



CITY OF KIRKLAND

City Manager's Office

123 Fifth Avenue, Kirkland, WA 98033 425.587.3001

www.ci.kirkland.wa.us

MEMORANDUM

To: City Council

From: David Ramsay

Date: October 10, 2005

Subject: Totem Lake Mall

Following the City Council's review of the proposed Memorandum of Understanding (MOU) with Coventry/DDR at the September 20th Council meeting, staff was directed to pursue a number of issues and report back to Council. The analysis and advice of additional experts in the areas of law and finance were to be used in this review process. Please find attached a report from the Director of Planning that responds to these issues and includes a revised MOU for your consideration.

The purpose of this cover memo is twofold. It provides a review of how this proposed major renovation of the Totem Lake Mall meets two important City objectives. In addition, it briefly summarizes the work done on the MOU since the last Council meeting.

The first objective is the revitalization of an underperforming mall. It has often been stated that this effort should be the City's top economic development priority. Retail sales reports have consistently shown that Kirkland experiences significant "sales tax leakage" to such cities as Bellevue and Redmond. Recent and planned developments in Bothell, Woodinville and Lake Forest Park will likely further this trend. A revitalized Totem Lake Mall is the best strategy to respond to these challenges. The direct result will be a significant revenue increase to the City in the form of additional sales tax and admissions tax. In addition, this project along with the Evergreen Medical Center expansion should be considered as catalysts for other developments in the Totem Lake business district that is often referred to as the "economic engine" of Kirkland.

It is important to note that the economic development objective described above could be accomplished by "simply" adding one or two so-called big-box retailers to the site. This strategy could meet the City's need for additional revenue and would satisfy Coventry/DDR's return on investment criteria. However, it would fail to meet the City's second objective for the site; namely the creation of a "center of the community" for the Totem Lake neighborhood.

To accomplish this objective, we have consistently emphasized to Coventry/DDR the City's desire for a high quality, mixed-use project that includes retail, housing, office and significant public space. The design is to be pedestrian-friendly and include community gathering places. We believe that the developers are sincerely working towards meeting these design objectives. Key to making this development plan financially viable will be the City's willingness to invest in the project. In doing so, we can better ensure that the project's public spaces will be of high quality and will directly benefit the community.

At the September 20th meeting, Council raised a series of issues about the project and directed that additional expertise be brought in to assist staff in analyzing the finances of the project and the proposed terms of the MOU. This review has proven to be a very productive process and has resulted in what we believe is an improved proposal for your review. While the financial review concludes that the original revenue numbers can be supported, it does point out some important factors that need to be (and have been) taken into account. The legal review has resulted in a number of changes that serve to better protect the City's interests. In terms of the City's investment in the project, the most significant change to the previous proposal has been the addition of the City's purchase of approximately 300 parking spaces. This has several advantages for the City. The appraisers believe that the benefits to the City can be directly quantified and supported. These parking spaces will serve to support public events at the Mall and the potential for the City to locate facilities (e.g. community center, "mini-City Hall," library) there at a future date.

I am respectfully recommending that the City Council approve this MOU and direct staff to proceed with the negotiation of a Development Agreement based upon the following:

- that the proposed renovation plan meets the City's economic development and design objectives
- that an investment by the City is needed to achieve the desired quality and public benefit of the project
- that the proposed terms of the MOU satisfactorily represent the City's best interests

Please let us know if we can provide you with any additional information.



CITY OF KIRKLAND

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MEMORANDUM

To: David Ramsay, City Manager
From: Eric Shields, Planning Director
Date: October 10, 2005
Subject: TOTEM LAKE MALL – MEMORANDUM OF UNDERSTANDING

RECOMMENDATION

Review and authorize the City Manager to sign the Memorandum of Understanding (MOU) provided in attachment 1.

BACKGROUND DISCUSSION

Purpose of the MOU The purpose of the MOU is to establish an agreement that sets forth the parameters for a more detailed development agreement to be prepared and presented for Council adoption later this year. The MOU establishes the City's commitment to contribute City funds toward the redevelopment of the Totem Lake Mall, the amount of money the City is willing to contribute, the purposes for which City money would be used, and the commitment of Coventry/ DDR to build the Mall and associated public improvements.

MOU Revisions An earlier version of the MOU was submitted for City Council consideration on September 20, 2005 at which time the Council asked for additional information and raised a number of concerns. The concerns were grouped around five issues:

- Whether the MOU contains adequate legal protections for the City.
- Whether the revenue projections prepared by Mundy and Associates are accurate.
- Whether there will be any required off-site traffic and storm drainage improvements associated with mall redevelopment; and if so, whether these should be paid for by City as part of or in addition to the City's \$15 million contribution for public improvements.
- Whether the mix of public improvements to be paid for by the City is appropriate and provides a binding commitment value of \$15 million to the City.

Staff has engaged the services of expert consultants to address each of these issues, as discussed in more detail below. We have used the information from the consultants to negotiate the revised MOU with Coventry/ DDR.

Legal Issues Hugh Spitzer, an attorney with the Foster, Pepper & Shefelman law firm was engaged to review the MOU for legal issues. His suggested revisions can be summarized as follows:

- Make perfectly clear that the MOU and development agreement will in no way violate the constitutional restrictions on providing public funds for the sole benefit of a private business. Revisions to this effect have been incorporated throughout the MOU.

- Clarify that the MOU and Development Agreement do not violate public bidding and prevailing wage laws. The revised MOU does not discuss these issues specifically. The City and Coventry/DDR both agree that these issues will have to be addressed in the Development Agreement.
- Make clear that City payment for public improvements will not exceed \$15 million. Article V of the revised MOU has incorporated language to this effect.
- Include a provision to establish that Coventry/DDR will complete Mall improvements by a specified date. Section 3.1 indicates that Mall redevelopment is anticipated to occur in two primary phases which will be completed within three years and, unless otherwise agreed to by the City, full development will be completed within five to seven years.
- Include language in the MOU that makes clear that it is not an irrevocable decision to commit City funds. In response, Articles I and IX have been revised. Article I indicates that the MOU "...constitutes an irrevocable decision of the City to proceed with negotiation of the Development Agreement..." Article IX states: "...this MOU reflects the basic framework of an arrangement between the Parties on the matters set forth herein..." Consequently, if the MOU is approved, the City will have the obligation to move forward to negotiate a development agreement under the framework of the MOU. However, the MOU does not obligate the City to approve a development agreement that does not meet the interests of the City.

Revenue Projections In April, 2005, Coventry/ DDR submitted to the City a benefit-cost analysis prepared by Mundy Associates. The analysis included a projection of tax revenues that would be received by the City from the redeveloped mall. To determine whether the revenue projections are accurate, the City hired an economist with the firm of Berk and Associates. The consultant was asked to evaluate the methodology used by Mundy to arrive at the projected revenues and to generally review Mundy and Associates' economic analysis. The report from Berk and Associates is included as attachment 2. Their findings are summarized below:

- "The basic assumptions used to estimate gross tax and fee revenue generated . . . appear to be reasonable and the conclusion regarding total revenue impacts from the site is well supported." In other words, the consultants verified the gross revenue estimates provided by Mundy and Associates.
- The Mundy report does not, however, take into consideration other factors that may reduce the net financial benefits to the City of Kirkland. These are largely subjective evaluations that may have an effect of decreasing net marginal revenue to the City. Four factors are discussed in Berk's report:
 - Assumptions Used in the "No Action" Scenario: The "No Action" scenario relates to the financial implications of not completing the redevelopment as proposed. The Mundy analysis assumes that, without the development as proposed, the mall will not perform any better than it does now and that no additional revenue will be generated in the future. For instance, the Mundy report makes the assumption that the current vacant space will remain vacant. In reality, the current vacant space may become occupied and/or DDR may complete an alternative "cosmetic" remodel of the mall which would produce additional revenue, albeit not at the level that would be produced with the proposed design.
 - Impact of Redevelopment on Overall Spending in Kirkland: Mundy and Associates did not decrease the gross revenue estimates to allow for spending that will move within the City. It can be assumed that some of the retail or restaurant tenants in the new mall will reduce spending at other businesses in Kirkland. Since we do not know the exact tenant mix or identities, an accurate assessment of this

impact is not possible. The Mundy report assumes that all of the gross sales and admissions tax revenue is generated from new sales in Kirkland that are imported from other cities.

- Cost of Service Impacts: The Mundy report does not take into account any marginal service impacts (and costs) that will result from redevelopment of the mall. In particular, Berk and Associates discusses the likely impacts on police services and the potential for needing more commissioned officers.
- One-Time Benefits: The Mundy report includes one-time fees and taxes in their calculation of financial benefit. Although the City would receive those fees and taxes, they will not contribute to the ongoing revenue base of the City and should not be considered in evaluating the long term benefits.

Berk and Associates estimates that the net present value of financial benefits accruing from the mall could be reduced from Mundy's figure of \$37.7 million to as little as \$13.7 million to \$21.8 million, depending on the assumptions used for the factors noted above.

The fundamental question of whether there will be adequate revenue to support debt service payments for the City's participation can be answered affirmatively. In terms of financial risk, the proposed redevelopment will likely produce sufficient revenue to offset City debt service costs and will likely produce a net financial benefit to the City. Further, there will likely be additional benefits to surrounding retail properties which are not taken into account (i.e. redevelopment of Totem Lake Mall may spur redevelopment of nearby retail properties). Finally, the report does not place a value on the contribution to the City's community development goals. The proposed design meets the desired planning goals for that property. An alternative would have been to allow a "big box" store to locate there with no City financial contribution, but without the public amenities and mixed-used focus that the proposed design incorporates.

Off Site Improvements To provide more certainty about the extent and cost of off-site traffic and stormwater improvements associated with Mall redevelopment, the Public Works Department examined these issues in depth (see memoranda and map included as attachments 3- 5). To summarize:

- No off-site stormwater improvements would be required.
- With regard to traffic improvements, three intersections would be impacted by Mall traffic. One of these intersections (124th Ave. NE and NE 124th St.) would not require mitigation because there is already a CIP project planned. Another of the intersections (Totem Lake Blvd. and the west end of the new plaza street) is already included in the on-site improvements to be paid for from the City's \$15 million contribution. At the remaining intersection (Totem Lake Blvd. and 120th Ave. NE), projected traffic only slightly exceeds the threshold for mitigation, and such mitigation is likely to be able to be accomplished through measures that promote trip reduction (particularly associated with the office portion of the project).

Based on this information, the revised MOU indicates that Coventry/DDR will not be required to construct off-site traffic or stormwater improvements for the project, but implementation of a Transportation Management Plan may be discussed at the time of permit application for the office portion of the project. Similarly, the MOU no longer indicates that the City will be required to pay for off site improvements. The previous version of the MOU required City payment for any needed off-site improvements in excess of our \$15 million payment for on-site improvements.

City Funded Improvements Article V of the revised MOU, continues to provide for two groups of public improvements. The City would fund improvements within the first group (Primary City Financial Participation) up to

but not exceeding \$15 million. The previous version of the MOU essentially included three improvements in the Primary group: the public plaza, 120th Ave. NE, and off-site traffic and stormwater improvements. The revised MOU eliminates off-site improvements, as discussed above, and adds City ownership interest in the parking structure. Parking ownership was added in order to achieve a total investment of \$15 million in light of reductions in the estimated cost to the City for the new plaza street. The second group (Secondary City Financial Participation) includes City payments for: impact and mitigation fees, permit fees, and utility connection charges. These items would be funded only if necessary to achieve a total contribution of \$15 million.

Earlier, Coventry/ DDR proposed selling the City public improvements at a price that reflects their entire construction cost and commercial land value. Kenneth A. Barnes of Cushman Wakefield was hired by Coventry/ DDR to appraise the value of the Mall property. Mr. Barnes established the land value at \$48/square foot after it is fully redeveloped. Construction costs were estimated by Triad Associates.

To evaluate the appraisal and proposed sale, staff hired another appraiser, Anthony P. Gibbons. Mr. Gibbons agreed with the land value established by Mr. Barnes, but noted that the sale price of the plaza should take into account its value to the Mall. Mr. Barnes agreed and proposed that the price of the land and improvements be reduced to account for the private benefit as follows:

- Land value would be reduced to its pre-redevelopment value of \$30/ square foot.
- Improvement cost would be adjusted by 50%.
- If the City agrees to include a capitalized maintenance cost, which is estimated to be \$1.8 million, this would be paid for at full value.
- Based on all of the above, the City would pay 65% of the costs associated with the plaza.

Mr. Gibbons concurred that the above approach is appropriate (see attachment 6).

The estimated cost of improvements to 120th Ave. NE is \$3 million. The reduced cost of the plaza is approximately \$5.2 to \$7 million (depending upon whether maintenance costs are capitalized). Consequently, an additional \$5 to \$6.8 million is needed to achieve the desired \$15 million total City investment. This could be accomplished by purchasing an interest in the parking garage. The garage would be a tangible public asset, providing parking for public uses such as events held in the plaza or for future public facilities (for example community center, mini-City Hall or library) located at the Mall.

From the above, the costs to the City can be approximated as follows:

120 th Ave. NE Improvements	\$3.0 million
Plaza	
• Improvements	\$2.1 (reduced from 4.3 million)
• Land	<u>\$3.1 (4.9 million)</u>
<i>Subtotal:</i>	\$5.2 million*
Parking garage	\$6.8 million (up to this amount)
Impact, permit & utility connection fees	<u>\$0.0 million</u> (unless above items are < \$15 million)
Total:	\$15 million

* Capitalized maintenance would add up to \$1.8 million and reduce parking cost by same amount.

Section 5.1.1 of the proposed MOU indicates that the City would pay 65% of the value of improvements for the plaza. This amount approximates the average of the land, improvement and maintenance costs. Because maintenance has not been agreed to by the City, this percentage may need to be adjusted. Staff will discuss this issue and provide more information and a recommendation to the Council at the October 18 meeting.

Attachments:

1. Proposed Memorandum of Understanding
2. Berk and Associates Report
3. Memorandum from Daryl Grigsby and Rob Jammerman
4. Memorandum from David Godfrey
5. Map of Off-site improvements
6. Letter from Anthony Gibbons

Es: TL Mall memo to CC meeting 10-18-05

MEMORANDUM OF UNDERSTANDING

**THE CITY OF KIRKLAND AND COVENTRY II DDR TOTEM LAKE, LLC
REGARDING REDEVELOPMENT OF TOTEM LAKE MALL**

RECITALS

WHEREAS, Coventry II DDR Totem Lake, LLC (“Coventry/DDR”) is the owner of the Totem Lake Mall (the “Mall”), located on a 26-acre parcel in the City of Kirkland (the “City”); and

WHEREAS, Coventry/DDR plans to pursue redevelopment of the Mall in an economically feasible manner and at a scale commensurate with the level of public financial participation desired by the City; and

WHEREAS, the City views the Mall as a key component of its overall economic vitality and has targeted redevelopment as a primary goal, recognizing that redevelopment will result in benefits to surrounding neighborhoods, generation of addition revenues to the City, and will provide the potential for creation of a community center with a defined sense of place in furtherance of the City’s planning goals and objectives; and

WHEREAS, the City and Coventry/DDR have engaged in discussions to determine the appropriate level of public financial participation in public infrastructure commensurate with the scale of redevelopment desired by the City; and

WHEREAS, the City and Coventry/DDR have reached agreement on the appropriate level of public financial participation in public improvements associated with redevelopment of the Mall, all in accordance with the Totem Lake Mall Conceptual Master Plan, as may be amended or modified from time-to-time (“Master Plan”). The Master Plan has been presented to the City’s Design Review Board, and in order to encourage the redevelopment of the Mall and the surrounding area and to improve public access and public amenities in the Mall area, the City desires to invest in public infrastructure owned, or partially owned, by the City in the area of the redeveloped Mall in an amount not exceeding \$15,000,000.00 (“City Financial Participation”); and

WHEREAS, a Benefit Cost Analysis, prepared for Coventry/DDR and delivered to the City, forecasts that redevelopment of the Mall will result in additional one-time construction related revenues and recurring annual revenues, which will be sufficient to fund all, or part, of the City Financial Participation; and

WHEREAS, The City is willing to invest the City Financial Participation in connection with the redevelopment of the Mall as approved in the Master Plan based upon its conclusion that the City Financial Participation is in the best interests of the citizens of the City; and

WHEREAS, the City and Coventry/DDR desire to enter into this Memorandum of Understanding (“MOU”) to address City Financial Participation and other aspects associated with redevelopment of the Mall; and

WHEREAS, this MOU sets forth commitments of the Parties, and forms the basis in which the Parties will negotiate in good faith with the intention of entering into a future Development Agreement that will incorporate the items set forth in this MOU (“Development Agreement”).

NOW, THEREFORE, the City and Coventry/DDR have agreed as follows:

ARTICLE I PURPOSE AND INTENT

The purpose and intent of this MOU is to address City Financial Participation and other aspects of the contemplated Mall redevelopment generally in accordance with the Master Plan. It is the intent of the Parties that this MOU constitute the only legislative act necessary to establish the policy for the City on these matters, and, subject to City Council consideration of a proposed Development Agreement, provide the basis for the implementation of that policy by non-legislative acts as may be necessary and appropriate to carry out the purpose and intent provided herein.

It is the further intent of the Parties that this MOU (1) not provide for entitlements in land or development, such entitlements being the subject of other actions by the City or of permits to be sought at later times; (2) not relieve the Parties of applicable requirements under the State Environmental Policy Act (“SEPA”); (3) not affect the exercise of the police (regulatory) power of the City; and (4) not eliminate the need for a formal Development Agreement which will be negotiated and presented to the City Council for consideration at a later date. This MOU constitutes an irrevocable decision of the City to proceed with negotiation of the Development Agreement; provided that final approval of the Development Agreement shall be subject to mutual agreement of the Parties as described herein. The Parties intend that the planning and redevelopment of the Mall be a cooperative, mutual endeavor in which the Parties actively participate and work together, in good faith and with due diligence.

ARTICLE II DEFINITIONS

2.1 “Benefit Cost Analysis” means the calculation of estimated one time and recurring revenues generated by the proposed redevelopment of the Mall generally in accordance with the Master Plan.

2.2 “City” means the City of Kirkland, Washington.

2.3 “City Council” means the City Council of Kirkland, Washington.

2.4 “City Financial Participation” means the City investment in public infrastructure owned, or partially owned, by the City in the area of the redeveloped Totem Lake Mall.

2.5 “Coventry/DDR” means Coventry II DDR Totem Lake, LLC, a Delaware limited liability company.

2.6 “Design Guidelines” means the Design Guidelines for Pedestrian-Oriented Business Districts, KMC 3.30.040.

2.7 “Design Review Board” or “DRB” means the Design Review Board of the City of Kirkland.

2.8 “Development Agreement” means an agreement between the City and Coventry/DDR regarding the redevelopment of Totem Lake Mall.

2.9 “Development Regulations” means those portions of the Kirkland Municipal Code and Kirkland Zoning Code pertaining to zoning, land use, design, design guidelines, building, construction, landscape, signage, parking, permitting, planning and other elements that govern real estate development within the Totem Lake TL2 Zone.

2.10 “Force Majeure Event” means any of the following events which prevent a Party from performing any obligation under this MOU: any act of God, strike, lockout or other industrial disturbance during the redevelopment of the Mall; act of public enemy, war, insurrection, civil disturbance, riot; epidemic, landslide, earthquake, fire or flood; the release or discharge of hazardous substances; suspension of the national or Washington State banking systems due to financial crises, or closing of the New York Stock Exchange due to financial crises, or other such disruptions in the financial markets which impair the issuance of obligations in connection with the City Financial Participation; title dispute, or other litigation.

2.11 “Franchise Utilities” means electricity, natural gas, telecommunications, and other utilities not provided by the City of Kirkland.

2.12 “Infrastructure” means roads, streets, curbs, sidewalks, other public facilities and public utilities in the area of the redeveloped Totem Lake Mall.

2.13 “Intersections” means the general areas where two or more streets or roadways join or cross, including the streets or roadways, infrastructure therein, and traffic signalization and other traffic control mechanisms within them.

2.14 “Kirkland Comprehensive Plan” means the Comprehensive Plan adopted by the City of Kirkland existing on the date of this MOU.

2.15 “KMC” means the City of Kirkland Municipal Code.

2.16 “Land Use Policies and Regulations” mean the Kirkland Comprehensive Plan, the Totem Lake Neighborhood Plan, the Design Guidelines and the Development Regulations.

2.17 “Mall” means the Totem Lake Mall.

2.18 “Master Plan” means the Conceptual Master Plan that will be approved by the Design Review Board.

2.19 “Memorandum of Understanding” or “MOU” means this document between the City of Kirkland and Coventry II DDR Totem Lake, LLC.

2.20 “Parking Structure” means the contemplated multi-level parking structure to be located within the existing upper Mall.

2.21 “Parties” means the City of Kirkland and Coventry II DDR Totem Lake, LLC, their successors and assigns.

2.22 “Public Plaza” means certain public right-of-way and improvements related to the redevelopment of Totem Lake Mall, to be conveyed to the City, generally described herein, and as subsequently refined in the Development Agreement,

2.23 “SEPA” shall mean the State Environmental Policy Act.

2.24 “Totem Lake Neighborhood Plan” means the Totem Lake Neighborhood Plan approved by the City Council on January 15, 2002.

2.25 “Totem Lake Mall Boulevard” means that portion of Totem Lake Mall Boulevard adjacent to and adjoining the Mall, and includes the intersections adjacent thereto.

2.26 “Utilities” means both City and Franchise Utilities including, but not limited to, water, sewer, electricity, telecommunications, natural gas, and stormwater conveyance system improvements that serve, or will serve, the redeveloped Totem Lake Mall.

2.27 “Vesting Period” means the time during which the Mall redevelopment shall be vested to the Land Use Policies and Regulations.

2.28 “120th Avenue NE” means that portion of 120th Avenue NE from, and including, the intersection of 128th Avenue NE to, and including, and the intersection of Totem Lake Boulevard.

ARTICLE III REGULATORY FRAMEWORK

3.1 **Master Plan.** One of the key components governing redevelopment of the Mall will be the Master Plan. Subject to applicable KMC provisions, the City Design Review Board (“DRB”) shall establish the process and procedures for any future changes or amendments to the Master Plan. The Master Plan provides for, among other things, substantial demolition of existing buildings, new construction of buildings, parking structures and a public plaza, and realignment of 120th Avenue NE. The redevelopment is currently contemplated to occur in two primary phases over a period of approximately three years, with completion anticipated, but not assured, in 2008 (unless otherwise agreed in writing by the City, the retail components of the Mall will be completed within five (5) years of Development Agreement approval, and the residential and office building components will be completed within seven (7) years of

Development Agreement approval). The redevelopment plan and phasing will be more fully set forth in the Master Plan. The Parties shall work cooperatively and use their best, good faith efforts to accomplish the Mall redevelopment within this timeframe.

3.2 **Development Agreement.** Another key component governing redevelopment of the Mall will be the Development Agreement, which will, among other things, incorporate the items set forth in this MOU. The Parties will enter into the Development Agreement pursuant to the authority of RCW 36.70B.170 through .210, under which a local government may enter into a development agreement with an entity having ownership or control of real property within its jurisdiction, and under which (in RCW 36.70B.170(4)) a local government and a private entity may each agree “to fund or provide services, infrastructure, or other facilities.” The Parties shall work cooperatively and use their best, good faith efforts to complete negotiations and obtain final approval of the Development Agreement no later than December 13, 2005.

3.3 **Inconsistencies between Master Plan and Development Agreement.** In the event of any inconsistency between the Master Plan and the Development Agreement, the terms of the Development Agreement shall control.

3.4 **Vesting.** The Development Agreement shall establish a vesting period (“Vesting Period”). Upon execution of the Development Agreement, and subject to any exceptions set forth in the Development Agreement, the Mall redevelopment shall be vested to the Land Use Policies and Regulations existing as of the date of the Development Agreement for the duration of the Vesting Period. Should the City amend any of the foregoing Land Use Policies and Regulations, or adopt new Land Use Policies and Regulations, then, subject to applicable state law, Coventry/DDR may elect to have such amended or newly adopted Land Use Policies and Regulations apply to the Mall redevelopment.

3.5 **SEPA.** The Development Agreement shall contain provisions to designate that it constitutes the “SEPA Determination” document and, as such, it shall establish all SEPA-based conditions necessary to mitigate potential adverse environmental impacts associated with redevelopment of the Mall generally in accordance with the Master Plan.

ARTICLE IV MALL REDEVELOPMENT

4.1 **Development Costs.** Coventry/DDR shall be responsible for funding the redevelopment cost of the Mall with available resources and these costs shall not be an obligation of the City. The City shall be responsible solely for the City Financial Participation.

4.2 **Planning and Design Responsibilities.** Coventry/DDR, and its agents, shall be solely responsible for all design, plans, construction drawings and other documents associated with redevelopment of the Mall in accordance with the Master Plan and Development Agreement, including the selection of architects, engineers, and other professional consultants. The Development Agreement shall address any progress reporting and budget evaluation between the City and Coventry/DDR, because these components are included in the City Financial Participation as more fully set forth in Section 5.1 below.

4.3 **Demolition and Construction Responsibilities.** Coventry/DDR, and its agents, shall be solely responsible for all permitting, demolition and construction work associated with redevelopment of the Mall in accordance with the Master Plan and Development Agreement, including selection of all architects, engineers, other professional consultants, contractors, subcontractors and project/construction managers. With regard to construction work associated with realignment of 120th Avenue NE and/or the public plaza, the Development Agreement shall address progress reporting and budget evaluation between the City and Coventry/DDR, because the components are included in the City Financial Participation as more fully set forth in Section 5.1 below.

4.4 **Transportation Infrastructure Required to Support Redevelopment.**

4.4.1 **Off-Site Transportation, Intersection and Gateway Infrastructure and Improvements.** The City represents and confirms that Coventry/DDR shall not be required to construct or fund any off-site transportation, intersection or gateway improvements associated with redevelopment of the Mall (except road impact fees), including, but not limited to, streets, boulevards, intersections, traffic phasing or signalization, monuments, artwork, sculptures or signage. Notwithstanding the above, there is a possibility that the cumulative transportation impacts associated with the entire Mall could potentially exceed, but not significantly, the transportation level of service threshold associated with the intersection of 120th Avenue NE and Totem Lake Mall Boulevard at such time as the office building in the upper Mall is constructed. In such event, and at the time of construction permit application for the office building, the City and the office building owner will evaluate ways to reduce or mitigate this impact through the implementation of a Transportation Management Plan applicable to the office building or similar mitigation measures.

4.4.2 **On-Site Transportation and Intersection Improvements.** To the extent that any on-site transportation and/or intersection improvements are deemed necessary or advisable including, but not limited to, public street improvements, turn lanes, curbs, utilities, traffic signalization and/or signage, the City shall be solely responsible for all costs and expenses associated therewith as a component of the Primary City Financial Participation.

4.4.3 **Dedication of Rights of Way.**

4.4.3.1 **120th Avenue NE Realignment.** To facilitate realignment of 120th Avenue NE, and upon approval of the design plans by the City and Coventry/DDR, Coventry/DDR shall dedicate the necessary right of way. Simultaneously with the dedication, the City shall vacate any portion of the existing 120th Avenue NE located on or adjacent to the Mall in excess of that which is necessary for alignment. In the event that there is a net increase in the land dedicated for realignment, the City shall pay to Coventry/DDR the fair market value of the net increase as a component of City Financial Participation; provided, however, that the City shall have the right to first offset any corresponding net reduction in land comprising the Public Plaza (currently 2.27 acres) in the event that the final design reduces the amount of land included in the Public Plaza. The Development Agreement shall set forth the terms governing any potential dedication and purchase of additional right of way for realignment of 120th Avenue

NE, including, but not limited to the appraisal process for determining the fair market value of any additional land dedicated.

4.4.3.2 Additional Rights of Way Dedication. In the event that the City and Coventry/DDR mutually agree upon the need for additional rights of way internal to the Mall, such as periphery streets, then Coventry/DDR shall dedicate the necessary rights of way. The City shall pay to Coventry/DDR the fair market value of the additional dedicated land as a component of the City Financial Participation. The Development Agreement shall set forth the terms governing any potential dedication and purchase of additional rights of way.

4.4.4 Transportation Mitigation Fees. As a component of the City Financial Participation, and consistent with KMC 27.04 and RCW 82.02.060, the City shall have the authority to reduce, credit, waive or eliminate all, or some of, the cost of any and all on-site or off-site transportation mitigation (impact) fees, park mitigation fees, or similar fees in conjunction with redevelopment of the Mall. Any such reduction or elimination shall be treated as Secondary City Financial Participation.

4.5 Utility Infrastructure Required to Support Redevelopment.

4.5.1 Utility Infrastructure Capacity. The City will assist Coventry/DDR with coordination of sewer and water utility infrastructure issues with Northshore Utility District. The Parties believe that there is adequate off-site water and sewer system infrastructure and capacity in place to accommodate redevelopment of the Mall in accordance with the Master Plan. However, additional review and evaluation will be necessary.

4.5.2 Stormwater Conveyance System Infrastructure and Capacity. The City represents that there is an off-site stormwater conveyance system, including capacity and infrastructure, adequate to serve the Mall redevelopment. The City represents and confirms that Coventry/DDR shall not be required to construct or fund any off-site stormwater conveyance system improvements associated with redevelopment of the Mall. The Development Agreement shall address all pertinent on-site stormwater conveyance system issues including, but not limited to, stormwater detention, water quality treatment, and establishment of a mutually acceptable utility plan to coordinate tie-in of off-site and on-site stormwater conveyance infrastructure.

4.5.3 Other Franchise Utilities. The City will assist Coventry/DDR with coordination of Franchise Utilities with the purveyors thereof.

4.6 Development and Construction Timing and Schedule. Coventry/DDR contemplates that the Mall redevelopment will be accomplished in two primary phases between 2006 and 2008. The Development Agreement shall include the anticipated timing and scheduling of any necessary off-site improvements, including realignment of 120th Avenue NE, to ensure that the City can accommodate the timing without delay of the development plans. Both Parties will use their best efforts to meet the timing and scheduling set forth in the Development Agreement.

ARTICLE V CITY FINANCIAL PARTICIPATION

Subject to the other provisions of this MOU, the City shall bear the sole cost and expense associated with City investment in public infrastructure described in Section 5.1 below (the “Primary City Financial Participation”) in an amount up to but not exceeding \$15,000,000.00. In the event that the Primary City Financial Participation does not amount to \$15,000,000.00, then the City shall undertake to provide the services, infrastructure or other facilities described in Section 5.2 below (the “Secondary City Financial Participation”) to reach the amount of \$15,000,000.00. Funding of the City Financial Participation shall be based upon financing of the City’s choice (e.g., general or other funds, bonds, certificates of participation, capital facilities reserves, or some combination thereof). The City shall determine in its sole discretion the sources of revenue to support its investment. The City’s Benefit Cost Analysis relies on forecasted revenues from sales tax on construction, increased sales tax revenues from redevelopment of the Mall, and increased property taxes and other revenues generated by the Mall after redevelopment to fund all, or a portion of, the City Financial Participation.

5.1 Primary City Financial Participation. The City shall provide the following City Financial Participation:

5.1.1 Public Plaza Acquisition. The Public Plaza will consist of approximately 2.27 acres and will include public right of ways with parking adjacent thereto, public amenities, sidewalks and possibly a landscaped boulevard area. The construction budget for the public plaza is \$4,300,000.00 (“Public Plaza Budget”). The final design concept and materials specification associated with the Public Plaza shall be addressed in the Development Agreement and shall be subject to the approval of both the City and Coventry/DDR. In the event that the City desires specifications that will require an increase in the Public Plaza Budget, then the City will be solely responsible for any increased costs and expenses. Upon completion of construction, Coventry/DDR shall transfer the Public Plaza to the City. A current appraisal prepared by Cushman & Wakefield for Coventry/DDR, which has received the concurrence of an independent appraiser selected by the City, has valued the land and improvements to be constructed within the Public Plaza at \$9,255,000.00 (“Public Plaza Value”), excluding the capitalized cost of future maintenance thereof that the appraisers agree should be the sole cost and expense of the City. The appraisers concur that, in conjunction with a transfer of the Public Plaza to the City, the City should pay an amount equal to 56.7% of the Public Plaza Value. The remaining 43.3% of the Public Plaza Value should be the responsibility of Coventry/DDR based upon the direct benefits to the Mall associated with the Public Plaza. The City and Coventry/DDR recognize and mutually agree that (A) the issue of future maintenance of the Public Plaza will be addressed in the Development Agreement; and (B) that the overall Public Plaza Value, together with the capitalized value of future maintenance expenses (“Maintenance Value”), shall be apportioned between the City and Coventry/DDR such that the City will pay an amount equal to 65% of the combined Public Plaza and Maintenance Value, and the remaining 35% of the Public Plaza and Maintenance Value shall be the responsibility of Coventry/DDR. The Development Agreement shall provide the methodology and mechanism to achieve this agreed upon allocation and transfer amount, and shall also include provisions addressing construction of the Public Plaza, progress reporting, uses and restrictions associated with the

public plaza after acquisition, future maintenance, insurance, and the purchase and sale provisions.

5.1.2 Realignment of 120th Avenue NE. The City shall reimburse Coventry/DDR for the entire cost and expense associated with realignment of 120th Avenue NE, and the utilities located therein, whether governmental or Franchise Utilities. The costs shall include, but shall not be limited to, those associated with design; permits and other governmental approvals; management and construction oversight; demolition, realignment and construction of streets, curbs, sidewalks, pedestrian crossings, utilities, signage, gateway features, traffic signalization and other traffic control mechanisms, landscaping, public amenities, and any other infrastructure or improvements to be located within the realigned 120th Avenue NE. The final design concept and materials specification associated with realignment of 120th Avenue NE shall be addressed in the Development Agreement and shall be subject to the approval of both the City and Coventry/DDR. The City shall receive credit of up to, but not to exceed, \$3,000,000, towards the City Financial Participation for the amount of reimbursement to Coventry/DDR associated with the costs and expenses associated with realignment of 120th Avenue NE. The Development Agreement shall include provisions addressing realignment and construction of 120th Avenue NE, agreed upon infrastructure, public amenities, progress reporting, budget evaluation, scheduling, timing and reimbursement arrangements.

5.1.3 Parking Structure Acquisition. The final design concept associated with the Parking Structure shall be as set forth in the Master Plan, and shall be subject to the approval of the City and Coventry/DDR. Upon completion of construction, Coventry/DDR shall transfer an ownership interest in the Parking Structure to the City. The ownership interest shall be in the Parking Structure, and shall not include an ownership or other interest in the development rights (such as the office building contemplated over the Parking Structure), or similar entitlements. The City shall pay Coventry/DDR an amount equal to the ownership interest being transferred. The Development Agreement shall address the City's percentage and type of ownership interest in the Parking Structure, the methodology for determining the transfer amount, and future maintenance of the Parking Structure. In addition, the Development Agreement shall include provisions addressing construction of the Parking Structure, progress reporting, cost verification, uses and restrictions associated with the Parking Structure, insurance, and the purchase and sale provisions.

5.1.4 On-Site Transportation Expenses. The City shall reimburse Coventry/DDR for the entire cost and expense associated with on-site transportation and/or intersection improvements deemed necessary or advisable including, but not limited to, public street improvements, turn lanes, curbs, utilities, traffic signalization and/or signage.

5.1.5 Dedicated Land. The City shall pay Coventry/DDR the fair market value of any net increase in land dedicated to the City as a result of realignment of 120th Avenue NE or dedication of additional land within the Mall in conjunction with redevelopment of the Mall; provided, however, that the City shall have the right to first offset any corresponding net reduction in land comprising the Public Plaza (currently 2.27 acres) in the event that the final design reduces the amount of land included in the Public Plaza. The Development Agreement

shall include provisions addressing the valuation, timing and payment arrangements associated with any such dedication of additional land.

5.2 Secondary City Financial Participation. The City shall also fund or provide the following (“Secondary City Financial Participation”), except that the City need not fund or provide Secondary City Financial Participation to the extent that such items, together with the Primary City Financial Participation, cumulatively equal more than \$15,000,000.00. The City shall have the right to designate the items that constitute Secondary Financial Participation from among the following:

5.2.1 Impact and Mitigation Fees. The City may provide all, or a portion of, the Secondary City Financial Participation by reducing, waiving, exempting or eliminating all, or a portion of, the transportation mitigation or impact fees, park mitigation or impact fees, or similar fees in conjunction with redevelopment of the Mall.

5.2.2 Permit Fees. The City may provide all, or a portion of, the Secondary City Financial Participation by reducing, waiving, exempting or eliminating all, or a portion of, the costs of permit or similar fees in conjunction with redevelopment of the Mall.

5.2.3 Connection Charges/City Utilities. The City may provide all, or a portion of, the Secondary City Financial Participation by reducing, waiving, exempting or eliminating all, or a portion of, connection and similar City charges associated with City provided utilities.

5.3 Alternative Secondary Financial Participation. Nothing contained in this MOU shall preclude, or be deemed to preclude, the City and Coventry/DDR from agreeing upon alternative components of Secondary City Financial Participation mutually acceptable to both Parties.

ARTICLE VI EXPEDITED DEVELOPMENT PROCESSING

To the extent permitted by law, the City shall expedite and give priority status to the processing of City land use, permit applications, construction drawings, plans and specifications, and similar or related submissions by Coventry/DDR associated with the Mall redevelopment.

ARTICLE VII CONDITIONS SUBSEQUENT

7.1 Conditions Subsequent. Unless waived in writing by the Parties, the respective obligations of the Parties as set forth in this MOU are contingent upon the following:

7.1.1 The ability of the Parties to negotiate a mutually acceptable Development Agreement no later than December 13, 2005; and

7.1.2 Master Plan approval, satisfactory to Coventry/DDR, no later than December 13, 2005.

ARTICLE VIII MODIFICATIONS TO MOU

This MOU may not be modified or amended without the approval by City ordinance and the concurrence of Coventry/DDR. Any modifications to this MOU must be in writing and signed by both Parties.

ARTICLE IX BINDING EFFECT AND ENFORCEABILITY

Although the planning, design, and redevelopment of the Mall will be subject to the terms of the Master Plan and Development Agreement, which will also encompass issues not addressed in this MOU, the Parties agree that the terms of this MOU will be incorporated into the Development Agreement. The Parties further acknowledge and agree that this MOU reflects the basic framework of an arrangement between the Parties on the matters set forth herein, subject to mutual agreement on the specific provisions of the Development Agreement.

ARTICLE X FORCE MAJEURE

The Development Agreement shall include a provision that should any of the Parties be delayed in or prevented, in whole or in part, from performing any obligation or condition required by the Development Agreement by reason of a Force Majeure Event, that Party shall be excused from performing that obligation or condition for so long as the Party is delayed or prevented from performing, and for a period of thirty calendar days thereafter, and any affected deadlines shall be similarly extended.

ARTICLE XI COUNTERPARTS

This MOU may be executed in any number of separate counterparts and by each of the Parties in separate counterparts, each counterpart constituting an original, and all such counterparts constituting but one and the same MOU.

ARTICLE XII SUCCESSORS AND ASSIGNS

This MOU shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns.

ARTICLE XIII GOVERNING LAW

This MOU shall be governed by and construed according to the laws of Washington.

IN WITNESS WHEREOF, the Parties have executed this MOU on or about the __ day of October 2005.

COVENTRY II DDR TOTEM LAKE, LLC

By _____
Its _____

CITY OF KIRKLAND

By _____
Its City Manager

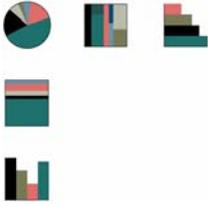
I HEREBY APPROVE the form and legality of the foregoing Memorandum of Understanding
this __ day of October 2005.

**COVENTRY II DDR TOTEM LAKE, LLC
LEGAL COUNSEL**

By _____
Title _____

**CITY OF KIRKLAND SPECIAL LEGAL
COUNSEL**

By _____
Title _____



MEMORANDUM

DATE: October 7, 2005

TO: Marilynne Beard, City of Kirkland

FROM: Michael Hodgins and Brett Sheckler

RE: **Review of Revised Benefit-Cost Analysis of Totem Lake Redevelopment Plan**

At the request of the City of Kirkland, Berk & Associates has reviewed the report "Revised Benefit-Cost Analysis of Totem Lake Mall Redevelopment Plan" prepared by Mundy Associates and dated April 28, 2005. Our review was limited to the following key issues identified by the City:

- Review and/or confirm projections of new one-time and ongoing City revenues resulting from the development of the mall, including estimated timing of new revenue receipts based on proposed phasing of the development.
- Analyze the sensitivity of the revenue projections to varying economic conditions.
- Provide an assessment of the overall economic analysis and its reasonableness.

In effect, the Mundy Associates report is making a case for the reasonableness of using new tax revenues to fund public improvements that are designed to support the project. The report provides a detailed evaluation of the potential tax and fee revenue impacts that could result from the redevelopment of the Totem Lake Mall and compares these new revenues to the potential debt service costs associated with different levels of public participation in the project.

The scope of the redevelopment project – 513,075 SF of retail (current mall is 290,000), 216 housing units, 144,000 SF of office and a 13-screen (60,000 SF) multiplex theater (current mall includes 13,354 SF of theater use) – is assumed to be possible only with public participation in the project. This point is made clear a letter from the developer to the City of Kirkland dated April 7, 2005:

*"We are attempting to provide Kirkland with a unique opportunity to determine the magnitude of redevelopment and benefits to the City into the future. Given current and projected growth of Kirkland, it seems highly desirable for the City to support redevelopment in a manner that will maximize potential revenues to the City now and in the future and fulfill the aggressive long-term community planning goals of the City. **The more aggressive and comprehensive redevelopment alternative will achieve these City objectives, but will require a minimum of \$15 million of public participation in order to achieve***

***economic feasibility.** Alternatively, there are redevelopment scenarios which do not require public participation. However, there are trade-offs and a significantly smaller scale, more modest cosmetic redevelopment would not meet the City's long-term financial and community planning goals."*

The report concludes that this more aggressive and comprehensive redevelopment project will generate financial benefits of \$37.7 million over 30 years assuming a 5% discount rate (p. 52). Further, the report concludes that this level of financial benefit will comfortably support public investments of up to \$25 million and still leave a minimum of \$12.7 million in net tax benefits from the redevelopment project.

Summary of Findings

Upon review of the report and after conducting independent analyses of several key assumptions contained in the report, we arrive at two principal conclusions:

1. The basic assumptions used to estimate gross tax and fee revenue generated by the activity within a redeveloped Totem Lake Mall appear to be reasonable and the conclusion regarding total revenue impacts from the site are well supported.
2. The estimate of net financial benefits does not account for a number of factors that will likely reduce the *incremental* tax and fee benefits of the project to the City. Reduced incremental revenues to the City, in turn, translate to less available revenue to support a potential public investment in the project. The following are the key factors that will likely reduce the *net* tax benefits of the project:
 - **Assumptions in the analysis regarding the "no action" scenario.** The primary measure of benefit is the estimate of incremental revenues from a redeveloped site beyond what would otherwise occur. As a result, the assumptions about the characteristics of the site without redevelopment have a significant impact on the incremental value of the redevelopment project. In this case, the "no action" scenario likely understates the potential long-term sales from this site without the *contemplated* redevelopment and thus overstates the net gains from said redevelopment.
 - **Impact of redeveloped site on overall spending and taxes in the City of Kirkland.** The analysis assumes that all of the increased sales activity at Totem Lake Mall will be incremental to the City of Kirkland. In other words there will be no impact on other businesses in the City from the introduction of new competition at Totem Lake. This assumption likely overstates the potential net benefits to the City overall as it is probable that there will be some transfer of spending from retail areas in the city to the expanded Totem Lake Mall.
 - **Cost of service impacts to City of Kirkland.** The analysis of cost-benefit in the study considers only the potential debt service costs for City improvements supporting the project as a cost of the project, while counting all potential tax and fee revenues as a benefit. It is likely that a successful redevelopment of the Totem Lake Mall as currently envisioned with retail, office and housing will have an impact on the City's

cost of services. By not accounting for any of these potential costs, the net benefits are likely to be overstated.

After accounting for the potential impacts of each of these factors, it is estimated that the net present value of financial benefits reduces the potential net benefits over 30-years from redevelopment to a range of \$13.7 million to \$21.8 million. These values compare to the estimate in the Mundy report of \$37.7 million in net financial benefits.

It is important to note that this analysis is primarily an attempt to flesh out the fiscal implications of the redevelopment proposal by considering the potential impacts of factors not considered in the Mundy report. This is not an overall assessment of the appropriateness or level of public participation in a redevelopment proposal for the Totem Lake Mall. This review did not consider factors which may enhance the potential value of the redevelopment project to the City such as the potential for beneficial impacts to surrounding properties or the potential value of the redevelopment project in terms of enhanced public amenities or community development goals.

The balance of this memorandum addresses each of issue areas identified above in more depth and identifies the potential impact of each of these factors on the net benefit conclusions presented in the Mundy analysis.

Assumptions Regarding the No Action Alternative

The Mundy analysis appropriately recognizes that the net financial benefits from redevelopment are those related to increases in tax revenues beyond what is already there. The analysis assumes that the current configuration and operating performance of Totem Lake Mall is representative of the “no action” alternative. This suggests that if the City does not invest in the most aggressive and comprehensive redevelopment scenario, no meaningful redevelopment will occur in the next 30 plus years and the tax revenues from the site will be limited to the current level of activity.

This definition of the “no action” alternative seems unrealistic as to the probable contribution from the mall without public investment. There seem to be at least two alternative options for a “no-action” that would be more plausible:

1. The current production of the site is limited by the current vacancy rate of 27%. It is unlikely that this level of vacancy would continue over the long term, especially in light of the current 2.36% vacancy rate in the eastside retail market and the 0.48% vacancy in the Kirkland/Totem Lake area (p. 25 Mundy report). At a minimum it would seem likely that this vacant space will be absorbed, though the overall productivity of the space may be less than the current site average.
2. A more aggressive “no action” scenario would envision some form of redevelopment of the site, though at a more modest scale than the plan under review. As mentioned above, there are scenarios that the developer has explored that are economically feasible without public participation. One of these options could be considered a reasonable estimate of the “no action” scenario.

As presented in Exhibit 1, even under a pessimistic view that assumes only a fully leased Totem Lake Mall, the incremental taxable sales from redevelopment would be reduced 9.3% to \$115.5 million. This scenario adds 78,000 SF of occupied space, but assumes sales per square foot of \$150 in that space, which is half the current productivity of the Mall.

For illustrative purposes, a more optimistic view of the "no action" might involve cosmetic improvements that maintained the current structure but improved the overall production to match the \$375 per foot in the Mundy analysis. This version of "no action" would reduce incremental revenues from redevelopment by 34.3% to \$83.7 million. A final "no action" scenario was estimated whereby some small increase in space is coupled with a general overhaul of the site (potentially still possible without public participation) which would reduce incremental revenues by 52% to \$61.1 million.

Exhibit 1 Impact of Alternative No Action Scenarios

	Mundy Analysis	No Vacancy City avg \$/SF	Modest Site Improvements	Modest Site Expansion
Existing retail	290,000	290,000	290,000	290,000
New space	0	0	0	60,000
Vacant space	(78,000)	0	0	0
Total occupied	212,000	290,000	290,000	350,000
Avg sales/SF	\$306.60	\$265.00	\$375.00	\$375.00
Sales volume	\$65,000,000	\$76,850,000	\$108,750,000	\$131,250,000
Impact on incremental sales				
Gross sales estimate for redevelopment	\$192,403,125	\$192,403,125	\$192,403,125	\$192,403,125
Less "no action"	(\$65,000,000)	(\$76,850,000)	(\$108,750,000)	(\$131,250,000)
Net sales from redevelopment	\$127,403,125	\$115,553,125	\$83,653,125	\$61,153,125
Impact on net sales volume		-9.3%	-34.3%	-52.0%
Estimated incremental taxes (2009)	\$1,628,904	\$1,526,985	\$1,252,622	\$1,059,105
% change from original estimate	0%	-6%	-23%	-35%
Net present value of redevelopment	\$37.7 M	\$36.1 M	\$29.8 M	\$25.3 M

In each case, one's view of the world in a "no-action" scenario changes the net financial benefits of the project. The impact on the estimated 30-year net benefits would be reduced from \$37.7 million to between \$25.3 million and \$36.1 million depending on the magnitude of the adjustment to the "no action" scenario.

Impact on Overall Spending in the City

The Mundy analysis estimates the redeveloped mall will generate \$192 million in taxable retail sales, which is \$127 million more than the current production at this site. The increment of \$127 million is then used to estimate a sales tax benefit of \$1.08 million to the City of Kirkland. For the City to realize the full estimated tax benefit, the \$127 million increase in Totem Lake Mall sales would need to be added to the City's current tax base without reducing sales anywhere else in the city.

Accurately estimating the net impact on overall sales in the City of Kirkland resulting from the introduction of a redeveloped Totem Lake Mall would require some way of estimating the impact of the Mall on the distribution of spending. Distribution of spending is a function of a very dynamic set of factors, including distribution of population and income and competition among retailers and retail centers. Estimating the net impact of a change in one of these factors, namely adding a new retail shopping opportunity for consumers, is a complicated proposition.

Complexities notwithstanding, two controlling factors are clear:

1. **Retailers in Kirkland compete in a mature retail market, which represents a finite pool of spending.** As an inner-ring city, Kirkland is surrounded by geographic barriers and sources of developed or emerging retail competition (including retail centers in Bellevue, Woodinville, Redmond, Lynnwood, and Issaquah).
2. **With a relatively fixed pool of spending, most of the “new” retail dollars captured in a redeveloped Totem Lake will come from reductions in sales elsewhere within the Eastside retail market.** The only situation where a new store can affect the total pool of market spending is (1) if its introduction shifts spending from other activities to retail purchases or (2) if it draws new spending from outside the market.

Given these two factors, and given the nature of the contemplated redevelopment, it appears unrealistic to assume that *none* of the new sales at Totem Lake would come at the expense of lost sales in other retail or restaurant outlets in the City.

Absent specific information about plans for additional retail in the Totem Lake redevelopment, one would assume that those additions will revolve around five retail categories: *Eating/Drinking*, *General Merchandise*, *Apparel/Accessories*, *Furniture*, and *Miscellaneous Retail*. It is worth noting that these categories include a number of categories in which Kirkland already competes strongly, including *Eating/Drinking* and *General Merchandise* (see Exhibit 2).

Within the category of restaurants, in particular, one would expect that increases in restaurant sales in Totem Lake would result in decreases in restaurant sales elsewhere in Kirkland. Typically, one would expect that the majority of restaurant patrons will be drawn from a relatively confined area (perhaps a radius of two to three miles). Within a three-mile radius of Totem Lake, most of the competing restaurants fall within Kirkland’s city boundaries.

Another element of the redevelopment project that will likely have an effect on existing City tax base is the proposed multi-plex. As with retail, expenditures on entertainment activities such as for going out to the movies are essentially fixed within a particular market area. As a result, introducing a new multiplex theater complex to the city will likely have an impact on sales at the Kirkland Parkplace Cinemas. The actual impact may be more limited and will ultimately depend on the distribution of particular movies and the extent of the direct competition for viewers between the two theater venues. It is possible that the level of competition will be less in the case of theater uses. Movie theaters are essentially a commodity business where customers are choosing to attend a theater based almost exclusively on the movie being shown and how far away they need to travel. As a result theater owners generally have an incentive to reasonably limit the direct competition (showing the same

movie for example) among facilities that are in relative proximity in an attempt to maximize their own ticket sales.

**Exhibit 2
Current City Taxable Retail Base and
Estimated Sales at Totem Lake Mall**

	2004 TRS Adjusted to 2005\$
Taxable Retail Trade:	
BUILDING MATERIALS/HARDWARE	\$16,853,053
GENERAL MERCHANDISE	\$193,014,647
FOOD	\$43,293,252
AUTO DEALERS/GAS STATIONS	\$325,184,338
APPAREL/ACCESSORIES	\$17,250,040
FURNITURE/FURNISHINGS/EQUIP	\$86,216,739
EATING/DRINKING PLACES	\$132,259,818
MISCELLANEOUS RETAIL STORES	\$103,607,088
<hr/>	
TOTAL RETAIL TRADE TRS	\$917,678,975
Retail excluding auto	\$592,494,638
<hr/>	
Estimated Net increase at Totem Lake	\$127,403,125
Percent increase	21.5%

A more realistic assumption regarding the potential for Totem Lake redevelopment to generate net citywide sales increases might discount the portion of sales beyond baseline by some amount to account for the impact on sales elsewhere in the city. Depending on the type of retail space that is added to Totem Lake through redevelopment, a plausible assumption would be that 20% to 30% of newly captured sales at Totem Lake will come at the expense of lost sales for existing City retailers and movie theaters.

As shown in Exhibit 3, the impact of in-city competition would reduce tax benefits of the redevelopment. Depending on the assumption about the "no action" alternative, the potential impact to net City tax revenues is estimated to range from 18.8% reduction in 2009 incremental taxes assuming the baseline Mundy assumptions about "no action" and the lower 20% discount to as much as a 51.0% reduction in new taxes if one combines the modest expansion "no action" scenario with the higher 30% discount. These reductions in tax estimates translate an adjusted range for the net present value redevelopment of between \$20.3 million and \$31.5 million.

Exhibit 3
Potential Impact of In-City Retail
Competition on Net Financial Benefits

	Mundy Baseline		No Vacancy City avg \$/SF		Modest Site Improvements		Modest Site Expansion	
Baseline sales volume	\$65,000,000		\$76,850,000		\$108,750,000		\$131,250,000	
Gross sales estimate for redevelopment	\$192,403,125		\$192,403,125		\$192,403,125		\$192,403,125	
Net sales from retail redevelopment	\$127,403,125		\$115,553,125		\$83,653,125		\$61,153,125	
Net sales from theater redevelopment	\$5,333,000		\$5,333,000		\$5,333,000		\$5,333,000	
Total incremental retail and theater sales:	\$132,736,125		\$120,886,125		\$88,986,125		\$66,486,125	
<i>Sales adjusted for in-city competition:</i>								
Higher net (20% discount)	\$106,188,900		\$96,708,900		\$71,188,900		\$53,188,900	
Lower net (30% discount)	\$92,915,288		\$84,620,288		\$62,290,288		\$46,540,288	
Tax implications	Low	High	Low	High	Low	High	Low	High
Estimated incremental taxes (2009)	\$1.3 M	\$1.2 M	\$1.2 M	\$1.1 M	\$1.0 M	\$0.9 M	\$0.9 M	\$0.8 M
% change from original estimate	-18.8%	-26.8%	-23.7%	-31.1%	-37.1%	-42.8%	-46.4%	-51.0%
Net present value of redevelopment	\$31.5 M	\$28.9 M	\$30.3 M	\$27.8 M	\$25.3 M	\$23.4 M	\$21.7 M	\$20.3 M

Cost of Service Considerations

As noted previously, the Mundy analysis counts 100% of new revenues generated on-site at Totem Lake as revenues that would be available to cover the costs of the requested City contribution to the project. In fact, however, the introduction of new activity in Totem Lake will bring with it related increases in demand for City services, which will introduce costs and reduce net revenues to the City.

Some of the revenues estimated in the analysis are derived from fees that are premised on achieving a particular cost recovery goal. The estimate of one-time revenues for permit fees, water and sewer connection fees, and impact fees are all based on a cost of service model and thus should not be counted as general revenues available to support new City investments. These sources of revenue account for 73% of the estimated one-time revenues from project development. Removing these one-time revenues would reduce the estimate of net financial benefits by \$3.8 million.

In terms of ongoing operational cost impacts, the largest source of costs from a new development like that proposed for Totem Lake typically comes from necessary increases in police staffing. Based on our work with dozens of cities in Washington State and the Pacific Northwest, and based on statistical analyses of the experiences of hundreds of cities, Berk & Associates has found a strong relationship between increases in retail activity and demand for police services. In the Totem Lake redevelopment proposal, the introduction of new housing units would also be a driver of new police demand.

Based on statistical analyses of 170 cities in Washington State, we estimate that, if the Totem Lake project did result in \$127 million in new taxable sales in Kirkland, the combination of those new sales, the 216 residential units, and the activity around the enlarged cinema would introduce new police costs for the City ranging from \$300,000 to \$400,000 per year.

If net new retail sales to the City are less than \$127 million, as we have suggested, then the newly introduced demand for police services will be less as well. As a rule of thumb, our analyses suggest

that every \$38 million of net new retail activity in a setting like Totem Lake generates demand for one additional commissioned officer at the City. Beyond police costs, demand for other City services will likely increase as well, potentially introducing smaller, but not insignificant costs to the City.

For illustrative purpose, we have estimated potential police service costs using the Berk & Associates service demand model to see how this might affect net revenues from redevelopment. The Berk model provides a reasonable basis for incremental police service demand resulting from new development. Actual service impacts in Kirkland will depend on a number of local factors including current staffing and levels-of-service and policy parameters such as when to add new officers. As a result, it may be best to view the estimate of police cost impacts as a proxy for potential overall city costs impacts.

Exhibit 4
Potential Impact of Service Costs on Net Financial Benefits

	Mundy Baseline		No Vacancy City avg \$/SF		Modest Site Improvements		Modest Site Expansion	
	Low	High	Low	High	Low	High	Low	High
Original estimate of ongoing taxes	\$1.6 M	\$1.6 M	\$1.6 M	\$1.6 M	\$1.6 M	\$1.6 M	\$1.6 M	\$1.6 M
Adjustments for alternative baseline	\$0.0 M	\$0.0 M	-\$0.1 M	-\$0.1 M	-\$0.4 M	-\$0.4 M	-\$0.6 M	-\$0.6 M
Adjustments for in-city competition	-\$0.4 M	-\$0.3 M	-\$0.4 M	-\$0.3 M	-\$0.3 M	-\$0.2 M	-\$0.3 M	-\$0.2 M
Adjusted estimate of ongoing taxes	\$1.2 M	\$1.3 M	\$1.1 M	\$1.2 M	\$0.9 M	\$1.0 M	\$0.8 M	\$0.9 M
Estimated police costs	\$0.3 M	\$0.3 M	\$0.2 M	\$0.3 M	\$0.2 M	\$0.2 M	\$0.1 M	\$0.2 M
Net adjusted estimate of ongoing taxes	\$0.9 M	\$1.0 M	\$0.9 M	\$1.0 M	\$0.7 M	\$0.8 M	\$0.7 M	\$0.7 M
% change from original estimate	-43.0%	-37.0%	-46.0%	-40.5%	-54.2%	-49.9%	-60.0%	-56.5%
Net present value of redevelopment	\$23.6 M	\$25.6 M	\$22.9 M	\$24.7 M	\$19.7 M	\$21.1 M	\$17.5 M	\$18.6 M
Remove permit, utility connections and impact fees								
Adj. for fee-based one-time revenues	-\$3.8 M	-\$3.8 M	-\$3.8 M	-\$3.8 M	-\$3.8 M	-\$3.8 M	-\$3.8 M	-\$3.8 M
Net present value of redevelopment	\$19.8 M	\$21.8 M	\$19.1 M	\$20.9 M	\$16.0 M	\$17.4 M	\$13.7 M	\$14.8 M

Exhibit 4 presents the results of the cost analysis which suggests public service costs of between \$146,000 and \$300,000 per year. The estimated cost of service impacts are sensitive to the level of net citywide increase in taxable retail sales. As a result, in scenarios where the net sales impact from redevelopment is reduced, the impact on service costs see a corresponding reduction. The combined impact of adjusting for in-city retail competition and service costs suggest 2009 incremental tax revenues to the City of between \$651,000 and \$1.0 million. This range is between 37.0% and 60.0% lower than the original estimate of 2009 incremental tax revenues. The net present values would be reduced to between \$17.5 million and \$25.6 million depending on the choice of "no action" scenario.

As mentioned above, a significant share of one-time revenues are really fees for services (permit fees) or a proportional share of capital improvements (water and sewer connection fees and development impact fees). Removing these revenues from the calculation of the net present value of financial benefits reduces the potential net benefits from redevelopment to a range of \$13.7 million to \$21.8 million depending on the choice of "no action" scenario.



CITY OF KIRKLAND

Department of Public Works

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MEMORANDUM

To: Dave Ramsay, City Manager

From: Daryl Grigsby, Director of Public Works
Rob Jammerman, Development Engineering Manager

Date: October 7, 2005

Subject: Totem Lake Mall Redevelopment – Stormwater Issues

The purpose of this memo is to estimate the City financial liability that may result from the following language currently proposed for the Development Agreement between the City and Coventry:

- **4.5.2 Stormwater Conveyance System Infrastructure and Capacity.** *The City represents that there is an adequate off-site stormwater conveyance system, including capacity and infrastructure, to serve the Mall redevelopment. The City represents and confirms that Coventry/DDR shall not be required to construct or fund any off-site stormwater conveyance system improvements associated with redevelopment of the Mall. The Development Agreement shall address all pertinent on-site stormwater conveyance system issues including, but not limited to, stormwater detention, water quality treatment, and establishment of a mutually acceptable utility plan to coordinate tie-in of off-site and on-site stormwater conveyance infrastructure.*

The area of potential City financial liability in the above language involves off-site stormwater improvements to accommodate redevelopment of the mall.

Off-Site Stormwater System Improvements

**Financial Liability: (1) minimal funds for work on property not owned by the City
(2) \$78,000 to \$1.2 Million for work on property owned by the City.**

Under the proposed Development Agreement language, the City would be liable for the cost of any off-site stormwater improvements required to accommodate development of the mall. Estimation of the cost of such improvements requires making assumptions about the nature of off-site problems, and about the type of project that would need to be constructed to solve such problems. This information is very preliminary and should be used only for gauging the relative magnitude of the problem. Potential off-site problems are listed below:

- The existing stormwater system along Totem Lake Boulevard is in a constantly submerged state; creating a backwater condition (the pipes are full of water even during the summer). The corrugated metal pipe (CMP) has been in the ground approximately 30 years. Constant submersion of CMP may cause deterioration of the pipe. Presently the pipe is stable, but may need replacement in the future. This is not directly related to mall redevelopment, however if they

connect to this system or need to relocate it then problems could arise. The cost for installation of approximately 500 feet of replaced pipe would be between \$78,000 and \$88,000; based on per foot costs between \$35 and \$50 plus mobilization, traffic, and engineering administrative costs.

- The backwater condition does contribute to flooding on Totem Lake Boulevard in the area east of the proposed redevelopment. A Capital Improvement Program project (SD 0059 – Totem Lake Blvd Flood Control Measures) will be designed to alleviate flooding by raising the roadway. The project is funded at \$1.2 Million, and is expected to start in 2007.
- Beaver dams in the wetland between 116th Ave NE and Juanita High School may be raising the water level, contributing to the backwater condition. The city could attempt to resolve this issue by working with private property owners on beaver control techniques. City cost would be minimal.
- The inlet to the culvert beneath I-405 appears to be partially blocked by vegetation and may be partially filled with sediment. This issue could be resolved by working with WSDOT to remove the sediment and vegetation from the culvert. City cost would be minimal.

In summary, the existing language could cause the City to be financially liable for off-site stormwater related issues. It is also possible that other problems could be discovered during design and analysis of the mall redevelopment. Because of this, the language below could be used in place of the existing language to reduce the financial liability:

The City represents that the City-owned portions of the off-site stormwater conveyance system, including capacity and infrastructure, are adequate to serve the existing Mall impervious surfaces in their existing site configuration. To the extent that any off-site stormwater conveyance system improvements are necessary for the City-owned portions of the stormwater conveyance system in conjunction with the Mall redevelopment, the City shall solely be responsible for all costs and expenses associated therewith as a component of the City Financial Participation. The Development Agreement shall address all pertinent stormwater conveyance system issues including, but not limited to, development of mutually acceptable utility plan to coordinate tie-in of off-site and on-site stormwater conveyance infrastructure.



MEMORANDUM

To: Dave Ramsay, City Manager

From: David Godfrey, P.E., Transportation Engineering Manager

Date: October 6, 2005

Subject: Off Site Transportation Improvements for Totem Lake Mall Development

Background

There are three levels of traffic analysis for most developments.

- *Concurrency* tests whether or not the project fits within our broad planning level traffic congestion requirements. If concurrency is not passed, the applicant has options including scaling back the project or building projects that add capacity.
- *Impact fees* mitigate for system improvements. They are assessed based on a formula which takes into account the amount of trips generated by the development.
- *SEPA improvements* mitigate for site-specific impacts not covered by impact fees.

This analysis focuses on potential SEPA improvements for the Totem Lake Mall project.

What triggers SEPA improvements?

SEPA improvements are triggered when a relatively high amount of project generated traffic is forecast to pass through intersections that operate relatively poorly. The following excerpt from Kirkland's Traffic Impact Analysis Guidelines explains what SEPA improvements are and when they are needed:

3) SEPA - Installation of Improvements.

Installation of site specific improvements may be required under SEPA to offset traffic impacts from the proposed development. The type and timing of the required improvement is determined on a case by case basis and depends upon the significance of the development impacts to roadway and intersection performance, safety, specific access and circulation needs, neighborhood impacts, and impacts on pedestrian and transit facilities. Examples of improvements under this category include, but are not limited to the following:

- *Construction of new paths, trails, roads leading to the development;*
- *Construction of acceleration and deceleration lanes, or turn lanes at intersections;*
- *Installation of traffic control devices for driveways, paths, trails and roads, such as traffic signals, signs, lane marking, etc.;*
- *Installation of pedestrian improvements such as flashing crosswalks, etc.;*
- *Installation of transit improvements;*

- *Installation of neighborhood traffic calming devices.*

Table 1 is used for determining when major intersection improvements are required under SEPA. The intention of improvements is to reach the next better Level of Service.

Table 1 Mitigations for SEPA impacts at intersections

Peak Hour Intersection LOS with project traffic

Signalized intersection, use

intersection average, unsignalized

intersection, use minor approach

impacted by project.

Install improvements?

A thru D

No.

E

If intersection proportional share > 15%

F

If intersection proportional share >5%

Developments are exempt from constructing any identified SEPA improvements that are a part of a city's planned road project noted as "used to determine Impact Fee rate" in Table CF-10 of the Comprehensive Plan, (see Appendix C).

Letter grade levels of service are used rather than V/C ratios because this analysis is done with more precise "operational" method of analysis rather than the "planning" method used for long range forecasting.

Estimating the need for SEPA mitigation for the Totem Lake Mall Project

As described above, the need for SEPA improvements is determined by a combination of traffic impacts and the level of service at a given intersection. These factors were estimated for the Mall project based on traffic work done for the concurrency test. The following steps went into the analysis:

1. Estimate the number of new trips (total trips from the new mall less trips generated by the current mall) to be generated based on proposed land use.)
2. Use the BKR model to determine what streets the trips will take to and from the Mall.
3. Based on the streets the new trips will take, calculate the proportionate share of trips at intersections in the project area.
4. Locate the intersections that will have a proportional share greater than 5% and greater than 15%.
5. For each intersection with a proportional share greater than 5%, calculate the level of service at the intersection, including impacts of the project, at project build-out.
6. Using Table 1 above, determine the intersections that could require SEPA mitigation.

The results of this work are shown in Table 2.

Table 2 Intersections that may require SEPA mitigation

Location	Proportionate share	2009 LOS with project
Totem Lake Blvd/120th Ave	15.4%	E
NE 124th St./124th Ave. NE	12.5%	F
Mall entrance at Totem Lake Blvd.	18.8%	F

Note that the Totem Lake and 120th Avenue NE intersection has a proportional share just over the minimum for recommending an improvement and if slightly different assumptions about trip distribution were made, improvements would not be needed.

Specific projects and costs

The Traffic Impact Analysis Guidelines do not give specific guidance on the types of projects that are required to mitigate project impacts but they do suggest that such projects, at major intersections, should improve the intersection level of service one letter grade. Based on this guidance, staff has analyzed each impacted intersection in Table 2 for possible improvements and their costs. The results of this analysis are described below.

Table 3 Possible mitigation at key intersections using capacity projects

Location	Description	Estimated cost
Totem Lake Blvd/120th Ave	1) right turn lane for eastbound traffic 2) restripe northbound approach to two exclusive left turn lanes.	\$350,000-\$500,000
NE 124th St./124th Ave. NE	Currently funded CIP project will fully build intersection, it will not be feasible to build additional capacity at the intersection.	\$0
Mall entrance at Totem Lake Blvd.	New traffic signal	\$350,000- \$500,000

Another option for mitigating SEPA impacts could be implementation of a Transportation Demand Management Program. This is particularly relevant to mitigate impacts at locations where no capacity improvements are feasible, such as the intersection of NE 124th St. and 124th Ave. NE. The costs of such a program are primarily in on-going spending rather than in a one-time expense. For example a Flexpass (a transit pass which provides vanpool subsidies and other features) costs around \$70/employee/year, but the cost is structured so that a pass must be purchased for all employees. Subsidizing bus passes and vanpools only for employees who use alternate modes costs on the order of \$70/month/participating employee. There are a wide variety of elements that could go into a TDM program. Such programs could be required for a year or two or in perpetuity. Similarly, the subsidies could be structured in numerous ways for office and/or retail tenants with costs shared between employers and the property management office.

Memorandum to Dave Ramsay

October 6, 2005

Page 4

Conclusion

SEPA mitigation for site specific impacts will likely be required at the Totem Lake Mall, based on the plans that have been submitted. The cost of these improvements may range from \$700,000 to \$1,000,000 depending on the type of mitigation that is selected. A small decrease in the proportional share of project traffic at the intersection of 120th Avenue NE and Totem Lake Blvd. would place it below the guideline thresholds for SEPA projects. It is not feasible to add capacity improvements beyond those currently planned for the intersection of NE 124th Street and 124th Avenue NE. A TDM program could be considered as mitigation for SEPA impacts, but development of the scope and cost of such an approach relies on more detailed information about the project.

RE•SOLVE

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October 11, 2005

Rod P. Kaseguma
Inslee, Best, Doezie & Ryder, P.S.
Symetra Tower, Suite 1900
777 108th Avenue NE
Bellevue, Washington 98004

RE: First Review Supplement
Cushman & Wakefield Appraisal Draft Ref #05-33001-9367 (“Cushman Draft”)
C & W Appraisal Final Ref #05-33001-9367 – Revised 10/7/05 (“Cushman Update”).
Public Plaza @ Totem Lake Mall: 99,092sf proposed public plaza, Kirkland, WA.

Dear Mr. Kaseguma:

As you know, on September 7, 2005, I prepared a review of a draft of the above referenced report (the “Cushman Draft”). The report was authored by appraisers Ken Barnes, CRE, MAI, and Ryan McDonald, Associate, of Cushman & Wakefield and contained an appraisal of proposed public plaza of 99,092sf, to be developed in conjunction with a redevelopment of Totem Lake Mall. As a result of that review and following discussions with the appraisers, that appraisal draft was modified and finalized to address certain issues that were raised in the initial review (“Cushman Final”).

The objective of this review supplement is to address the material and methodological changes made to the report, and provide my concurrence or disagreement with the opinions expressed.

Review Supplement Overview

In response to the initial review questions raised with regard to the special benefit created by city funded improvements, the appraisers have undertaken significant material changes in their report. The report now includes the following major components:

Before Consideration of Special Developer Benefit

- The area of the Plaza is combined with right-of-way dedications to be made on 120th Street, for a total effective site area of 103,240sf.
- The land component, which includes the value of land in its “as-is” condition (\$3,100,000 - \$30/sf), with a surcharge of \$18/sf for ultimately being within a developed mall. The total land value is \$48/sf for a total of \$4,950,000.

- The value of site improvements to be added by Coventry/DDR, these based on a forecasted cost provided by the developer, including such items as concrete base, paving, utilities, power etc, and including all soft costs, and a time adjustment to the date of value (1/1/08). The total cost of improvements, which is considered equivalent to their value by the appraisers, amounts to \$4,306,503 (\$41.71/sf)
- The capitalized value of expected annual maintenance obligations that will remain the responsibility of Coventry/DDR. The total capitalized value is \$1,770,000.
- These components sum to \$11,026,503, rounded by the appraisers to \$11,025,000 (\$106.79/sf).

After Consideration of Special Developer Benefit

Following presentation of these value estimates, the appraisers then address the issue of special benefits to the development entity. These warrant analysis as in a sale of the property to the city, Special Benefits accruing to Coventry/DDR should be deducted from the price paid for the property.

Special benefit reductions result in the following adjustments:

- The land value is reduced back down to the “as-is” condition pricing of (\$3,090,000 - \$29.93/sf). Thus the special benefit accrued and deducted is \$1,860,000.
- The value of site improvements to be added by Coventry/DDR is adjusted by 50%. This adjustment is based on a review of the individual costs by the appraisers, coupled with their belief as to what improvements would be placed in the plaza and adjacent rights of way in absence of the plaza sale. In addition the appraisers note that “*the developer estimates that an access/circulation roadway could be built for 50% of the cost of the planned plaza*”. With a total cost of around \$4,305,000, the special benefit deduction is rounded to \$2,150,000 (\$20.83/sf), and therefore the market value received by the city is estimated at \$2,155,000.
- The expected annual maintenance obligations that will remain the responsibility of Coventry/DDR are not addressed as a special benefit, recognizing that this will now be city property. The total capitalized value thus remains at \$1,770,000.
- These components sum to \$7,015,000, this indicating an overall special benefit deduction of \$4,010,000.
- The appraisers express the special benefit in percentage terms of 36.4%, rounding this down to an overall conclusion of 35% of special benefit (\$3,860,000).

Reviewer Analysis

As with the original appraisal, the land value indication is well-developed and supported. The deduction of a special benefit for the expected “lift” created by the proximity of the Mall is a fair measure of the special benefit created, as clearly the Plaza is part of the overall mall concept, and therefore responsible, in part, for this land lift – which is also accrued by other properties under the ownership of the developer.

As concerns the mall improvements, the decision to include the full cost of these improvements in the analysis, and then cut them by half as a special benefit, is not easily supported but is regarded as reasonable at this level of budget planning. For example there is very little information presented – and likely available at this stage of the development process - in the appraisal or the budget with regard to the

quality and level of the Plaza improvements and those intended for 120th Avenue. Thus in the absence of more detailed cost and property specific information, an overview analysis is a reasonable approach.

Assuming the investment noted is made, the appraisers' determination that 50% of the value/cost be shared has reasonable precedent for right-of-way investment. It is a simple approach to addressing the complexities present here, but recognizes the value sharing that will take place given the fact that it will be city property, yet will lie adjacent to the Coventry/DDR mall. Again the city is cautioned to audit both planned and actual expenditures in order to determine that the investment is made for the items noted, and it is assumed that more detailed plans for Plaza improvements will be made as the developer nears reality.

As concerns the capitalized maintenance value, the city has indicated that they are not in the position of being able to approve an advance purchase for services such as these. Hence I have not addressed the issue of maintenance value as part of this appraisal review, even while it is regarded as being of "value". It is noted that the exclusion of this value changes the basic special benefit assessment in percentage terms, and for this reason this review concentrates on the dollar amounts presented in the report.

In conversation with the appraisers with regard to this issue, a preference was expressed for a % special benefit as opposed to a dollar figure, in order to give the special benefit analysis a longer shelf-life in the advent of cost changes, etc. The approach is reasonable, but difficult to manage given the differing levels of special benefit applied to the various component parts of the analysis. My preference would be to see some lock on land value at this point in the negotiations, and a decision to potentially consider all Plaza cost improvements as worth 50% of their cost to the city, pending of course a full review of the cost expenditures.

Reviewer Conclusion

In conclusion, I concur with the appraisers' conclusion of land value and Plaza improvement value for the intended sale to the city, at the amounts indicated in the appraisal of \$3,090,000 for land and \$2,155,000 for Plaza improvements, for a total concluded value of \$5,245,000. As noted this figure excludes \$4,010,000 in special benefit accrued by Coventry/DDR as a result of this property transfer, and improvements intended for it.

Respectfully submitted,



Anthony Gibbons, MAI, CRE

Review Certification and Limiting Conditions

Ref: 5138-Totem Lake Plaza Review2

Review Certification & Limiting Conditions

I certify that, to the best of my knowledge and belief:

- 1) The facts and data reported by the review Appraiser and used in the review process are true and correct.
- 2) The analyses, opinions, and conclusions in this review report are limited only by the assumptions and limiting conditions stated in this review report, and are my personal, unbiased professional analyses, opinions, and conclusions.
- 3) I have no present or prospective interest in the property that is the subject of this report and I have no personal interest or bias with respect to the parties involved.
- 4) My compensation is not contingent on an action or event resulting from the analyses, opinions, or conclusions in, or the use of, this review report.
- 5) My analyses, opinions, and conclusions were developed and this review report was prepared in conformity with the Uniform Standards of Professional Appraisal Practice.
- 6) I have inspected the subject property that is the subject of this review.
- 7) No one provided significant professional assistance to the person signing this review report.



Signature of Appraiser