



REPORT/RECOMMENDATION

To: MAYOR AND COUNCIL	Agenda Item <u>City Council VIII. B & HRA III.</u>
From: Scott Neal	<input checked="" type="checkbox"/> Action <input type="checkbox"/> Discussion <input type="checkbox"/> Information
City Manager	
Date: June 19, 2012	
Subject: Amendment No. 1 to Southdale Redevelopment Agreement	

ACTION REQUESTED: Consider Amendment No. 1 to Southdale Redevelopment Agreement.

INFORMATION/BACKGROUND: On April 17, 2012, the City Council approved Resolutions 2012-58, 2012-66 and 2012-67 approving the Southdale Redevelopment Agreement with Simon Property Group. Following the action by the City Council, the agreement was executed by the City and delivered to Simon Property Group’s corporate offices in Indianapolis, Indiana for execution by their corporate officers.

Instead of executing the agreement, however, Simon’s corporate officers raised objections to a provision in the agreement – Section 4.6 – which bars Simon from appealing the market value of the Southdale Center property during the term of the agreement. The language of Section 4.6 from the approved agreement is as follows:

APPROVED

Section 4.6 Assessment Agreement. During the term of this Agreement and the Minimum Improvements Loan Agreement, Redeveloper agrees that the Market Value of the Mall Property for real estate tax purposes shall be \$110,000,000 beginning January 1, 2012, and increasing 2.5% per annum, and Redeveloper agrees not to appeal the Market Value of the Mall Property. Upon execution of this Agreement, Redeveloper and City will execute the Assessment Agreement, attached as Exhibit F. The Assessment Agreement must be recorded no later than June 30, 2012. Failure to record the Assessment Agreement by June 30, 2012 shall be a Redeveloper Event of Default under this Agreement.

Simon representatives have proposed an amendment to Section 4.6. The amendment removes the bar to appealing the market valuation, but agrees to a 4.3% increase in valuation from year 1 to Year 2 of the agreement before settling into the agreed upon 2.5% annual value increases, which are part of the of the approved agreement. The proposed amendment, shown below, also restricts Simon's appeal rights to appealing only that portion of any valuation increase that exceeds the 2.5% annual growth.

PROPOSED

Section 4.6. Assessment Agreement. During the term of this Agreement and the Minimum Improvements Loan Agreement, Redeveloper agrees that the Market Value of the Mall Property for real estate tax purposes shall be \$115,000,000 for January 1, 2012, and \$120,000,000 beginning January 1, 2013, and increasing 2.5% per annum in each year thereafter, and Redeveloper agrees not to appeal the Market Value of the Mall Property unless, and only to the extent that, it is greater than such agreed-upon amount. Upon execution of this Agreement, Redeveloper and City will execute the Assessment Agreement, attached as Exhibit F. The Assessment Agreement must be recorded no later than June 30, 2012. Failure to record the Assessment Agreement by June 30, 2012 shall be a Redeveloper Event of Default under this Agreement.

There are a number of factors Council Members should reflect on when considering your decision on this matter:

1. The proposed amendment does not affect the security of the City's tax increment relationship with Simon. The security for the TIF debt is as strong with the proposed language as it is with the approved language.
2. Does the proposed amendment create unreasonable logistical or administrative burdens for the City? Does it create equity issues among other property owners?
3. Is the proposed amendment from Simon reasonable? Does the proposed amendment restrict the City from valuing the mall at its true market rate?
4. Does the City risk spoiling a budding relationship with Simon Property Group by rejecting this proposed amendment?
5. If the proposed amendment is not approved, will Simon proceed with the proposed improvements?

The City and Simon are facing a June 30 deadline to reach an agreement on the market value of the Southdale property. Therefore, if the Council desires to accommodate the proposed amendment, it must make a decision on the matter at the June 19 Council meeting. I have invited the City's legal and financial advisors to attend the Council meeting in order to assist the City with a discussion of the proposed amendment and its ramifications.

In order for a proposed amendment to become effective, it must be also be adopted by the City's HRA. An HRA meeting will be scheduled at the end of the Council meeting on June 19 to consider the same action.