


MEMORANDUM

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

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

MEETING DATE: March 13, 2023

RE: **Synergy Construction Group LLC and Pacific Retail Capital Partners (PRCP) Economic Incentive – March, 2023 Yorktown Reserve Update Memorandum**

Staff provides the Economic & Community Development Committee (ECDC) with a further update regarding the proposed Yorktown Reserve redevelopment project, including modifications to the incentive parameters. As with past discussions before the ECDC, staff is seeking further concurrence relative to the proposed incentive request, and in order to provide respective counsels time to craft the proposed structure into the draft economic incentive agreement.

BACKGROUND

At the Special Meeting of the ECDC on May 23, 2022, staff introduced an economic incentive request for the former Carson's Anchor Store (230 Yorktown Shopping Center) and related perimeter of the Yorktown Center mall building abutting the site. After the May ECDC meeting, staff and the parties continued discussion on the agreement terms pertaining to the initial ECDC direction of agreement support.

At the September 12, 2022 ECDC meeting, staff presented the conceptual land plan, project parameters, the funding sources, prospective incentive request, and applicability to Village economic development policies. The ECDC also supported the direction and directed staff and Counsel to develop an agreement for Village Board consideration and approval.

Given favorable direction by the ECDC and in order to meet 1031 exchange provisions, the Carson's site was acquired by Synergy Construction Group LLC in September, 2022 (\$4,400,000). Synergy still intends to redevelop the property with a two-phase multiple-family residential (apartment project). Pacific Retail Capital Partners (PRCP) owner of the center mall area, is a part of the overall redevelopment effort and discussions have continued to refine the site and engineering plans, and proceed with an enhanced as part of their mutual due diligence efforts.

With concept plans finalized, the parties filed for zoning and entitlement actions. The revised plans were submitted to the Village and a public hearing occurred on February 20, 2023. Reflective of anticipated market conditions, the proposed residential unit count dropped from 714 to 621 units, reflective of a modified unit size and bedroom count. The actual building footprints

did not materially change, but an additional parking floor was added to ensure that that residents would be able to wholly park within the confines of the apartment structures and not have spillover onto adjacent parking spaces. The Plan Commission recommended approval of the petition subject to conditions, and the matter is scheduled to be considered by the Village Board on April 20, 2023.

INCENTIVE MODIFICATIONS - TIF

As previously presented, there are two performance-based economic incentive funds proposed to this development – the Butterfield Yorktown Tax Increment Financing (TIF) District and the Butterfield Yorktown Business District #2 (BD #2). Staff collaborated with Synergy, PRCP, their development consultants and the Village’s economic consultant Ryan (formerly Kane McKenna) as well as the corresponding counsels, to vet the final parameters of the pending agreement.

The following TIF fiscal components remain unchanged:

- Market conditions are still favorable for the project advancing (subject to interest rates).
- The overall project development cost is approximately \$200,000,000.
- The apartments will be constructed in two distinct phases.
- Assuming approval of all actions by the Village, demolition activity and is still anticipated to commence in May/June, 2023. Infrastructure improvements and foundation construction is still anticipated to occur in 2023.
- The incentive period remains up to a seventeen (17) years from the date of execution of the agreement, or the expiration of the Butterfield Yorktown TIF District in the year 2040 (2041 calendar year), whichever occurs first (a supported policy deviation by the ECDC).

Overall, incentive request refinements (the purpose of bringing this item back to the ECDC for further consideration) include:

- Additional engineering cost data (i.e., an engineer’s opinion of probable costs (EOPC)) was prepared for Village consideration to narrow the projected gap on an anticipated prove-up obligation clause. Synergy’s engineering design team has prepared estimated project cost totaling \$4,075,073, excluding contingencies. Staff reviewed and finds that the latest EOPC is within the range of reasonableness and is generally defensible. A few figures may be subject to refinements as plans are finalized or as construction proceeds (variables such as labor, material cost and supply chain factors could occur), but staff can justify a ten percent (10%) contingency factor being included within this component, subject to final agreement prove up costs (similarly to other recently approved incentive agreements).

- The September, 2022 Phase 1 project costs eligible for a reimbursement of up to \$12,146,954 (net present value (NPV)), plus interest. The current figure is essentially the same (i.e., \$12,148,004). However, for Phase 2, the reimbursement request is increased to \$9,639,372. From the originally identified \$8,609,547 (NPV), plus interest. This increased can be attributed to higher market interest rates and carrying costs, construction cost data, an additional carrying year for the Phase 2 construction activity.
- As previously represented, an Economic Incentive Policy (EIP) deviation from the maximum fifty percent (50%) of the incremental property taxes attributable to the Project during the life of the Agreement was presented. As contemplated, the Developer incremental property tax allocation shall be up to seventy-five percent (75%) of such incremental property taxes, subject to the terms of the final agreement. This was supported by the ECDC at the May and September meetings. Given the interest and development cost variables, a further deviation is sought:
 - a. For the first four years of Phase 1 (generally the period in which construction cost activity occurs), Synergy seeks and staff can justify up to 95% of performance based incremental property taxes. The remaining years reimbursement will be at the previously supported 75% levels.
 - b. For Phase 2, the previously projected 65% levels will be held.

The modification rationale is that given the overall development costs and corresponding interest payments, the adjustment will allow for a greater opportunity to actually achieve the incentive levels by reducing risk. Most importantly, it sets forth a reasonable rate of return so that the development can secure financing at terms that will allow the project to proceed at this time. As attached Table 1 also shows, the project will still generate significant revenues to the TIF District upon completion.

Overall, the amended \$21,787,376 TIF incentive component (from \$20,756,501), computes to be 10.9% (from 10.3%) of the overall \$200,000,000 project costs.

INCENTIVE MODIFICATIONS – BD #2

As previously noted, the Commercial Open Space costs are not incorporated into Synergy's aforementioned overall project costs. While it is located where the Carson's building is currently located and its demolition and site preparation is needed to advance the plan, this will be addressed as a separate but companion funding effort through BD #2 sources.

The following BD #2 components remain unchanged:

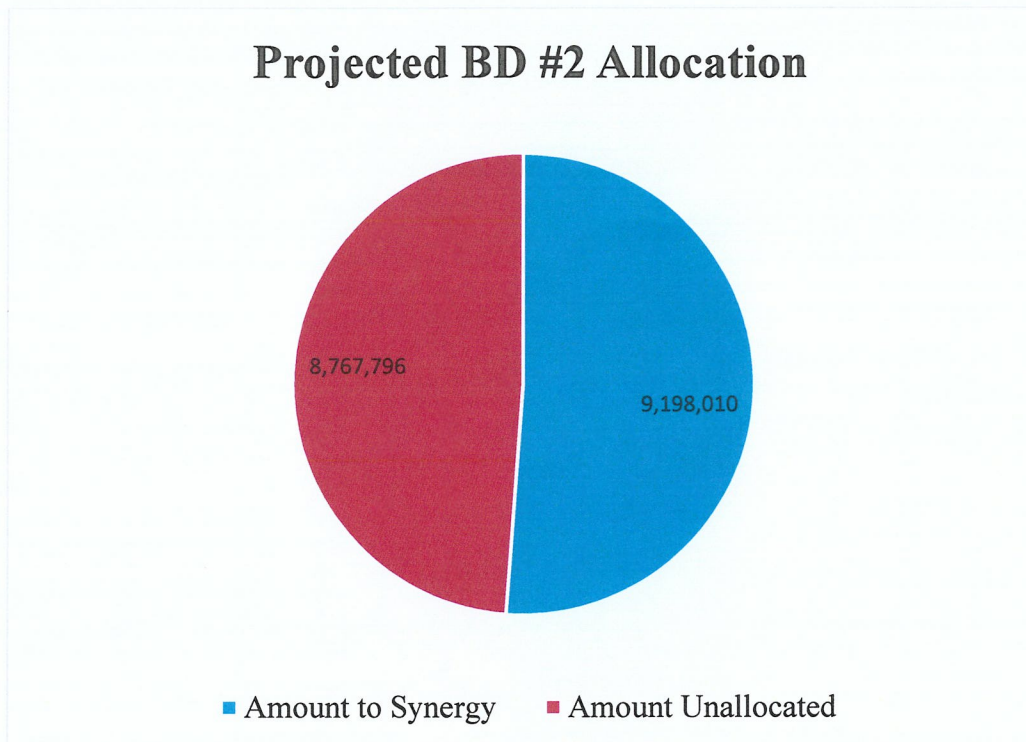
- A commercial open space common area tract (to be partly financed through BD #2) will provide active and supportive green/open space along with companion peripheral building modifications to the existing mall exterior will be undertaken.

- Demolition and construction activity of the areas subject to BD #2 funding consideration is still slated to commence in May/June, 2023.
- The BD #2 components still consist of:
 - Selected and impacted mall exterior and interior demolition site work; concrete wall construction and masonry and maintenance; doors, windows, canopies, electricals/mechanicals adjustment and finishes construction (for impacted area resulting from demolition work);
 - Commercial Open Space work including Carson's demolition, asbestos removal, earthwork, fill, asphalt paving and pavers, site utility modifications, concrete, electrical and mechanicals; and soft costs including general contractor, contingencies, design, and permit fees.
- Improvements would be paid from generated funds and existing reserves created by retail sales business activity within BD #2 in general.

Refinements or changes to this portion of the corresponding incentive request are:

- Site plan modifications - which incorporated leasing discussions on PRCP's engagement, discussions with staff regarding design, and direct engagement with PRCP's building and structural consultant team on this project component. The parties and their consultant Unified Construction Group (UCG) created a detailed revised \$9,198,010 construction cost estimate, up from the previously calculated \$8,295,282 figure. Noted changes include more detailed information pertaining to past construction/demolition issues and refinements to the concept building exterior plans. Community Development Building staff undertook a detailed review of the demolition and construction figures and find they are generally reasonable. These costs would be subject to prove-up provisions.
- Staff did not previously present the formal structure of the BD #2 reimbursement process. With the agreement crafting, the following representations are offered:
 - a. Upon completion of any prove-up provisions in the Agreement, the Village will reimburse the applicable parties with previously collected BD #2 funds since its inception in 2020. This figure is estimated to be in the \$4,400,000 to \$5,000,000 range.
 - b. Any additional BD #2 generated funds will also be directed to parties based upon future BD #2 collected funds until such time that the final applicable construction cost figure is achieved.

For reference purposes and based on preliminary internal projections of future BD #2 reserves, staff anticipates that this incentive component would still leave a substantial portion of future generated funds available (49%) for other projects within the geographical BD #2 area.



As a type of Village fund, the Village has the exclusive ability to transfer eligible costs from the BD #2 to TIF Fund, if the costs meet statutory and policy provisions. This can be further vetted and staff has discussed the ability to undertake this activity with Counsel, if warranted. This may also be a valuable incentive tool should an additional project in the BD #2 geography materialize that warrants Village incentive participation. But for general reference purposes, staff conservatively estimates that approximately \$7,500,000 of the \$9,198,010 figure could potentially be TIF eligible expenses.

ECONOMIC INCENTIVE POLICY (EIP) DISCUSSION

The Village's Economic Incentive Policy (EIP) sets the framework for any such future discussions. In September, 2022 the key elements established within the EIP were reviewed and supported by the ECDC. Staff reviewed the previous representations and supplemented the discussion, using the latest figures and projections:

- *The Economic Incentive Policy (EIP) sets forth a “pay as you go” reimbursement agreement for eligible expenses – no direct Village funds will be applied to the project and no up-front dollars are being provided by the Village. Also, **incentive funds are not guaranteed.***

Response: This provision is still being met for the TIF funding as it is completely based upon generated property tax EAV from the to-be constructed apartment project – if it is not built, increment, is not created. With respect to the BD #2 funding component, it would still meet the general parameters as the previously generated BD #2 funds since late 2019 are primarily from retail mall expenditures, and which must be applied toward eligible projects within the defined area. Also, pledged funds would also come from future sales tax generations and it is mutually hoped that the project and other ones in the area stimulate additional retail expenditures. But in either case, the incentives are not guaranteed.

- *The ECDC offered support for two policy deviations (a time extension to provide for funds to be paid out for 17 years, or 2040, whichever comes first) as well as a deviation from the maximum fifty percent (50%) of the incremental property taxes attributable to the Project.*

Response: The further modified structures is intended to address interest rate provisions and by reference, the actual interest costs that would be generated by the project.

Property Tax Based Incentives – Apartment Component

Given that the requested Phase 1 and 2 incentives are property tax increment based, the EIP also offers policy statements for such abatement incentives:

- *Any incentive shall be based upon any net increase in added equalized assessed valuation (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 increased EAV projected from the project, which has continued to decline due to the store’s vacancy and changes in assessment for retail shopping centers. Upon redevelopment, the full and higher assessed value and its private development components will create additional increment.

- *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 incented TIF project, the multiple-family development will need to address State Statute-defined population fiscal impacts for any school aged populations or general population to the Library District, with those payments being made to School Districts and the Library District first, with the percentage of TIF increment to be paid to the developer being applied to the net amount of TIF increment remaining after those payments.

OTHER VILLAGE EIP PROVISIONS

Other General EIP statements relating to property tax-based incentives, include:

1. *A project will be more favorably reviewed if the project:*

a. *represents significant private-sector financial investment;*

Response: The estimated project cost of approximately \$200,000,000, including land acquisition costs, meets this provision.

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

Response: The Village's Comprehensive Plan identified the subject property as an economic engine and a regional destination for retail. Given the transformational nature of the retail segments and mall in general the proposed capital investment and the commercial open space component elements is intended to increase market demand for the Yorktown area, create long term sustainability and provide an opportunity for such activity. The Lombard Plan Commission's public hearing and standing recommendation of approval further buttresses this position.

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

Response: The project will contribute to the Village economy. Upon full buildout it is estimated to generate increases in property taxes, the source of the proposed incentive, which would be allocated to the TIF fund.

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

Response: While this particular project does not have a retail component, its presence is intended to stimulate activity to the market and the mall in particular, as represented by PRCP.

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

Response: The incentive agreement will remove a building that does not have a valuable purpose given its configuration and general demand for anchor retail department stores.

f. *closes an existing leakage in retail sales tax dollars within the Village; and*

Response: The development will not generate retail sales, but is intended to be a catalyst for new activity at Yorktown.

- g. *addresses or minimizes the impacts of consumer expenditure cannibalization from existing businesses and projects in the Village.*

Response: As previously noted to the ECDC in 2022, a separate market study effort for the Butterfield Road corridor as part of a planning effort by the Chicago Metropolitan Agency for Planning (CMAP) finds that there is still some additional demand for multiple family residential development. Even with a slowing of some projects, there remains some market demand interest to proceed in this environment, which in turn will help the neighboring retail market interest..

BUSINESS RETENTION POLICY PROVISIONS – COMMERCIAL OPEN SPACE

In 2021, the ECDC supported and the Village Board approved a Business Retention Economic Incentive (BREI) Policy for identified commercial key development sites, which set forth eligibility parameters for incentives. Staff offers the following comments, as it pertains to the proposed funding request for the Commercial Open Space and its BD #2 source funding.

Applicability

The BD #2 funding source is a type of performance-based funding and revenue is specifically from past and future sales tax derived from retail tax activity within the District. If generated revenues decline at the mall, that in turn would decrease funds available to offset project costs. Conversely, if the project stimulates additional business activity, the additional sales tax creates a greater opportunity to reach full amount of the incentive. But again, funds are not guaranteed.

This project is not intended to provide direct revenues to a given retail business enterprise, so the provisions associated with the Business Retention Economic Development fund are not applicable in this case. However, within the BREI Policy, it does identify key development sites, including Yorktown. The BREI authorizes project consideration which may not be a high generating property of retail activity on its own, but may benefit other businesses as a catalyst project.

Transformational Projects Advancing Retention Efforts

*The Village Board also recognizes that some projects may serve as catalyst projects to transform or stabilize sales tax revenues within an area or corridor. These types of projects may not generate substantial sales tax revenues in of their own through their existing or anticipated business operations upon opening, but the impact of such establishment may directly or indirectly reduce erosion of generated sales tax dollars. Transformative businesses may include those that may not generate significant sales tax dollars but may stabilize or strengthen other businesses in close proximity to the establishment. **In these cases, projects may consist of existing businesses, development projects or new projects that may not generate significant sales tax dollars but will create synergies to stabilize or strengthen existing retail establishments.***

Within the BREI Policy checklist, the project addresses the relevant applicability questions, in the following respects (highlights for emphasis):

1. Retain, expand and attract retail sales generating businesses

Response: It is intended to provide additional investment, which could indirectly stabilize and strengthen existing retail sales activity. Future measures will be directly measured through additional generated BD #2 sales tax dollars for nearby businesses. It is anticipated that the project and the commercial open space will reduce vacant retail space and this representation has been confirmed by PRCP as it specifically pertains to Yorktown.

2. Promote general economic development and business stabilization and growth

Response: For catalyst projects, the physical greenspace enhancements can also transform the exterior of the mall itself by providing for outside peripheral dining, retail and/or service opportunities to better the surrounding properties.

3. Municipal revenue sources and incentives for specific development opportunities

Response: As noted, the open space component of the overall development project is intended to be funded solely through BD #2 funds.

4. Encourage transformative redevelopment along key commercial corridors

Response: The project is intended to provide benefits to an area that has been underutilized, excessively vacant or functionally obsolete. It addresses the need for mall properties to transform based upon market conditions and the changing nature of retail. The redevelopment is consistent with the adopted Village documents and policies.

5. Discussion & approaches toward reviewing such requests

Response: The final project parameters are being addressed through the negotiated agreement, as directed through the past ECDC recommendations.

6. Transformative Redevelopment / Revitalization Projects

Response: These are projects that advance the Village goals for addressing blight, economic obsolescence, excessive vacancies, possible pending vacancies, or projects that address stated redevelopment objectives, which is also confirmed by PRCP.

7. In-kind Economic Incentives

Response: Synergy is not seeking any actions beyond any items contemplated within the incentive request and a future zoning entitlement approval action.

As with all such Agreements, the Village will incorporate prove-up cost provisions as well as a review of proposed costs to ensure applicability within State statutes and Village policy parameters.

TIMELINE

The developer created a project timeline that was shared with the ECDC last September. Below is the latest update:

Zoning Entitlement:

April/May. Village Board consideration

Economic Incentive:

March/April: Crafting of Incentive Agreement

April/May: Village Board Consideration of Incentive Agreement

ACTION REQUESTED

This item is on the March 13, 2023 ECDC Meeting agenda for the following purposes:

1. To inform the ECDC members of the latest efforts relative to the property, proposed project and pending incentive request; and
2. Concurrence from the ECDC to engage in further efforts with Synergy and PRCP to develop a companion performance based economic incentive agreement for future Village Board consideration, based upon the funding requests set forth within the latest staff report.

Table 1
Unallocated TIF Revenues from Synergy/Yorktown Reserve Project
Figures Pertain to Incented Subject Property Only

| <u>Year</u> | <u>Phase 1</u> | <u>Phase 2</u> |
|--------------|---------------------|---------------------|
| 2025 | 64,831 | |
| 2026 | 66,776 | |
| 2027 | 68,779 | |
| 2028 | 70,843 | 498,688 |
| 2029 | 364,840 | 513,648 |
| 2030 | 375,785 | 529,058 |
| 2031 | 387,058 | 544,930 |
| 2032 | 398,670 | 561,277 |
| 2033 | 410,630 | 578,116 |
| 2034 | 422,949 | 595,459 |
| 2035 | 435,638 | 613,323 |
| 2036 | 448,707 | 631,723 |
| 2037 | 462,168 | 650,674 |
| 2038 | 476,033 | 670,195 |
| 2039 | 490,314 | 690,300 |
| 2040 | 505,023 | 711,009 |
| 2041 | 2,080,696 | 732,340 |
| Total | \$ 7,529,739 | \$ 8,520,740 |