



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

Date: December 13, 2011
To: Lisa Goodman, Chair Community Development Committee
Subject: Heritage Park Redevelopment Project – Heritage Housing, LLC Foreclosure

Recommendation: Authorize the appropriate City officials to pursue foreclosure proceedings for properties owned by Heritage Housing, LLC consistent with provisions outlined in this report and execute appropriate documents.

Previous Directives:

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: Charles T. Lutz, Deputy Director, CPED	
Approved by: Thomas A. Streitz, Housing 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 (HHLLC) was signed making HHLLC the Master For-Sale Developer for the Phase I and II area. Since 2003, the HHLLC Redevelopment Contract has been amended five times to address site development complications and the evolving marketplace.

The majority of the site improvements and housing construction for the Phase I and II area are complete. All the rental units have been constructed, the roads, parks, storm water treatment systems, sidewalks, and public art have been installed and over half of the homeownership units have been constructed. The City completed infrastructure improvements financed in part by Public Works bonds that are repaid incrementally on a deferred basis under a Public Improvement Cost (PIC) note secured by a first mortgage as HHLLC sells lots to builders. This structure was chosen in lieu of assessments. The outstanding balance of the PIC note is \$1,912,639: \$1,584,950 in principal plus \$327,689 of accrued interest as of December 1, 2011.

Existing Conditions

The economic recession and the weakened housing market have significantly impacted Heritage Park. The last lot sale was in 2007. There have been several foreclosures and subsequent re-sales of existing houses at significant discounts. The Minneapolis Public Housing Authority (MPHA) has acquired and renovated the 20 former BrightKEYS units for their Moving to Work rent to own program, and the two remaining Emerson Townhome units are currently being marketed at significantly reduced prices.

Market prices of homes in this area have fallen to the point where lot prices are insufficient to repay the amount that's owed under the PIC note. As a result of this "upside down" situation, HHLLC is unable to sell lots in compliance with the current terms of the Redevelopment Contract. These macroeconomic forces have created a situation where HHLLC has not achieved the required home production targets that are required in the Redevelopment Contract as amended. In addition, while HHLLC kept the property taxes current for a couple of years after the last lot sale, HHLLC has not paid the 2011 property taxes.

Ninety of the contracted 169 ownership units have been built. HHLLC still controls 18 vacant parcels totaling approximately 6.7 acres of land. These parcels are listed in the table below and are subject to the terms of the Redevelopment Contract and subsequently, the City's note and mortgage. Some of these are buildable single family lots and some are unimproved lots that need to be brought through the City's development review process to be subdivided and developed.

Heritage Housing, LLC Property List	
PID	Address
21 029 24 11 0089	1108 Van White Mem Blvd
21 029 24 12 0135	1009 Van White Mem Blvd
21 029 24 12 0136	1007 Van White Mem Blvd
21 029 24 12 0137	1005 Van White Mem Blvd
21 029 24 12 0138	1003 Van White Mem Blvd
21 029 24 12 0181	1200-1202 11th Av N
21 029 24 12 0187	1109 Van White Mem Blvd
21 029 24 12 0188	1107 Van White Mem Blvd
21 029 24 12 0189	1105 Van White Mem Blvd
21 029 24 12 0190	1103 Van White Mem Blvd
21 029 24 12 0192	1001 Fremont Av N
21 029 24 12 0197	1101 Fremont Av N
21 029 24 12 0198	1300 11th Av N
21 029 24 12 0199	1327 Banneker Av
21 029 24 12 0200	1306 11th Av N
21 029 24 12 0201	1100 Humboldt Av N
21 029 24 13 0032	805 Van White Mem Blvd
21 029 24 13 0033	803 Van White Mem Blvd

Foreclosure Analysis

Staff is recommending that the City foreclose on the mortgage with HHLLC for the following reasons:

1. Limited liability: The short term economic liability of the ownership portion of Heritage Park is limited at this time because the timeframe for economic recovery and improvement in the for-sale housing market is uncertain.
2. Payment of property taxes: The foreclosure process creates a mechanism in which the City will pay the outstanding property taxes, convert the property to tax-exempt while it is held by the City and subsequently avoid a possible tax forfeiture process.
3. Keeps the property off the market: Foreclosing keeps this property off of the market which in turn limits possible competition with our NSP efforts, Heritage Park resales and foreclosures, PRG's Emerson Townhomes units, and to a lesser extent, MPHA's BrightKEYS units.
4. Future PIC reimbursement: Foreclosing preserves the ability for future Heritage Park development to reimburse a portion of the outstanding PIC note balance after the economy and housing market have experienced some recovery.

As noted in the table below, the City's anticipated costs over a five year period may be as high as approximately \$243,000 due primarily to removing the triangle site dirt pile and paying the outstanding property taxes. Staff intends to draw on the remaining HHLLC Corporate Guarantee (\$36,883.00) to fund the initial legal costs and outstanding property taxes. While no appropriation is therefore required at this time, future appropriations will be necessary starting in 2012. The foreclosure and holding costs are likely not to be reimbursed by future Heritage Park development.

ESTIMATED FORECLOSURE AND HOLDING COSTS	2011	2012	2013	2014	2015	5 Year Total
Taxes, Interest, Penalties, and Fees		\$ 31,117	\$ 32,050	\$ -	\$ -	\$ 63,167
Lawn Care & Snow Removal		\$ 9,000	\$ 6,550	\$ 6,714	\$ 6,882	\$ 29,145
Legal - Foreclosure Proceedings, Title, Closing Costs		\$ 13,000	\$ 13,000	\$ -	\$ -	\$ 26,000
Triangle Site Dirt Pile Removal	\$ -	\$ 125,000	\$ -	\$ -	\$ -	\$ 125,000
Total	\$ -	\$ 178,117	\$ 51,600	\$ 6,714	\$ 6,882	\$ 243,312

