procedures for City Light to follow before making a recommendation for the disposition of surplus property to the City Council. The full text of the resolution is available at:

<http://clerk.seattle.gov/~scripts/nph-brs.exe?s1=&s3=31424&s2=&s4=&Sect4=AND&l=200&Sect2=THESON&Sect3=PLURON&Sect5=RESNY&Sect6=HITOFF&d=RESF&p=1&u=%2F%7Epublic%2Fresny.htm&r=1&f=G>

In summary, it covers requirements to:

- Circulate notices of the availability of the property for purchase, to other City departments and other agencies
- Notify the public of plans to possibly sell the property
- Give the public opportunities to comment on the disposition of the property
- Transmit documentation of all the above to City Council along with City Light’s recommendation for disposition

The chart below lists each of the requirements in Resolution 31424, how City Light has complied with that requirement, and the page numbers in the Appendix to this report where that compliance is documented.

8th & Roy Disposition Project: summary of Resolution 31424 compliance

Requirement excerpted from Res. 31424	Status
1. City Light’s surplus properties will be vetted in small groups based on geographic locations.	Only one property in question, so it is a “small group” of its own.
2. City Light will circulate complete descriptions of the surplus properties under study to all other City departments. Other City departments will have first priority to acquire a surplus property to meet City needs.	Sent 2/27/17. No expressions of interest received.
3. The surplus properties will also be circulated to other public jurisdictions which may be interested in acquiring a property. Other public jurisdictions will	Sent 2/27/17. No expressions of interest received.

<p>have the second priority to acquire a surplus property to meet public needs.</p>	
<p>4. City Light will coordinate its community outreach with the Department of Neighborhoods (DON) and will attend a meeting of each Neighborhood District Council or similar community group recommended by DON having representation within the geographic area of the surplus properties being considered for disposition.</p>	<p>Consulted with DON on 2/27/17. DON recommended South Lake Union Community Council, South Lake Union Chamber of Commerce and Uptown Alliance. Reached out to all 3. Was invited to and attended meetings of the first 2 groups (SLU Community Council on 3/21/17 and 4/4/17. SLU Chamber of Commerce on 4/11/17.)</p>
<p>5. At the ... meetings, City Light will advise the member neighborhood groups of the proposed disposition, opportunities for public comment, and the upcoming public hearing concerning such disposition.</p>	<p>Done.</p>
<p>6. City Light will attend a meeting of any member neighborhood group making such request to discuss any proposed dispositions in their neighborhoods.</p>	<p>None requested.</p>
<p>7. City Light will host at least one community information meeting, in addition to attending District Council meetings and meetings with individual community groups as requested, prior to conducting a formal public hearing.</p>	<p>Done 4/25/17.</p>
<p>8. City Light will invite the Department of Parks and Recreation (Parks), the Department of Planning and Development (DPD), and the Seattle Department of Transportation (SDOT) to provide representatives at each community information meeting. The Parks representative would discuss and answer questions about how the need for new parks is determined, and how new parks and park development are funded. The DPD representative would answer any questions about development under existing zoning and land use permitting. The SDOT representative would answer questions about traffic and parking impacts.</p>	<p>Done. Attendees included:</p> <ul style="list-style-type: none"> • Lise Ward, Parks • Mark Bandy, SDOT • Megan Neuman, SDCI • Emily Alvarado, OH

<p>9. At each community meeting and at the public hearing, City Light will advise the attendees of:</p> <p>** The history of each surplus property proposed for disposition within the hearing area, why the property is surplus to City Light needs, and the results of circulation to other City departments and other public agencies; and</p> <p>** The requirements of RCW 43.09.210, the State Accountancy Act, the requirements of RCW 35.94.040, pertaining to sales of utility properties, City Charter provisions pertaining to the disposal of City property, the judicial precedents of Okeson v. City of Seattle (I and II), and Lane v. City of Seattle, and the disposition procedures authorized by Resolution.</p> <p>** Opportunities to speak and how to submit written comments.</p> <p>** City Light will inform the attendees that they may also contact the City Council directly with any concerns and will provide contact information.</p>	<p>Done.</p>
<p>10. City Light will maintain a record of all public testimony, written comments, and attendance and speaker sign-in sheets.</p>	<p>Done. See attached Appendix.</p>
<p>11. City Light will publicize each disposition process on the City Light website in the City of Seattle Public Access Network (PAN). The website will provide descriptions of the properties, a schedule of informational meetings and public hearings, and a means for submitting public comments.</p>	<p>Done 3/17/17. There were 816 total unique pageviews from visitors to the webpage from 3/17/17 to 5/5/27.</p>
<p>12. Following circulation to other City departments and other public jurisdictions, and after the community information meetings, City Light will conduct one public hearing to solicit public comments for each geographic group of surplus properties.</p>	<p>Done 5/1/17.</p>

<p>13. At least one month prior to each public hearing, City Light will provide written notification of the surplus status, disposition process, and opportunities for public comment, to each person owning property or living within 700 feet of a surplus property proposed for disposition....</p>	<p>Done 3/24/17.</p>
<p>14. (At least one month prior to each public hearing) ... a sign will be posted on each property to provide the same notification.</p>	<p>Done 3/21/17.</p>
<p>15. (At least one month prior to each public hearing) ... a notice of the hearing will be published on two separate dates in a newspaper of record</p>	<p>Done 3/22/17 & 3/23/17.</p>
<p>16. At the conclusion of each public hearing, if any uses are proposed which would require the transfer of a property to another City department, such as park, community garden, or other non-utility use, City Light shall request such department to consider such proposal (to reconsider its determination in the earlier circulation), particularly with regard to how the proposed use would be consistent with citywide or local needs, and the availability of funds to effect a transfer.</p>	<p>Request sent 5/08/17. Responses received May 10 and May 26.</p>
<p>17. Seattle City Light will coordinate with the Department of Finance and Administrative Services (FAS) to obtain support in performing these procedures to the fullest extent that FAS staff resources and expertise will permit.</p>	<p>FAS assisted by forwarding on 4/05/17 the notice of the disposition study, community information meeting and public hearing to its list of individuals that are interested in any City property disposition, anywhere in the city.</p>

<p>18. At the conclusion of each public hearing, and following reconsideration of any proposals for non-utility public uses, City Light will submit a report to the City Council on the circulation, community outreach, and community comments and suggestions, together with a recommendation for disposition of each specific property, and the necessary legislation to implement those recommendations.</p>	<p>Will be done with the transmittal of this report.</p>
<p>19. All members of the public and all community groups which have participated in the review of a surplus property shall be advised of the findings and recommendations of City Light regarding such property, before the report on such findings and recommendations is submitted to the City Council.</p>	<p>Will be done prior to the transmittal of this report</p>

In addition to the steps required by Resolution 31424 that are listed above, City Light also took ten other actions to notify the public and to encourage their comment on the property disposition. These are listed below.

<p>Additional outreach steps taken by City Light beyond those required by Resolution 31424:</p>
<p>1. On 4/05/17, sent notice of the disposition study, community information meeting and public hearing to its list of individuals that are interested in any City property disposition, anywhere in the city.</p>
<p>2. On 3/28/17, sent notice of the disposition study, community information meeting and public hearing to selected names from an email list from City Light's Denny Substation project in South Lake Union</p>
<p>3. On 4/05/17, sent notice of the disposition study, community information meeting and public hearing to email list from the City's Office of Planning and Community Development of over 450 persons interested in South Lake Union issues.</p>
<p>4. On 3/23/17 placed a notice in the City's Public Outreach and Engagement calendar for the community information meeting and for the public hearing.</p>
<p>5. On 4/04/17 notice of the community information meeting was published in the Department of Neighborhood's electronic newsletter</p>

6. On 4/18/17, posted notice of the disposition study, community information meeting and public hearing on City Light's Facebook page
7. On 4/19/17, posted notice of the disposition study, community information meeting and public hearing on City Light's "Powerlines" blog
8. Immediately prior to our community information meeting on 4/25/17, we organized and hosted a community open house which covered a wide variety of departments and their projects which were affecting the South Lake Union neighborhood. This was a suggestion of the Department of Neighborhoods so that the diversity of topics covered could attract more of the public and make it more worth their while to attend.
9. On 4/27/17 sent an email to 62 individuals on our interest list to remind them of the 5/01/17 public hearing.
10. On 5/02/17 sent an email to 68 individuals on our interest list to remind them of the 5/05/17 comment deadline. (The interest list grew by six names between 4/27/17 and 5/02/17.)

Results of the department/agency circulation process.

The first set of requirements of Resolution 31424 had to do with notifying other departments and agencies about the availability of the property. None of the notified departments or agencies expressed an interest in acquiring the property. In addition, we received communications from Seattle Public Utilities, the Seattle Department of Parks and Recreation (SPR), Seattle's Office of Housing (OH), and the Seattle School District explicitly declining the opportunity to purchase the property.

Because of the public interest in both affordable housing and open space we involved OH and SPR in our community information meeting to explain why they each declined to acquire the property.

OH cited several factors. First, in their cost benefit analysis, they found that the level of investment needed per unit was too high. Second, there were significant development challenges presented by the site constraints of the landmarked structure. Also, their risk analysis showed that there would be significant purchase and carrying costs prior to OH being able to issue an RFP to housing developers. Finally, OH cited the existence of other, better opportunities for the development of affordable housing in the immediate vicinity.

SPR also explained their lack of interest in acquiring the property. SPR's acquisition priorities are guided by what they call a "gap analysis". Any areas within an Urban Village that are more

than a five-minute (about ¼ mile) walk from an existing park are considered service gaps. New park acquisitions are prioritized to fill in such service gaps. The 8th and Roy property is about 250 feet from Lake Union Park and therefore the property is not in a service gap.

Public comments.

City Light received comments from the public by email, USPS mail and verbally in meetings and our public hearing. These are all reproduced in the Appendix. Many of the comments were suggestions for the use of the property. Almost all of these suggestions were for uses that would be inconsistent with City Light's legal requirement to receive fair market value for the non-utility use of the property. A few responders suggested selling the property for the benefit for the ratepayer. The chart below summarizes the suggestions and comments that were received and City Light's evaluation and response to each.

Suggested Use/Comment Received		City Light Response
Affordable Housing	<ul style="list-style-type: none"> Affordable housing City-owned housing 	<ul style="list-style-type: none"> State law prohibits utilities from transferring or making available its property for general government purposes without receiving full and fair market value. The City's Office of Housing has determined that purchasing the property at fair market value would not be a wise investment of their resources. Residential or commercial redevelopment of the site, post-sale will be subject to the recently enacted Mandatory Housing Affordability requirements to support affordable housing (up to 22,000 SF of affordable housing or up to \$3.5M contribution to affordable housing)
	<ul style="list-style-type: none"> Maintain as utility facility while also providing affordable housing 	<ul style="list-style-type: none"> City Light has no utility use for the facility. Providing the property for affordable housing for other than fair market value – whether or not there was some ongoing simultaneous utility use - would be illegal.
	<ul style="list-style-type: none"> Transfer to another agency for affordable housing under a long-term lease 	<ul style="list-style-type: none"> Leases for non-utility purposes at less than fair market value would be subject to the same prohibitions as a sale.
	<ul style="list-style-type: none"> Mixed income housing 	<ul style="list-style-type: none"> Residential or commercial redevelopment of the site, post-sale will be subject to the recently enacted Mandatory Housing Affordability ordinance. Requiring housing vs other uses allowed by the site's zoning would run the risk of reducing the sale proceeds below fair market value in the pursuit of a general governmental purpose. Conditioning the sale to a housing developer on the provision of affordable housing beyond that required by MHA would also run the risk of reducing the sale proceeds below fair market value in the pursuit of a general governmental purpose.

	General housing/residential use	<ul style="list-style-type: none"> • Requiring housing vs other uses allowed by the site's zoning would run the risk of reducing the sale proceeds below fair market value in the pursuit of a general governmental purpose.
Open Space	<ul style="list-style-type: none"> • Open space • Green space • Dog park • Pea patch • Park • Playfields 	<ul style="list-style-type: none"> • State law prohibits utilities from transferring or making available its property for general government purposes without receiving full and fair market value. • The City's Department of Parks and Recreation has determined that purchasing the property at fair market value would not be a wise investment of their resources • The Department of Neighborhoods decided to not pursue the purchase of the property for pea-patch or other DON use. • City Light has already provided a dog park to serve the SLU neighborhood as part of its Denny Substation project. This was in response to a requirement under City law to provide a public benefit in lieu of street right of way that was vacated for the substation project.
Other Public Facilities	<ul style="list-style-type: none"> • Library 	<ul style="list-style-type: none"> • State law prohibits utilities from transferring or making available its property for general government purposes without receiving full and fair market value. • The Seattle Public Library did not indicate an interest in purchasing of the property for their use.
	<ul style="list-style-type: none"> • School 	<ul style="list-style-type: none"> • State law prohibits utilities from transferring or making available its property for general government purposes without receiving full and fair market value. • The Seattle School District declined to pursue the purchase of the property for their use.
	<ul style="list-style-type: none"> • Swimming pool • Recreation center • Community meeting space 	<ul style="list-style-type: none"> • State law prohibits utilities from transferring or making available its property for general government purposes without receiving full and fair market value. • City Light is providing community meeting space for the South Lake Union community at its new Denny Substation in response to a requirement under City

Other Public Facilities, con't	<ul style="list-style-type: none"> Community center 	<p>law to provide a public benefit in lieu of street right of way that was vacated for the substation project.</p> <ul style="list-style-type: none"> The City's Department of Parks and Recreation has determined that purchasing the property at fair market value would not be a wise investment of their resources.
	<ul style="list-style-type: none"> Community center in partnership with future private purchaser of the property 	<ul style="list-style-type: none"> If there were advantages allowed a developer from including such a use in a redevelopment at the site, then this could be discussed among any new property owner, the community and the Seattle Department of Construction and Inspection.
Other Suggestions or Comments	<ul style="list-style-type: none"> Tree reserve for carbon offset 	<ul style="list-style-type: none"> RCW 35.92.430 authorizes municipal utilities to mitigate the environmental impacts of its operations, using "those greenhouse gases mitigation mechanisms recognized by independent, qualified organizations with proven experience in emissions mitigation activities." It does not authorize City Light to establish open space, natural areas, tree banks, or similar areas to mitigate environmental impacts of its operations. For City Light to engage in such an activity, there must be parity between the cost of such an activity and the benefit to ratepayers. Attempting to gain carbon credits by dedicating very valuable property and tearing out asphalt and planting trees would be very much more expensive than purchasing carbon offsets on the open market. Forestry offsets are very difficult to quantify and verify. In fact, City Light has not be able to obtain greenhouse gas/carbon offset credits for the 13,000 acres of fish and wildlife habitat lands it owns in the Skagit watershed.
	<ul style="list-style-type: none"> Land trust 	<ul style="list-style-type: none"> A land trust is a legal device to own and sell property, but it does not by itself create funds to purchase property from a utility for non-utility uses.

Other Suggestions or Comments, continued	<ul style="list-style-type: none"> Project for the adaptive use of the historic building 	<ul style="list-style-type: none"> Given landmarks requirements, it is likely that a purchaser of the site would need to take an adaptive use approach.
	<ul style="list-style-type: none"> Future development will need to study the impact on the seaplane air corridor 	<ul style="list-style-type: none"> Comment noted. Any future developer would need to comply with this and all other SDCI requirements.
	<ul style="list-style-type: none"> More involved and longer public outreach/input process 	<ul style="list-style-type: none"> City Light has met and exceeded all public outreach requirements embodied in Resolution 31424.
	<ul style="list-style-type: none"> Maintain in public ownership 	<ul style="list-style-type: none"> Maintaining the property as a utility property when it has no utility use is a poor use of resources. The property cannot be made available for non-utility, general government use without fair market value compensation and no agencies have indicated an interest in purchasing the property for fair market value.
	<ul style="list-style-type: none"> Sell to benefit the City Light ratepayer 	<ul style="list-style-type: none"> This is certainly an allowed use. There are several possible uses for the proceeds that would benefit City Light customers/ratepayers: <ul style="list-style-type: none"> Replenish the Rate Stabilization Account and remove the present electric rate surcharge Help support the continued expansion of the Utility Discount Program for low income customers Ensure continued support for Office of Housing's Low Income Weatherization Program in case of expected federal cuts Ensure the utility meets debt service coverage for 2017 or 2018

City Light recommendation.

The following are the key factors for the formation of City Light's recommendation:

1. City Light's public outreach process has been comprehensive. The process has fully complied with the requirements of Resolution 31424. In fact, it has included many steps to solicit public input that exceed these requirements.
2. State law is very clear that City Light would need to be compensated at fair market value for any non-utility use or purchase of the property. Fair market value for this property is significant – around \$30M.
3. No department or public agency has expressed a willingness to acquire the property for fair market value. More specifically, the departments with the mission to acquire open space (SPR) and to fund subsidized affordable housing (OH) have explicitly declined to purchase the property.
4. The most common suggestions from the public for the use of the property – open space or affordable housing - have not addressed City Light's legal requirement to receive fair market value for these uses. The City's efforts over the last six years to find a means of making the property available for affordable housing while complying with the law have been without success.
5. It is extremely unlikely that in the foreseeable future there will be general government funds available to purchase this property at fair market value for open space, affordable housing, or other general governmental uses. Waiting for this unlikely event will result in many additional years of deterioration of an unused landmark building and additional costs to City Light.
6. In contrast, sale of the building to a private party would result in the generation of real estate taxes to benefit general government services as well as likely benefits to affordable housing because of the City's Mandatory Housing Affordability code.
7. Finally, City Light's financial situation is not what it should be. Due to the drop in wholesale power revenue, the Rate Stabilization Account has dwindled. Consequently, all City Light customers have been paying a %1.5 surcharge on their electric rates since July of 2016. From 2012 through 2016 the retail revenue that City Light collected was \$133M less than that which it forecasted to be collected. City Light has not met its official debt service coverage target in the last two years. Increasing enrollment in the Utility Discount Program meets a pressing need in the community, but also reduces City Light's revenue. And there is a concern about cuts in Federal funds that support the City's Low Income Weatherization Program.

After considering all these factors, City Light recommends that the Mayor and City Council approve an ordinance that would:

- determine the 8th & Roy property as surplus to the City's needs and no longer required for providing public utility service or other municipal purpose, and
- authorize the sale of this property for fair market value through a brokered sale
- authorize City Light to allocate, as a first priority, that portion of the proceeds of the sale of the property needed to replenish the Rate Stabilization Account to remove any existing rate surcharge pursuant to SMC 21.49.086 and to establish a buffer against re-entering a surcharge condition in the future.

City Light will transmit such legislation separately, via the Mayor's Office.