



CITY OF KIRKLAND
Planning and Building Department
123 5th Avenue, Kirkland, WA 98033
425.587.3600- www.kirklandwa.gov

MEMORANDUM

To: Planning Commission

From: Scott Guter, AICP, Senior Planner
Jeremy McMahan, Deputy Director, Planning and Building Department

Date: March 18, 2021

Subject: Totem Bowl Community-Initiated Amendment Request (Phase I)
File No. CAM20-00674

Staff Recommendation

Continue to review the Phase I Community-Initiated Amendment Request (CAR) application by Totem Bowl & Investment (Totem) and make a recommendation to the City Council on whether to advance the CAR to Phase II.

Background

The Planning Commission meeting initially considered the requested Community-Initiated Amendment Request (CAR) at their January 28th meeting. The meeting materials for this meeting are available for viewing by clicking on this [hyperlink](#). After receiving public comment from counsel representing the neighboring property owner ROIC Washington, LLC (ROIC), the Planning Commission voted to delay a recommendation to City Council. The continuance was intended to provide the applicant and ROIC additional time to discuss how they could collaborate on the CAR in a manner that achieves the City objectives established in Comprehensive Plan Policy BT-7 (see below). Attachment 1 is a joint letter from the two property owners representing their proposal for advancing the CAR application.

Analysis

- A. Review of March 18, 2021 letter from ROIC Washington and Totem Bowl and Investment.

Staff has met with the identified property owner twice since the last Planning Commission meeting and the property owners have discussed the proposed collaborative approach extensively. Staff is very appreciative of the collaboration because effective collaboration is the best way to ensure that the community's and property owner's objectives are met. Staff offers the following point-by-point response to the six main conclusions and agreements that are presented in the letter:

1. **Not a Master Plan.** As previously discussed with the Commission, "Master Plan" is a defined term of the KZC that is normally reserved for quasi-judicial project reviews. As the application is a legislative matter,

staff concurs that the process would not develop a Master Plan. However, the letter could be read to imply Policy BT-7 only contemplates regulations (words) and not illustrative regulatory documents. There are many examples in the City's regulatory documents where illustrations are used to show requirements and/or intent. Examples include building setbacks, pedestrian and vehicular connections, landscape standards, etc. While Policy BT-7 does not require a "Master Plan" it does describe a comprehensive approach when crafting new policies that includes "development standards, design guidelines, and a design program encompassing all properties within the neighborhood center".

2. **Applicability.** This item appears to request Totem to better reflect the BT-7 applicability in their application materials. Staff concurs with the general applicability provisions, but would note that the second paragraph of BT-7 does express an intent to apply certain development standards to developments of three stories or less and the City would intend to implement those through a Phase II CAR process.
3. **Equitable Allocation of BT-7 Amenities/Obligations.** Staff concurs that the intent of BT-7 will require coordinated planning for distribution of the listed amenities across multiple ownerships. For example, each owner would not be required to provide a grocery store, but a grocery store can't be split up across multiple ownerships either. The City will take a logical and comprehensive approach when crafting policies that allocate external and internal vehicular and pedestrian connections, plazas, gateway features, and other pedestrian-oriented amenities best suited for the shopping center, its uses, and its relationship to the surrounding neighborhood.
4. **Cooperation.** This is a statement of cooperation and collaboration between the owners. As noted above, this is necessary and appreciated.
5. **Ongoing Business Operations.** This is a statement of mutual respect for business needs and private agreements and staff concurs that such matters are beyond the scope of City amendments.
6. **Informed Deliberations.** This is a commitment to assist the City's planning efforts with illustrative concepts to show the consequences of various regulations. This support will be appreciated by the community, staff, and policymakers. However, it should be noted that Totem's design team will "hold the pen" and ROIC will influence how it will be used before the City sees the results. Staff is hopeful that this process will be iterative and collaborative as various options are considered. This is the paradigm that BT-7 established, but it should be understood that the City should not expect illustration of concepts/regulations that are contrary to the owner's interests. The burden would then fall to the City. In addition, as noted in the attached letter, there is an aversion to specific, binding illustrations. If the City concludes that such an illustration is needed to implement a regulation, then the City will need to develop that product.

B. Discussion of Policy BT-7

Policy BT-7 establishes a policy framework whereby the City may allow development up to five stories in height if specifically identified public interests are achieved. If the CAR application advances to Phase 2, the process will require the applicant to demonstrate to the community and the City how these public interests will be achieved in conjunction with more intensive development of the properties. In past conversations with Totem representatives and staff, the agreed template was to develop a set of regulatory documents along the lines of Kirkland Urban (Parkplace). Those documents include a highly graphical format of establishing specific development rights for the owner paired with specific commitments to provide community benefits and necessary infrastructure.

As discussed above, staff feels that the joint letter presents some challenges when trying to develop standards as set forth in Policy BT-7 without illustrating specific features within the shopping center. The Totem applicant is able to commit to more specificity because they are ready to redevelop their properties. ROIC is understandably less able to commit to more specificity because they have no near-term redevelopment plans and are concerned that obligating something specific (like a plaza in a specific location) could interfere with a legitimate future improvement (like a grocery store). The policy asks for a comprehensive and coordinated approach to commercial orientation, organization of uses within the subject property and along adjacent streets, massing forms, providing logical external and internal vehicular and pedestrian connections, plazas, gateway features, and other pedestrian-oriented amenities. Below is the full text of policy BT-7 (highlighting provided for emphasis).

Policy BT 7:

Encourage redevelopment of the Bridle Trails Neighborhood Center into a lively, pedestrian-oriented, transit-supportive, mixed-use residential and commercial neighborhood center.

***Three-story** mixed-use residential and commercial development is allowed and substantial commercial uses should continue to provide shops and services to the neighborhood. Commercial uses should be oriented to adjacent arterials with wide sidewalks and pedestrian pathways should connect uses on site and with adjacent properties. "[Design Guidelines for Pedestrian Oriented Business Districts](#)" should be used with careful attention to architectural scale, massing and upper story step backs, pedestrian orientation and connections, compatibility with surrounding residential uses and commercial uses across NE 70th St., building modulation, and use of materials to reduce the appearance of bulk and mass.*

*In addition to the above standards, allow mixed-use development **up to five stories** after the City Council has approved development standards, design guidelines, and a design program encompassing all properties within the neighborhood center. These development and design guidelines should address program requirements for such items as a minimum acreage threshold beyond which a grocery store and master sign plan would be required, pedestrian*

connections, vehicular access, types and organization of uses within the subject property and along adjacent streets, building and massing forms, children's recreation space, public amenities and the additional criteria/performance standards listed below:

- *Neighborhood-serving retail is provided and oriented to adjoining rights-of-way and internal pedestrian pathways, with a grocery store and mix of complementary uses such as hardware store, or drug store.*
- *Residential (rather than office) should be the predominant use on upper floors with a percentage of affordable housing units consistent with City standards.*
- *Green building standards and sustainable site standards are included in development.*
- *Taller building forms are located away from adjoining residential properties.*
- *Pedestrian-oriented design elements are incorporated into the development such as plazas to create public gathering spaces with public art, water features, and landscaping.*
- *Driveways are consolidated to minimize impacts on surrounding streets, adjacent residential uses, and to foster a pedestrian-oriented site design.*
- *Parking and transportation impacts are minimized to create a pedestrian-oriented neighborhood center.*
- *A master sign plan should be required to ensure attractive signage and wayfinding.*
- *A gateway feature is provided at the corner of NE 70th Pl. and 132nd Ave NE.*

Staff has identified the following options the Planning Commission should consider when making a recommendation to City Council.

- Option A: Recommend that the application move forward for further study with Phase 2 of the CAR. This would commit the City, Totem, and ROIC to proceed with further study, development of draft regulatory documents, community engagement, and eventual decisions on the merits of the proposal.

Staff recommends this option, with some important qualification. The City will be undertaking a legislative process to consider whether to amend the Kirkland Zoning Code and any associated standards adopted by the Kirkland Municipal Code. As noted above, this does not include a quasi-judicial master plan but will include whatever legislative regulations, guidelines, or graphics the City deems necessary to implement Policy BT-7 for development over three stories. The authority to ultimately approve or reject such amendments lies solely with the City as established in KZC 160 and the City won't agree to any "guardrails" that would limit outcome of that legislative process before it begins. The Phase II process should foster collaboration between the property owners and the broader community while reserving all legislative authority around successful implementation of Policy BT-7 in a manner that serves the public interest.

- Option B: Recommend that implementation of Policy BT-7 becomes a City initiated amendment and added to the Planning Work Plan. The City moves forward with developing standards to implement Policy BT-7. While this would provide the City an opportunity to develop the standards described in the policy it would not allow for the applicant to immediately move forward with their request. This action would require that it be added to the Planning Work Plan and significant resources dedicated to it.
- Option C: Recommend that Policy BT-7 is amended. The Planning Commission could recommend that Policy BT-7 be amended to allow Totem to proceed without ROIC collaboration. Staff does not recommend this action. The policy was crafted based on significant community input and alteration of its language could meet with community opposition. This action would require that it be added to the Planning Work Plan and resources dedicated to it.
- Option D: Recommend that Phase I CAR is rejected for further study. This would not allow the applicant to move forward with their request at this time. The owner(s) could reapply for a Phase I CAR with the next cycle (December 2022).

Attachments:

1. Joint Letter from Totem Bowl & ROIC

cc: File Number CAM20-00674

Applicant

ROIC WASHINGTON, LLC
11250 El Camino Real, #200
San Diego, CA 92130

Totem Bowl and Investment
c/o Don Wells – Confidential
13033 NE 70th Pl.
Kirkland, WA. 98033

March 18, 2021

Via Email

City of Kirkland Planning Commission
PlanningCommissioners@kirklandwa.gov

RE: Bridle Trails Neighborhood Center Planning Efforts

Dear Kirkland Planning Commission:

Since the January 28th Planning Commission meeting, ROIC Washington, LLC (ROIC) and Totem Bowl & Investment (Totem) have participated in weekly meetings to determine how the parties can work together to develop zoning regulations, design guidelines, and a design program (the Regulations) for the Bridle Trails Neighborhood Center (Bridle Trails). Each meeting included ROIC's CEO and COO, Totem's principals, legal counsel, architects, and on-the-ground staff. During these meetings, the parties have acknowledged the potential difficulties involved with preparing the Regulations when Totem desires to redevelop in the near term, while ROIC desires to continue its ongoing retail operations during this time period and desires to redevelop later.

ROIC appreciates that Totem has acknowledged ROIC's concerns that "conceptual" plans drawn on ROIC's property could, without proper guardrails, be improperly construed as binding requirements that could interfere with ROIC's operations. At the same time, ROIC acknowledges that Policy BT-7 obligates Totem to prepare the Regulations for the entire Bridle Trails Area.

The parties looked to the language of Policy BT-7 to advance the City's vision, Totem's redevelopment plans, and ROIC's interest in not encumbering its existing retail operations with new regulations. ROIC and Totem used this background information to reach the following conclusions and agreements as the City moves forward through this process:

- 1. Not a Master Plan.** Policy BT-7 does not call for a Bridle Trails Master Plan. It only calls for the Regulations to address the items specified in

Policy BT-7. Thus, Totem agrees that its preparation of the Regulations will not include a Master Plan on ROIC's property.

2. **Applicability.** Policy BT-7 specifies that the Regulations are applicable when a proposal exceeds three stories for "mixed-use development up to five stories." Thus, Totem agrees that its preparation of the Regulation will explicitly state that the Regulations are applicable only for a mixed-use development that exceeds the existing three-story height limit. This provision will be included in Section 4 of Totem's Outline for the Regulations, titled "Application."
3. **Equitable Allocation of BT-7 Amenities / Obligations.** ROIC and Totem agree that all property in Bridle Trails should be responsible for providing the desired amenities specified in Policy BT-7 and that the Regulations will require the amenities only when the property redevelops as a mixed-use development over three stories. The equitable allocation will require close coordination between the parties as Totem proceeds to Phase 2.
4. **Cooperation.** ROIC and Totem agree that ongoing collaboration and cooperation are necessary as Totem moves to Phase 2. Thus, Totem agrees to: (i) provide its draft Regulation materials to ROIC's for review and comment at least seven business days prior to Totem providing the materials to the City; (ii); make itself available for communications with ROIC at a mutually agreeable time prior to submittal to the City; and (iii) invite ROIC to all meetings with City Staff regarding the Regulations. ROIC agrees to timely respond to Totem's materials. The Parties will endeavor to create Regulations that are mutually beneficial and consistent with Policy BT-7.
5. **Ongoing Business Operations.** Any redevelopment of property in Bridle Trails must accommodate existing ongoing business operations, including the existing ingress/egress, customer parking, and truck loading. The parties acknowledge that real property matters, such as easements, also exist, but those are private matters that are beyond the scope of the Regulations.
6. **Informed Deliberations.** Totem, with ROIC's input, will provide the City Council, City Staff, the Planning Commission, and the public with tools to evaluate Totem's drafted Regulations. These tools will include illustrative concepts that depict how varying regulations, if adopted, could impact the redevelopment of Bridle Trails. Illustrative concepts could include massing diagrams depicting the effects of different setbacks, site plans showing the impacts of open space or lot coverage requirements, among others.

Redeveloping a Neighborhood Center with four different owners is a complicated and challenging endeavor. Totem and ROIC have spent valuable time and resources to

reach these five points of agreement that, if followed, will help make the City's vision a reality while recognizing the rights, needs, and on-the-ground realities of the Bridle Trails property owners. To build on this momentum, Totem and ROIC jointly request that City Staff and the Planning Commission acknowledge that the "guardrails" are consistent with the Bridle Trails Comprehensive Plan Amendment, including Policy BT-7. Totem and ROIC also request that the Planning Commission and the City act consistently with the guardrails as the City reviews and processes the Regulations prepared by Totem with ROIC's ongoing review and input. ROIC and Totem thank the City Staff and Planning Commission for its attention to the Bridle Trails Neighborhood Center.

Sincerely,

A handwritten signature in black ink, appearing to read "Stuart Tanz".

Stuart Tanz
ROIC, CEO

A handwritten signature in black ink, appearing to read "Don Wells".

Don Wells
Totem Bowl and Investment

cc:
Scott Guter, Kirkland Senior Planner
SGuter@kirklandwa.gov

Jeremy McMahan, Deputy Director
jmcmahan@kirklandwa.gov

