



Request for City Council Committee Action from the Department of Community Planning and Economic Development - CPED

Date: June 5, 2012

To: Lisa Goodman, Chair Community Development Committee

Subject: Heritage Park Redevelopment Project – Heritage Housing, LLC Foreclosure

Recommendation: Authorize the appropriate City officials to terminate the existing Redevelopment Contract in exchange for cooperation from Heritage Housing, LLC with a voluntary foreclosure and winding-down of activities and appropriate funds for foreclosure and property maintenance costs.

Previous Directives:

On December 16, 2011, the City Council authorized pursuing foreclosure proceedings for properties owned by Heritage Housing, LLC in the Heritage Park redevelopment area and executing appropriate documents.

On May 16, 2008, the City Council authorized the execution of the Fifth Amendment to the Heritage Park Redevelopment Contract, Phases 1 and 2 with Heritage Housing, LLC. reducing the total number of units to be developed from 174 units to 169 units, extending the build out performance deadline to June 1, 2010, and extending the turn-back of the triangle parcel to April 2010.

On October 5, 2007, the City Council authorized the execution of the Fourth Amendment to the Heritage Park Redevelopment Contract, Phases 1 and 2 with Heritage Housing, LLC. reducing the total number of units to be developed from 180 units to 174 units.

On April 13, 2007, the City Council authorized the sale of Outlots I & J to Heritage Housing, LLC and authorized the Second Amendment to the Land Conveyance Agreement with Minneapolis Public Housing Authority.

On March 30, 2007, the City Council approved the Third Amendment to the Heritage Park Redevelopment Contract with Heritage Housing, LLC increasing the total number of units; extending the completion timeframes; expanding the middle income limit; revised the timing for developer reimbursement of land sale proceeds for soil correction; increased payments to the public improvement cost note; and assigned a new Town Architect for the project.

On May 26, 2006, the City Council approved to provide up to \$500,000 of Residential Finance Mortgage program income to Heritage Housing, LLC to be used as affordability loans for the Heritage Park Redevelopment Project; and authorized amending the 2006 Appropriation Resolution by increasing the Community Planning & Economic Development Agency Fund SRF-Residential Finance Mortgage Fund by \$500,000.

On April 29, 2005, the City Council approved the Second Amendment to the Heritage Park Redevelopment Contract with Heritage Housing, LLC extending the commencement and

completion timeframes; amending Section 5.05 Construction Plans and Specifications, and amending Section 11.02 Phases 3 and 4 Improvements.

On May 28, 2004, the City Council approved an amendment to the Heritage Park Redevelopment Contract with Heritage Housing, LLC increasing the total number of for-sale units to be developed in Phases 1 and 2 and provide an option to develop a commercial component.

On December 29, 2003, the City Council approved the terms of an amendment to the Land Conveyance Agreement with Minneapolis Public Housing Authority for the Heritage Park For-Sale Development Project, Phases 1 and 2.

On August 22, 2003, the City Council authorized the appropriate MCDA officials to execute the Land Conveyance Agreement with Minneapolis Public Housing Authority for the Heritage Park For-Sale Development Project, Phases 1 and 2.

On August 8, 2003, the City Council approved the business terms and conditions for the Phases 1 and 2 Heritage Park Development Agreement with Heritage Housing, LLC; increased the appropriation in Fund SDA by \$668,000; and increased the revenue in Fund SDA by \$668,000.

On July 29, 2003, the MCDA Board of Commissioners authorized the sale of property to Heritage Housing, LLC; approved the business terms and conditions; and authorized the execution of a Development Agreement with Heritage Housing, LLC.

On May 2, 2003, the MCDA Board of Commissioners authorized staff to enter into negotiations with Heritage Housing, LLC based on their proposed Scope of Services, returning with a term sheet within 90 days.

Prepared by: Matt Goldstein, AICP, Senior Project Coordinator	
Approved by: Thomas A. Streitz, Housing Director, CPED	_____
Approved by: Charles T. Lutz, Deputy Director, CPED	_____
Presenter in Committee: Matt Goldstein, AICP, Senior Project Coordinator	

Financial Impact

- No financial impact
- Action requires an appropriation increase to the Capital Budget _____ or Operating Budget _____
- Action provides increased revenue for appropriation increase
- Action requires use of contingency or reserves
- Action is within the Business Plan
- Action requires a change to the Business Plan
- Other financial impact
- Request provided to the Finance Department when provided to the Committee Coordinator

Community Impact

Neighborhood Notification: The Heritage Park Neighborhood Association has been sent a letter notifying them that the City is contemplating foreclosing on Heritage Housing, LLC. There has been an ongoing community engagement effort for the Heritage Park redevelopment project that is not relevant to this report.

City Goals: A Safe Place to Call Home and A City That Works

Sustainability Targets: None.

Comprehensive Plan: Not applicable.

Zoning Code: Not applicable

Living Wage/Business Subsidy Agreement Yes _____ No X
Job Linkage Yes _____ No X

Background Information

Following the 1992 Hollman vs. Cisneros public housing lawsuit, the 1995 Consent Decree and the 1997 Action Plan, the Near Northside Master Plan was approved in 2000 with an overall development plan and a policy framework to encourage a mixed-income development with a mix of housing types for the 145 acre, 900 unit redevelopment. The homeownership Phase I and II area of Heritage Park is a portion of the area north of Olson Memorial Highway bound on the east by Interstate 94, on the north by W. 7th St. and 12th Ave. N., and on the west by Humboldt Ave. N. The existing 440 rental units and the vacant land south of Olson Memorial Highway that is controlled by the Minneapolis Public Housing Authority are not part of this report.

In 2003, the Redevelopment Contract with Heritage Housing, LLC (HLLC) was signed making HLLC the Master For-Sale Developer for the Phase I and II area. The Redevelopment Contract was the legal mechanism which implemented Consent Decree and Action Plan in the ownership phase by establishing development and design performance standards and providing deferred development financing.

On December 16, 2011, the City Council authorized pursuing foreclosure proceedings for properties owned by HLLC due to the lack of development activity that was caused in part by the economic recession and the weakened housing market and failure to make timely payments on the development financing.

Voluntary Foreclosure Agreement and Redevelopment Contract Termination

City staff has been working with HLLC to facilitate a termination of outstanding Redevelopment Contract issues as well as a quick foreclosure process and easy transition for existing homeowners in Heritage Park. HLLC has agreed to (i) make full payment to the City on the outstanding corporate guaranty for performance (\$36,883), (ii) cooperate in turning over the Master Association and any sub-associations to resident control and (iii) execute a voluntary foreclosure agreement that reduces the redemption period under the foreclosure from six months to two months.

Staff proposes to terminate the Redevelopment Contract concurrent with HLLC's agreement on the above issues. There are a total of sixteen parcels in Heritage Park that are not subject to the foreclosure. These parcels are owned by four different owners: Heritage Real Estate Investments, LLC (an affiliate of Thor Construction), Habitat for Humanity (Habitat), Mark Manns, and Premier Real Estate. All of these owners purchased the vacant land either after a foreclosure or a bankruptcy proceeding following HLLC's initial sale of the lot to a pre-approved builder and after payment to the City on all associated development financing. Each of those parcels is encumbered with a cloud on the title indicating that the Redevelopment Contract requirements are in effect and that the City has reversionary rights to repossess the property in the event that the property is not improved according to the Redevelopment Contract standards such as the local prevailing wage requirements and design standards described in the Near Northside Pattern Book (Pattern Book). Previously, pre-approved builders would build homes with pre-approved architectural designs. After the home was built and builder demonstrated that the redevelopment contract requirements were satisfied, CPED would issue a Certificate of Completion that would then be used to remove the redevelopment contract

encumbrance that showed up as a cloud on the title. This process was separate from the building permit process and the Certificate of Occupancy. Attachment 1 is a map showing the parcel locations and the locations of the parcels subject to foreclosure.

The majority of the 16 properties that are not subject to the HLLC foreclosure will be consistent with the design standards in the Pattern Book either because some units have completed the design review process in the Redevelopment Contract or because of zoning code amendments that have been adopted since the Pattern Book was written. Five planned units have completed the Redevelopment Contract design review process: Habitat's single family home at 1208 11th Avenue North, and Heritage Real Estate Investments, LLC's four unit townhome building located at 844, 846, 848 and 850 10th Avenue North. For the remaining 11 parcels, eight are townhome units where the primary design themes and building materials have been established by the built or planned units, and three are single family parcels with homes on either side of the property.

Rather than continue to spend staff resources on managing the Redevelopment Contract for a few scattered lots in light of the practical difficulties of administering the contract without a master developer and as a quid pro quo to full cooperation from HLLC in the voluntary foreclosure and winding-down activities, staff is recommending that the Redevelopment Contract be terminated at this point and the fifteen parcels released from the Redevelopment Contract requirements.

Funding Appropriation

The table below with estimated project costs was in the December, 2011 Request for Council Action.

ESTIMATED FORECLOSURE AND HOLDING COSTS						5 Year	Total
	2012	2013	2014	2015	Total		Per Lot
Taxes, Interest, Penalties, and Fees	\$ 31,117	\$ 32,050	\$ -	\$ -	\$ 63,167	\$	1,036
Lawn Care & Snow Removal	\$ 9,000	\$ 6,550	\$ 6,714	\$ 6,882	\$ 29,145	\$	478
Legal - Foreclosure Proceedings, Title, Closing Costs	\$ 13,000	\$ 13,000	\$ -	\$ -	\$ 26,000	\$	426
Triangle Site Dirt Pile Removal	\$ 125,000	\$ -	\$ -	\$ -	\$ 125,000	\$	2,049
Total	\$ 178,117	\$ 51,600	\$ 6,714	\$ 6,882	\$ 243,312	\$	3,989

The estimated 2012 costs including paying the past-due property taxes, legal costs and property maintenance once the foreclosure is complete totals \$53,117: \$31,117 for the past-due property taxes, \$9000 for lawn care and snow removal, and \$13,000 for legal costs that are related to the foreclosure. These costs will be funded from past appropriations for this project in fund 01FNA.

Staff is taking steps to collect the \$36,883 corporate guarantee from HLLC. Once the funds are received, staff proposes to apply this credit to the 01FNA appropriation. Staff is still investigating options for the removal of the dirt pile on the triangle site. A subsequent appropriation request will follow separately after more analysis has been completed.

Attachment 1: Illustrative map

Attachment 1: Illustrative Map of HLLC Parcels