



Good Neighbors

San Diego
Housing Commission

REPORT

DATE ISSUED: July 16, 2004

ITEM 102

REPORT NO.: HCR04-54

For the Housing Commission Agenda of July 23, 2004

SUBJECT: Rescission of Existing Declaration of Covenants, Conditions and Restrictions for 1334 Seventh Avenue (Council District 2)

SUMMARY

Issue: Should the Housing Commission rescind its existing Declaration of Covenants, Conditions and Restrictions (“Declaration”), for the vacant lot at 1334 Seventh Avenue to allow the owner, Cortez Hill Interfaith Housing Corporation (“Interfaith”), to sell the property for market rate housing?

Recommendation: It is recommended that the Housing Commission rescind its existing Declaration, for the vacant lot at 1334 Seventh Avenue to allow the owner, Interfaith, to sell the property for market rate housing as described in this report. Contingencies of this action include:

- The action shall be contingent upon the Housing Commission receiving a \$342,250 share of the proceeds;
- The sale escrow and cash payment to the Housing Commission must be completed within 60 days from this meeting date;
- The Housing Commission shall have the right to approve the escrow instructions; and
- The documents for rescinding the Declaration must be contingent upon satisfaction of the General Counsel. The Chief Executive Officer would be authorized to take all actions necessary to complete this transaction.

Fiscal Impact: Eliminating the restrictions would result in the sale of the property. The Housing Commission’s share of the proceeds would be \$342,250.

Previous Related Action: See Attachment 1.

Future Related Action: Under the terms of the Declaration, the Housing Commission has the authority to release Declaration restrictions without further Housing Authority action.

BACKGROUND



A state agency authorized by the City of San Diego

Through a trustee's sale on May 24, 1993, the Housing Commission acquired a vacant 4500 square foot lot at 1334 Seventh Avenue between Ash and "A" Streets (Attachment 2 - Map). The trustee's sale occurred because the previous owner (600 Associates L.P.) did not fulfill its obligations under a Housing Replacement Agreement to provide replacement housing, or pay an in-lieu fee, for 26 single room occupancy units that were eliminated by the demolition of the Gordon Hotel. The vacant lot is located in the Cortez Neighborhood, within the Centre City planning area.

For some years the Housing Commission leased the lot for parking. On February 26, 1999, the Housing Commission sold the property to the "Cortez Hill Interfaith Housing Corporation" for \$150,000 (\$33.33/square foot, all cash) minus \$5,640 in seller's costs of sale. The sale included a Declaration that required Interfaith to construct the maximum number of residential units allowable on the Property. Half the units constructed were to be affordable rental units at 50% of Area Median Income (AMI) for 55 years. Under the Declaration, the construction was required to start by October 1, 2002 and to be completed by October 1, 2004. On February 26, 1999, San Diego Interfaith borrowed \$170,000 from Local Initiatives Support Corporation (LISC) and encumbered the property. Interfaith hoped to assemble an adjacent property for a 63-unit affordable rental unit development.

On December 2, 2002, the Housing Commission received Interfaith's letter reporting that Centre City Development Corporation desired the site be developed for low-income first-time homebuyers rather than as a rental project. Interfaith proposed a new strategy for 16 condominiums with silent second mortgages to be provided by CCDC. On January 31, 2003, the Housing Commission approved Interfaith's new strategy to allow the construction of 16 condominium units that would be restricted for purchase by first-time homebuyers earning 80 percent or less of AMI (\$54,800 annual income for a family of four). The recorded February 26, 1999 Declaration (which required construction of rentals) was to be amended when development plans were finalized.

In mid-2003, a third party approached Interfaith about selling the parcel.

DISCUSSION

On February 24, 2004, Interfaith reported that CCDC staff rejected the strategy of 16 condominiums for this property and that CCDC staff desired a high-rise development, thus precluding the Interfaith proposal.

Interfaith has now proposed to have the Housing Commission rescind the recorded Declaration restrictions, have Interfaith sell the property for \$810,000, and split the proceeds with the Housing Commission. The buyer would use the lot as part of a larger market rate project.

Staff obtained a May 21, 2004 appraisal by Lipman Stevens & Thene, Inc (Kent Carpenter MAI). The appraiser reports that the property's 45' x 100' (4500 square foot) small size is not conducive to high density use and that it is difficult to maximize use on parcels less than 20,000 square feet. The appraiser used alternative assumptions for analyzing both "as-is" (stand alone

value) and the valuation of the subject parcel purchased as part of a 20,000 square-foot “assemblage.” The appraiser also analyzed the value with (“Restricted”) and without (“Unrestricted”) the Housing Commission’s Declaration restrictions. The current appraisal shows the current value of the property as:

The Parcel’s Declaration Restrictions Assumption:	May 21, 2004 Appraised Value:
Restricted (with the Housing Commission’s Declaration)	\$385,000 Stand Alone Value
Unrestricted (without the Housing Commission’s Declaration)	\$450,000 Stand Alone Value
Restricted (with the Housing Commission’s Declaration)	\$690,000 Assemblage Value
Unrestricted (without the Housing Commission’s Declaration)	\$810,000 Assemblage Value

The “Unrestricted” Assemblage land value of \$810,000 supports the \$810,000 sale price.

Housing Commission Participation:

With the appraisal in hand, staff met with Interfaith and General Counsel to determine a strategy for responding to the purchase offer and to establish a formula for distribution of sales proceeds. Based upon the \$810,000 appraised value as an assemblage parcel, reimbursement of \$190,000 expenses paid to date by Interfaith, \$120,000 as the estimated restriction value to the Housing Commission, and a pro-rata share of net proceeds, staff recommends accepting a \$342,250 payment as the Housing Commission’s share of the proceeds in exchange for rescinding the existing Declaration.

From its proceeds share, Interfaith must pay for all costs of escrow, title, recording, loan payoff, and all other costs related to this transaction. The Housing Commission’s \$342,250 will not be reduced or increased.

ALTERNATIVE

Reject the Interfaith proposal and do not rescind the Declaration restrictions. Instead, foreclose on Interfaith based upon their inability to perform by the required deadlines in the Declaration. This would allow the Housing Commission to sell the property and keep the total proceeds of the sale. However, this alternative would deprive Interfaith of an asset and Interfaith may argue that the inability to perform was not their fault. Also, the time delay due to foreclosure may result in the loss of the third-party proposal to purchase the parcel as part of an assembled project and selling this property at a later date may significantly reduce the property value on a “stand alone” single lot basis.

Submitted by,

**Signature on File
With Original Document**

Approved by,

Cissy Fisher
Director Housing Finance & Development

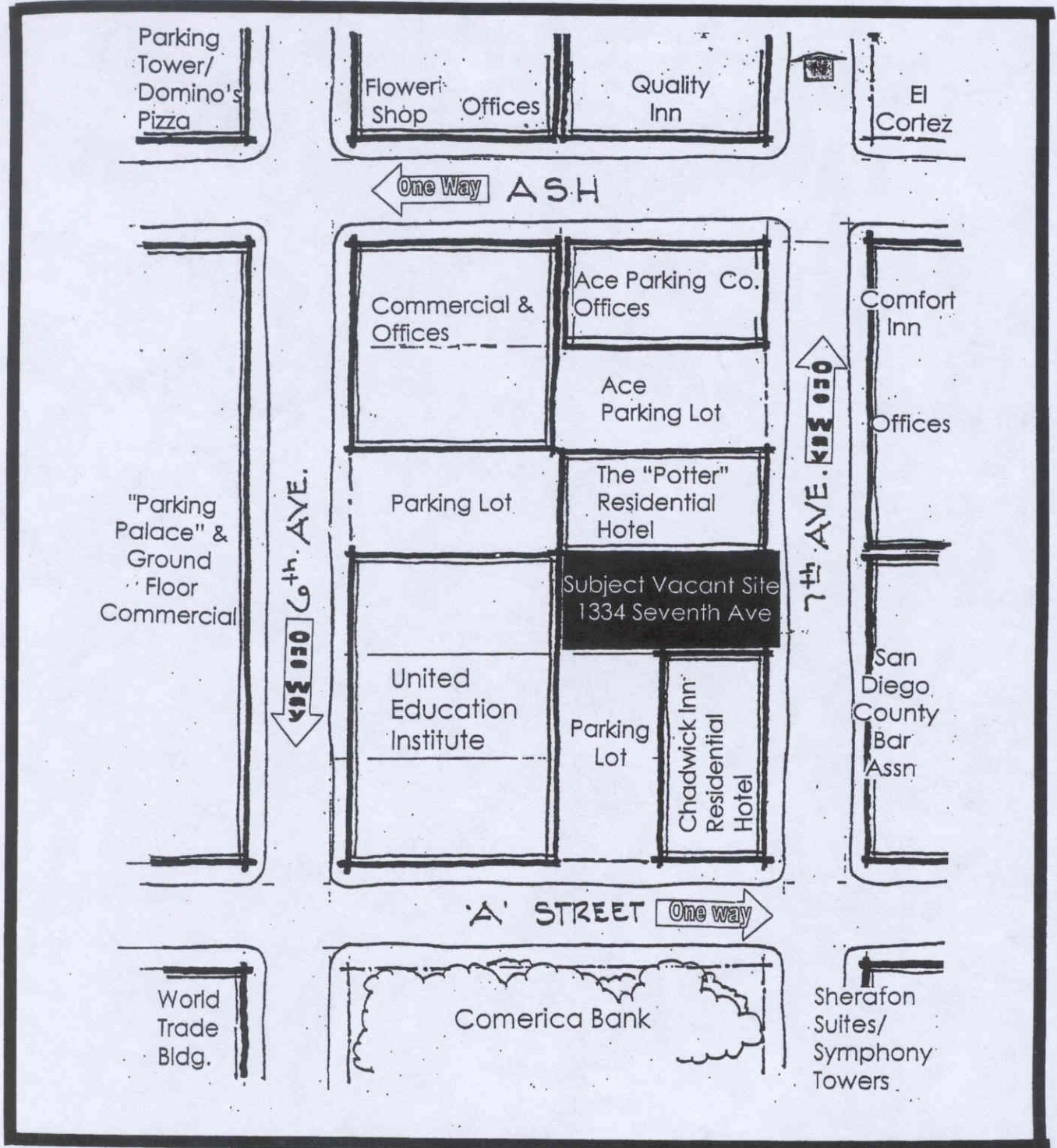
Elizabeth C. Morris
President and Chief Executive Officer

- Attachments:
1. Previous Related Actions
 2. Site Location Map
 3. Property Description
 4. Appraisal Excerpt

ATTACHMENT 1 PREVIOUS RELATED ACTIONS

- July 17, 1989 – Housing Commission authorized execution of a Housing Replacement Agreement with 600 Associates, L.P., in connection with certain city ordinances related to the proposed demolition of the Gordon single room occupancy hotel (HCR 89-177).
- May 24, 1993 Housing Commission acquired title to the property through a Trustee's sale.
- October 2, 1995 – Housing Commission approved continuing to hold the vacant lot, leasing it as a parking lot and having the staff continue to evaluate market conditions each year to determine if it would be advantageous to sell the site (HCR 95-150).
- August 8, 1997 – the Housing Commission informed the Board of staff's intention to offer the property for sale (HCR 97-101).
- February 9, 1998 – Housing Commission recommended Housing Authority authorization to accept a \$150,000 offer submitted by San Diego Interfaith Foundation, for the sale of 1334 Seventh Avenue (HCR 98-016).
- March 17, 1998 - Housing Authority authorized accepting a \$150,000 offer submitted by San Diego Interfaith Foundation, for the sale of 1334 Seventh Avenue.
- January 24, 2003 – Housing Commission approved modifying the terms and conditions of the Declaration of Covenants, Conditions and Restrictions [requiring rental housing] for the property owned by San Diego Interfaith Housing Foundation located at 1334 Seventh Avenue [in order to allow the construction of sixteen condominium units that would be restricted to first time homebuyers earning 80 percent of less of median area income] (HCR 03-004).

ATTACHMENT 2
SITE LOCATION MAP



**ATTACHMENT 3
PROPERTY DESCRIPTION**

Property Location: 1334 Seventh Avenue, (downtown between Ash and 'A' Streets).
Census Tract: 53
Council District: 2

Zoning and
Community Plan: Commercial/Office District within the Core district of the Centre City Planned District. This zoning allows high density uses intended to accommodate government, business and professional offices, retail sales and services, restaurants, hotels, judicial facilities, and a variety of support commercial services and residential development.

Shape and Size: Dimensions are 45 feet by 100 feet rectangular.

Improvements: (none) Asphalt paved and utilized as a parking lot.

Legal Description: Lot 9 in Block 5 of Bay View Homestead, in the City of San Diego, County of San Diego, State of California, according to Map thereof No.150, filed in the Office of the County Recorder of said San Diego County, January 29, 1873.

Assessor's Parcel #: No. 534-034-05

ATTACHMENT 4
APPRAISAL EXCERPT
LIPMAN STEVENS & THENE, INC.

Real Estate Appraisers & Consultants

1981-2004

AARON M. BECK
JOHN M. BROWNE
KENT J. CARPENTER, MAI
RICHARD G. LEE
ED LEROY
PATRICK J. MARSH

H.L. "BILL" LIPMAN, MAI, CRE
WALTER J. STEVENS, MAI
KEVIN M. THENE, MAI

May 21, 2004

San Diego Housing Commission
1625 Newton Avenue
San Diego, CA 92101-1038

RE: Commercially Zoned Lot – 1334 7th Avenue, San Diego, CA 92101

At your request, I have completed an appraisal setting forth the Market Value of the Fee Simple Estate of the referenced property as of May 7, 2004. The appraisal report is intended to comply with the Uniform Standards of Professional Appraisal Practice (USPAP), promulgated by the Appraisal Standards Board of the Appraisal Foundation, the Code of Ethics and Supplemental Standards of the Appraisal Institute. This is a complete appraisal prepared as a summary report under USPAP, Standards Rule 2-2 (b).

My investigation for this assignment included a visual inspection of the subject and an analysis of comparable properties.

Based on this data and analysis I reconcile the value of the subject property at:

\$450,000 (Unrestricted – Stand Alone)
\$385,000 (Restricted – Stand Alone)
\$810,000 (Unrestricted – Assemblage)
\$690,000 (Restricted – Assemblage)

San Diego Housing Commission
May 21, 2004
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The values are subject to the attached Limiting Conditions and Certification. Submitted herewith is my report containing the facts and reasoning upon which the above values are based. It has been a pleasure to be of service to you in this assignment.

Sincerely,


LIPMAN STEVENS & THENE, INC.

Kent J. Carpenter, MAI
Certified General Real Estate Appraiser
State of California
OREA Appraiser I.D. No. AG003087
Expiration Date: January 23, 2005

KJC:ema