



## Memorandum

**DATE:** July 8, 2013

**TO:** City Councilmembers

**FROM:** Dan Eernisse, Economic Development Manager

**RE:** Letter from Sears regarding Resolution No. 345 - CRA Plan Adoption

**CC:** Julie Underwood  
Debbie Tarry

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Today we received a letter from an attorney working for Sears Holding Company encouraging Council to delay the adoption of the CRA Plan. As staff has stated many times before, Sears' action is necessary for Aurora Square to be renewed. Therefore, staff believes that this letter is the most positive reaction to the CRA to date: active engagement by the Sears home office!

Immediately after reading the letter, I had a one-hour conversation with Sears' counsel, Aaron Laing, in which many of the points of the letter were clarified. Mr. Laing promised to attend tonight's meeting and make a brief statement.

The letter from Sears and the conversation with Mr. Laing focused on two main objections. Staff comments are listed below each objection.

- 1) The CRA Plan has been undertaken with a "lack of direct stakeholder input" from Sears.
  - Staff recognizes that to the citizen that hears about a resolution before Council at the eleventh hour, staff has in some ways failed to provide adequate stakeholder input. That said, for the past three years, I have attempted to create a clear path of communication with Sears corporate office including phone calls, emails, letters, third-parties, and even an announced personal visit to Sears headquarters in Hoffman Estates, Illinois. The meeting was with two "real estate strategists" who each were responsible for over 600 stores and who had never visited the site. To date, staff is unaware of any upper management personnel from Sears who have visited the Shoreline store.

- In mid-2012 while the staff was working with Council to designate the CRA, two consultants hired by Sears visited the City of Shoreline to study the redevelopment potential of the Shoreline Sears site. This appeared to be a major breakthrough. During that meeting, the CRA designation was discussed in detail and the City's efforts were applauded; the consultants' only concern was that it might delay Sears' own plans for redevelopment of its site. Staff later referenced this comment in a staff report without naming the consultants, stating that Sears was "cautiously supportive." Within days of the staff report being added to the City's website, one of the consultants called to state that the Sears corporate office had forbidden further communications by the consultant with the City.
  - Earlier this year, the lead consultant did provide information that he was moving forward with the development of the St. Paul, MN, site that was quite similar to the Shoreline Sears site. Since that time, though, no communication with Sears' corporate office has been successful, though staff continued to send emails and leave phone messages with the lead consultant in an attempt to communicate with Sears indirectly. Please note that even with today's letter, no direct contact with Sears itself has been established in over a year.
  - Regardless of whether the CRA Plan is adopted tonight, staff will continue to attempt to create an active communication connection with Sears' upper management.
- 2) The CRA Plan implies that Sears won't be operating on site for long, thereby endangering its business.
- Staff has referenced the fact that Sears is struggling nationally as this is a well-documented and reported conclusion in business news. Staff has also referenced that the reported sales tax revenues from Sears indicate that it is underperforming in relation to other retailers in the City, although in its own estimation the store is a moderate performer.
  - The CRA Plan makes a distinction between the Sears facility, which is by all accounts – including Sears' consultants – functionally obsolete and partially vacant, and the Sears retail operation. The primary focus of the CRA Plan is to encourage the redevelopment and/or the repurposing of the facility, and the CRA Plan never references the need or the desirability that the Sears retail operation leave the site.
    - *Should Council direct, staff could easily wordsmith language in the CRA Plan to make that distinction more obvious.*

In addition, several misconceptions about the goals and/or methods of the CRA Plan fuel the strong reaction from Sears' counsel:

- 1) The CRA Plan is similar to plans other states might adopt that provide the City broad powers;

- In other states (and countries) in which Sears stores are located, private property owners may justifiably fear public action and its constraint on development (such as happened in *Kelo v. City of New London*). Washington State laws are in comparison quite strongly weighted toward private property rights. As stated repeatedly by staff throughout this process, the CRA Plan is designed to allow the City to invest public resources for economic development rather than to constrain private development.
- 2) The CRA Plan intends to remove Sears and replace the retail use of the Sears facility with public uses such as those by Shoreline Community College;
- The CRA Plan does not propose any such plan; in fact, replacing large parts of Aurora Square with public uses would run counter to the overall goals of generating more tax revenue on site.
    - *The artist conception showing parts of Aurora Square being used by Shoreline Community College illustrates the desire to include somewhere and somehow more SCC student, faculty, and staff on site to encourage all businesses. However, it is not intended to imply that the Shoreline Community College campus is being relocated or that this use is more than one of the many uses on site. If directed by Council, staff could easily use other illustrations that draw less attention to this use.*
- 3) The CRA Plan is a heavy-handed approach toward property owners that includes a master plan and/or zoning overlay;
- The CRA Plan does not constrain private property owners in any way, nor does it include special zoning overlays.
- 4) The City can enter into a relationship with a private developer that forces the redevelopment of the Sears property;
- Neither the CRA nor the CRA Plan includes any mechanism for forcing the redevelopment of any portion of Aurora Square.
  - The CRA and CRA Plan allows the City to engage with developers and property owners to discuss how the City might partner in redevelopment efforts. This is a tool that Sears itself will find valuable should it decide to reinvest in its property.
- 5) Resolution No. 346, which provided notice of intent to establish the 12-year PTE in the Aurora Square CRA, should have also noticed Resolution No. 345 which is the adoption of the Aurora Square CRA.
- Resolution No. 346 was adopted in order to comply with Washington State's Property Tax Exemption code that calls for the adoption of a resolution of the City's intent to adopt a PTE area. Resolution No. 346 was in no way connected to the public hearing for the CRA Plan Adoption, which was noticed as per the City's standard procedures and State statute requirements.

Staff does not believe that the concerns stated by Sears' counsel are significant enough to delay the adoption of the CRA Plan. Once Sears better understands the goals of the CRA Plan, staff believes its concerns will be adequately addressed.