

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

____ Resolution or Ordinance (Blue) ____ Waiver of First Requested
____ Recommendations of Boards, Commissions & Committees (Green)
 X Other Business (Pink)

TO : PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott R. Niehaus, Village Manager

DATE : September 27, 2022 **(BOT) Date:** October 6, 2022

SUBJECT: D.R. Horton, Inc. Midwest Economic Incentive Request (Yorktown Commons Parcel 4/Summit at Yorktown) - Introduction

SUBMITTED BY: William J. Heniff, AICP, Director of Community Development *the*

BACKGROUND/POLICY IMPLICATIONS:

On the October 6 Village Board agenda under Items for Separate Action is a requested zoning entitlement request by D.R. Horton – Midwest for the Yorktown Convenience Center property and associated with a 90-unit townhome redevelopment project.

As an ancillary request to the Village, they are seeking consideration of a performance based economic incentive to address identified extraordinary costs associated with the project. Attached for advance consideration is a Community Development staff report for the redevelopment project. This request was introduced to the Economic & Community Development Committee (ECDC) at their September 12, 2022 meeting. The ECDC unanimously recommended that Village staff and Counsel work with the Horton to prepare a final incentive agreement for Village Board consideration and approval. The parties have completed the draft agreement terms are in the process of preparing the final agreement for consideration by the Village Board at the October 20, 2022 meeting.

Please place this item on the October 6, 20222 Village Board of Trustees agenda. Staff is introducing the incentive framework for Village Board discussion purposes only. Staff will summarize the salient points and will seek additional comment relative to pending agreement.

Fiscal Impact/Funding Source:

Review (as necessary):

Finance Director _____ Date _____
Village Manager _____ Date _____

MEMORANDUM

TO: Scott R. Niehaus, Village Manager

FROM: William J. Heniff, AICP, Director of Community Development 

MEETING DATE: October 6, 2022

RE: **D.R. Horton, Inc. Midwest Economic Incentive Request (Yorktown Commons Parcel 4/Summit at Yorktown) - Introduction**

On the October 6 Village Board agenda under Items for Separate Action is a requested zoning entitlement request by D.R. Horton – Midwest for the Yorktown Convenience Center property and associated with a 90-unit townhome redevelopment project.

As an ancillary request to the Village, they are seeking consideration of a performance based economic incentive to address identified extraordinary costs associated with the project. Attached for advance consideration is a Community Development staff report for the redevelopment project. This request was introduced to the Economic & Community Development Committee (ECDC) at their September 12, 2022 meeting. The ECDC unanimously recommended that Village staff and Counsel work with the Horton to prepare a final incentive agreement for Village Board consideration and approval. The parties have completed the draft agreement terms are in the process of preparing the final agreement for consideration by the Village Board at the October 20, 2022 meeting.

ACTION REQUESTED

Since D.R. Horton is seeking to quickly complete the entitlement, final engineering, real estate transaction and selected building permit processes to start their project this Fall, staff is introducing the incentive framework for Village Board discussion purposes only. Staff will summarize the salient points and will seek additional comment relative to pending agreement.

MEMORANDUM

TO: Anthony Puccio, Chairperson
Economic and Community Development Committee Members

FROM: William J. Heniff, AICP, Director of Community Development

MEETING DATE: September 12, 2022

RE: **D.R. Horton, Inc. Midwest Economic Incentive Request (Yorktown Commons Parcel 4/Summit at Yorktown)**

Staff is transmitting to the Economic & Community Development Committee (ECDC) an economic incentive request pertaining to the eastern portion of the vacant Yorktown Convenience Center property addressed at 4-44 Yorktown Shopping Center. This request is being made by D. R. Horton, Inc. Midwest, who are seeking to acquire and redevelop the property with ninety (90) single family attached (i.e., townhome) units on the 6.06 acre property per submitted plans. The working development name is the Summit at Yorktown.

To facilitate this project, which is estimated to have an estimated project cost of approximately \$34,648,104, Horton is transmitting a request in the amount of \$1,900,000 to cover eligible tax increment financing (TIF) expenses and pertaining to identified demolition, environmental remediation, selected site improvements and partial site acquisition costs. The \$1,900,000 incentive request figure constitutes 5.5% of the total project costs.

Horton has the property under contract and is completing the due diligence process. They are also seeking all land development approvals and requested economic incentive to be approved by the Village as a precursor to their proposed closing in late 2022. As the negotiated draft terms of the economic incentive are being completed, staff is bringing this matter to the ECDC with a recommendation to approve the draft incentive terms and to direct staff and Village Counsel to complete an Economic Incentive Agreement for Village Board review and approval.

BACKGROUND – CONVENIENCE CENTER & YORKTOWN COMMONS

Yorktown Center has been an economic development engine for the Village for more than a half-century. Development entitlements were originally approved in 1966 and the mall center, peripheral tenants and related anchor auto service centers were constructed and opened in 1968. Subsequent peripheral development such as the Yorktown Convenience Center immediately north of the mall in the 1970s. The Convenience Center included a mix of retail and predominantly service businesses since its inception. However, from the 1990s onward, it has not been a strong performer in terms of occupancy and business activity.

Since acquiring the property in 2012, Yorktown Center ownership, comprising several Limited Liability Corporations (LLC), undertook significant revitalization and upgrade activities to the mall interior and supportive exterior areas. As staff has previously stated to the ECDC, the rapid increase in internet sales fundamentally changed the way that consumers procure goods, which has impacted the viability of regional malls as bricks and mortar retail-focused operations. Peripheral retail is also affected, particularly in spaces where lower street visibility and higher vacancy rates persisted. To that end, adaptive re-use or redevelopment options to incorporate non-traditional uses is quickly occurring throughout the country and in the Chicago region.

The further redevelopment of Yorktown Center began in 2015, when Yorktown ownership turned its attention to the redevelopment of the northern portion of the center. This area previously consisted of the long-closed Bamboo Room, the underperforming Yorktown Convenience Center and a vacant lot, all oriented around the intersection of Grace Street and the Yorktown Ring Road. Throughout 2015, Yorktown Center ownership worked with the Village to develop a vision for this area, which became known as Yorktown Commons. Since then, Yorktown Commons Parcels 1 and 2 have been developed with multi-family apartment complexes (Elan (#1) and Overture (#2)), which were constructed in the 2017-2019 period and are essentially at full occupancy.



Yorktown Commons and surrounding planned developments

Horton's geographical boundaries are coterminous with Parcel 4 of the Yorktown Commons planned development. As noted, they are proposing an attached single-family (townhome)

development for the site. An early concept plan for the development was introduced to the Plan Commission in a workshop session on March 28, 2022 and full requisite public hearings were held by the Plan Commission on July 18 and August 3. The Plan Commission recommended approval of the submitted development plans, which will be forwarded to the Village Board for final consideration. The role of the ECDC is limited to consideration of any economic incentives and not the development petition itself.

FUNDING ASSISTANCE APLICABILITY AND REQUEST

With the zoning actions completed, staff has continued its efforts on their economic incentive request. Staff forwarded onto Kane McKenna & Associates (KMA) for initial review and the recommendation is being shared with the ECDC for consideration.

As currently contemplated, the Butterfield Road Yorktown Tax Increment Financing (TIF) District would be the incentive funding source for the project. The TIF District was established in 2017 and the Second Amendment to the TIF District was adopted in 2020 to include the Yorktown Center spine, the former Carson's anchor store property, the Carson's Furniture property and the Shops on Butterfield property. The TIF District has 18 years remaining and it was developed and amended to provide a non-General Fund resource for such projects.

Eligible uses and costs associated with TIF District funding are set forth by the Illinois' Tax Increment Allocation Redevelopment Act (65 ILCS 5/11-74.4-1, *et seq.*) and identified within the specific TIF District Redevelopment Plan and Budget. Horton has prepared detailed information requesting estimated project costs request information pertaining to the requested economic incentive in the amount of **\$1,900,000**, which is intended to cover extraordinary costs and the anticipated feasibility gap. Below are line item elements that make up the request and where applicable, staff's comments (in italics) associated with each item.

Engineering Costs due to Site Conditions:	\$ 30,000
Architectural modifications for site remediation conditions:	\$140,000
Environmental Studies Review & Permitting Costs:	\$140,710
Soil Remediation & Testing (IEPA):	\$200,000

The exiting property previously had a dry cleaner on the site and through review of soil conditions, remediation actions need to be addressed through soil removal and proper off-site disposal, to ensure that the site can meet IEPA standards for residential development. This project will also need to address proper asbestos and other special materials removal from the existing retail building (asbestos was a common element in commercial buildings in the 1960s and 1970s).

Land Acquisition:	\$464,270
-------------------	-----------

Horton provided a narrative noting that land costs are significantly high at this location as compared to other greenfield sites. Notable items include that stormwater management costs are already provided for the site on a nearby parcel constructed as part of the overall Yorktown Center development in the 1960s, and existing lift station/sanitary sewer improvements are already

accounted for by the existing property owner, so Horton's construction costs may be a bit lower as that cost is incorporated into the overall land value. The desired geographical proximity to Yorktown is also a site asset and is reflected in market land value.

Streetscape & Form-Based Code Landscape Enhancements: \$380,020
This item includes the costs to incorporate the provisions of the Form-Based Code as previously approved by the Village as well as additional grading and landscaping associated with the parkway and the development in general.

Shopping Center and Parking Lot Demolition: \$380,000
This cost pertains to the relevant costs to general costs to get the property to a greenfield site.

Site Lighting (Village Plan Commission request): \$ 75,000
As part of the Plan Commission public hearing process, the Plan Commission sought additional aesthetic and supplemental lighting for the private access drive network through the project and in the common open space areas. Such lighting is not required by code. Horton submitted a revised plan concept for their consideration at a special meeting of the Plan Commission on August 3 and that plan was incorporated into the project and their recommendation of approval.

Land Development Financing: \$ 90,000

TOTAL (Potential Eligible) **\$1,900,000**

By State Statutes, actual building construction costs for the new townhome units are not applicable for TIF funding.

For reference purposes, Horton seeks final approval of zoning actions and the companion economic incentive from the Village in October, 2022, with property closing and initial construction start in Fall, 2022. Based upon market conditions (each townhome unit will be constructed based upon sales volume and demand), Horton is projecting 36 units constructed in 2023, 38 in 2024 and 16 in 2025 and their projections, cash flow and increment reflects these timelines. It is important to note that unlike apartment project which are assessed all at once upon completion, townhome units are assessed incrementally upon project completion and unit sale.

RATIONALE FOR AGREEMENT

State Statutes allow the Village to appropriate funds for economic development purposes, and the existing TIF District fund can provide for project funding. Horton represents that the redevelopment project would not be economically feasible on its own merit, but for the economic assistance by the Village. This assumption is predicated upon their cost projections, the scope of work to be undertaken to get the site to a full "greenfield site," staff review of the eligible costs and the KMA review data.

INCENTIVE TOOLS AND POLICY COMPLIANCE

The adopted Economic Incentive Policy (EIP) is the primary tool for considering such requests. This project will not directly generate any retail sales tax dollars, so the EIP provisions pertaining to sales tax revenue are not applicable. However, indirectly, the additional 90 residential units will create construction jobs, sustained increment and ancillary benefits to the Lombard market. The EIP also offers policy statements for Property Tax Based Incentives:

- *Any incentive shall be based upon any net increase in added EAV associated with the project. Projects that do not result in a significant increase in EAV, as determined by the Village in its discretion, shall not be considered.*

The incentive being sought is based upon the anticipated increased equalized assessed valuation (EAV), as follows:

Existing (2021) Based Equalized Assessed Value:	\$ 1,225,740
Projected Median Base Sales Price per Unit:	\$ 405,700
Estimated Fair Market Valuation Upon Buildout:	\$33,847,551

- *Projects that result in an increase in anticipated services by any affected taxing district shall be carefully considered as part of any incentive. The agreement shall identify such additional service impacts and their respective associated costs within the agreement itself. This can include dollars that are currently received by the affect taxing district(s), the costs associated and attributable to the project as well as any administrative costs.*

As an incentivized TIF District project, the proposed multiple-family development component will need to address State Statute defined population fiscal impacts from the TIF for any school aged populations (to School Districts 44 or 87) or general population to the Library District (65 ILCS 5/11-74.4-3(q)(7.5) and (7.7) respectively, with the Agreement setting about the structure of said payments. This will be addressed in the incentive agreement as well, and any future impact will be applied through the remaining life of the TIF District and paid through the TIF proceeds.

OTHER VILLAGE ECONOMIC INCENTIVE POLICY PROVISIONS

Below are staff's responses to the other key provisions of the Policy.

- *The funds that are eligible for an incentive shall be limited to the funds transmitted by the State of Illinois to the Village. The Village's non-home sales tax designated for capital improvements shall not be eligible as part of an incentive.*

Response: The proposed reimbursement would be solely derived from TIF generated increment.

The project will not receive any funds directly received to the Village that would otherwise go to the Village's General Fund. The developer would also pay for any applicable development fee costs associated with the project.

- *The Village gets paid first. Any such agreement shall be set up in such a manner that allows the Village to receive the first dollars generated by a project. This can include dollars that are currently received by the Village for existing or past sales tax generations, the costs of performing municipal services anticipated by the project as well as any incidental administrative costs.*
- *Unless specifically identified in the incentive agreement, any rebates should be established in such a manner that the Village receives at least one-half of the anticipated additional tax generation attributable to the project during the life of the agreement. Generally, the only exception to this provision would be if an incentive is offered to rebate a previously constructed capital improvement that was installed prior to and directly associated with the business opening.*

Response: Overall, the Village will receive and retain within the TIF District at least 50% of the eligible and generated increment associated with the project. The increment would be “new dollars” from the project and given that it would be based upon future property valuations from the constructed units, these dollars are not as subject to downturn in market conditions (i.e., there will also be an assessed land and building value associated with these constructed units). Based upon the preliminary structure and projections, should the incentive be approved as contemplated, the Village should receive approximately 77% of the net present value of the TIF fund created by the project (see attached table/pie chart for further illustration).

Horton will be seeking reimbursement for the requisite constructed infrastructure and demolition costs as previously noted. As with the Hoffmann/Golf Social project, the Village considered a deviation from Policy to allow for a greater percentage of TIF reimbursement associated with such capital costs to be paid (75% of generated increment) within the first phases of the project, as opposed to having higher interest payment accrued through the incentive period. Such an approach allows for the overall incentive period to be decreased and within the desired and stated 10-year incentive period as set forth within the EIP. Specific reimbursement language provisions will be set forth further in the incentive agreement, but based upon anticipated revenue projections, the incentive amount is projected to be achieved within six years.

- *A project will be more favorably reviewed if the project:*

a. represents significant private-sector financial investment;

Response: The estimated project cost of approximately \$34,000,000, including land acquisition costs could meet this provision.

b. promotes a higher and better use of the property as determined by the Village through its adopted plans;

Response: The adopted Yorktown Commons planned development and its Form-Based Code provides the larger context for the proposed development. Horton followed this vision in their development plans and their project is intended to meet all of the provisions within this larger vision.

c. provides a positive fiscal and economic impact to the Village;

Response: The project will contribute to the Village economy. The existing land use and its undesirable geographical design and layout has resulted in lower occupancy rates and increased vacancies. This larger vision for the redevelopment of the site is intended to provide an additional catalyst for investment and may indirectly assist retail and service occupancy within the Yorktown area.

d. adds new and unique retail business tenants to the Lombard market;

Response: While not a retail land use, the Horton project does introduce an additional land use type (townhomes) into the Yorktown area and within the Butterfield Road corridor.

e. mitigates any potential negative impacts to the surrounding area;

Response: The incentive agreement will assist in removing the functionally obsolete retail strip center from the Yorktown area. The proposed townhome development is intended to provide an alternative land use concept that is compatible and entrances the neighboring residential areas.

KMA FINDINGS

The EIP focuses upon projects in which the reimbursement is based upon satisfactory performance of the businesses and property and for a specified period of time. If the business performs well, their chances of received the full incentive benefit are increased. Performance based agreements also minimize risk to the Village.

KMA reviewed the necessity of the incentive and to assist the Village in determining the appropriate structure of the agreement to ensure to meets developer needs while not over extending the Village's commitments. Staff and KMA deem that the project has an identified gap worthy of further consideration and the requested incentive can meet the developer's requests to cover upfront costs of construction and the projected gap. Staff and KMA will address any final

questions and issues pertaining to prove-up costs and incentive accrual and dispersal as part of the agreement negotiation process.

RECOMMENDATION

Staff seeks a recommendation from the ECDC to work with Village Counsel and Horton to finalize the terms of an incentive agreement based upon the parameters set forth within the staff report and the Kane McKenna review. The ECDC should further recommend that:

1. The economic incentive shall be in an amount not to exceed \$1,900,000 in eligible reimbursement costs, over a period not to exceed ten years from the date in which project TIF revenues begin to accrue. The percentage of increment to the developer is applied to the net increment remaining after the Village makes its statutory payments to the School and Library Districts.
2. The Agreement may include provisions for up to 75% of the generated TIF increment, to be applied for eligible demolition and constructed capital costs associated with the project.
3. The reimbursements anticipated by the development shall be performance based, based upon eligible and documented expenses, and the maximum amount of the reimbursement shall not be guaranteed, if in event the maximum revenues are not achieved; and
4. As conceptually supported by the developer, in the event the project outperforms the underlying terms and provisions set forth within the rationale and justification of the incentive, the incentive shall be subject to a claw back adjustment, with the final terms and conditions to be addressed within the Agreement.