



Office of the City Manager

CONSENT CALENDAR

June 12, 2007

To: Honorable Mayor and  
Members of the City Council

From: *PK* Phil Kamlarz, City Manager

Submitted by: Lisa Caronna, Acting Director, Housing Department

Subject: Subdivision and Lease: Ursula Sherman Village

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to consider an application to subdivide the City-owned property currently under lease for \$1 annually to Building Opportunities for Self-Sufficiency (BOSS) and prepare lease agreements for the two new parcels to allow for the financing, development, and continued operation of emergency and transitional housing on-site. The lease agreements will return to City Council as well as the Joint Powers Financing Authority for approval.

SUMMARY

BOSS has requested a lease for the Harrison House emergency shelter and transitional housing program at 711 Harrison Street that will allow them to apply for and use State of California financing to rehabilitate the existing building. BOSS anticipates the future development of the adjacent land. Both portions of the site are on the same legal parcel as Harrison Park.

To allow BOSS to access State funding and keep opportunities open for the future financing and development of the site, staff recommend subdividing the City-owned property to create two new legal parcels and developing two leases. Making the subdivision feasible requires adding the Parks Division's parking lot to the legal definition of the rear parcel, to be leased to BOSS, although no change of use to the parking lot is intended or anticipated and continued use of the parking lot to support recreation programs would be a requirement of the lease.

FISCAL IMPACTS OF RECOMMENDATION

Completing the subdivision and creating two leases will require staff time. The City's established fees for subdivision applications are a basic filing fee of \$4,371 and a refundable copy deposit of \$532. As the developer, BOSS will be responsible for these fees but may request a deferral under Berkeley Municipal Code 19.62. Revenue for subdivision fees is deposited in 833-8302-341-6100.

Currently, BOSS pays \$1 per year for the lease of the Harrison House property. Once the property is subdivided, there will be two parcels, each with a lease of \$1, for a total of \$2

annually. Once developed, the new leases will need to be reviewed and approved by City Council prior to execution.

#### CURRENT SITUATION AND ITS EFFECTS

BOSS is now requesting a lease for Harrison House to secure State of California Emergency Housing Assistance Program (EHAP) financing for its rehabilitation. Application to EHAP for substantial rehabilitation requires a lease term of at least 17 years in order to demonstrate site control. Closing on the State's financing also requires a recorded lease, Lease Rider, and Estoppel Agreement,<sup>1</sup> Deed of Trust,<sup>2</sup> and Regulatory Agreement<sup>3</sup> on an established parcel. BOSS also anticipates applying to one of the Federal Home Loan Bank's (FHLB) member banks for Affordable Housing Program (AHP) financing. AHP financing will require recording a Deed of Trust restricting the use of the property.

Since the Harrison House site is legally part of Harrison Park, subdividing the parcel to separate Harrison House from Harrison Park is necessary to allow for the recording of the State's documents. The City can subdivide real estate under the California Subdivision Map Act and the City of Berkeley Municipal Code, Title 21. However, in order to subdivide the lot, each parcel must meet the Berkeley Municipal Code requirement of at least 50 feet of street frontage (BMC 21.40.190 and BMC 21.40.210).

The portion of the site occupied by Harrison House itself has more than 50 feet of street frontage. However, separating Harrison House from the rear section of the parcel currently occupied by BOSS would create an undevelopable, land-locked parcel. The Ursula Sherman Village (USV) plan anticipates the future development of this parcel. Separating Harrison House from the rear portion of the parcel and leaving them both developable is feasible if the Parks Division parking lot is included in the rear parcel description. The City would retain ownership of both parcels. The exact mechanism to ensure continued use of the parking lot and satisfying the City's and State's requirements has not yet been determined, but would include at a minimum the terms of the lease, and possibly others, such as an easement.

Therefore staff recommend subdividing the parcel to create two new parcels, and creating two leases—one for Harrison House and one for the rear parcel. On the attached illustration, the proposed Harrison House parcel is marked "B" and the proposed rear parcel is marked "C". A lease for the parcel created for the front portion including Harrison House (B) could permit the future recording of State documents for the purpose of financing, allowing BOSS to proceed with applications to EHAP and AHP. The lease initially developed for the parcel created from the rear portion and incorporating the Parks parking lot (C) would allow BOSS to continue operating services on the site. At the May 22, 2007 meeting, City Council will be asked to

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<sup>1</sup> The Lease Rider is an amendment to the lease which allows the State's Deed of Trust to be recorded against the borrower's leasehold interest in the property. The Estoppel Agreement records the terms and status of the lease.

<sup>2</sup> The Deed of Trust secures the loan by recording a lien against the property, or in this case, the lease.

<sup>3</sup> The Regulatory Agreement limits use of the property to the agreed use (transitional housing) for a period of time (17 years).

approve development of the leases. Both leases would need to return to City Council for approval prior to execution.

In the original USV plan, BOSS anticipated two buildings at the rear of the site—the Village Center and Picante House—but now envisions just one building. BOSS anticipates preparing a complete financing, development, and operations plan for the rear portion of the site (C). Once BOSS has completed this plan, the City would need to develop a new lease allowing BOSS to pursue State financing as well as fully protect the Parks Division interest in the parking lot in the event that State or AHP financing is recorded against the lease. This future replacement lease would need to be authorized by City Council as well, and it is anticipated it would go to the Homeless Commission and Parks and Recreation Commission as well.

Future development on the rear portion of the site would likely require connections to utilities running under the Parks Department parking lot out to the street. Specifically, water, gas, and electrical connections may be required. Sewer access is available on the east side of the BOSS-occupied site, in the abandoned 4<sup>th</sup> Street. Design, permits, financing, and development of these utilities would be the responsibility of BOSS.

The leases will need to return to City Council with an ordinance to authorize their execution. The leases will also need to be reviewed and approved by the City's Joint Powers Financing Authority and bond counsel, related to the lease revenue bonds which were issued for the City's acquisition of the site. The Joint Powers Financing Authority and bond counsel approved the similar lease for Sankofa House and the 1999 Lease Revenue Bond Agreement permits this type of lease, so permission should not be difficult to obtain once the other issues have been addressed.

The HAC reviewed and approved this proposal to subdivide and lease both parcels at its April 5, 2007 meeting, with the provision that the City ensure adequate protection of the parking lot for the use of Parks. This proposal was reviewed and approved by the Parks and Recreation Commission at their meeting on Monday, April 23, 2007.

#### BACKGROUND

The Harrison House started operating at 711 Harrison Street as a youth hostel in 1971. Since 1976, BOSS has operated emergency shelter and transitional housing at Harrison House, and has added support service space in trailers at the rear of the site. Prior to the City's acquisition of the property in 2000, BOSS leased the property from the University of California. The City is currently in a month-to-month lease agreement with BOSS for the site containing Harrison House, the trailers, and surrounding open space outside Harrison Park. The site currently occupied by BOSS is part of the larger Harrison Park parcel purchased by the City, which includes the field house associated with the Gabe Catalfo Fields and the City skateboard park. BOSS pays an annual rent to the City of one dollar (\$1.00) for the portion it occupies.

BOSS created a master plan to redevelop the site into Ursula Sherman Village (USV), a community where homeless families and single adults can participate in support services to transform their lives. The City supported development of this plan through a contract for a

\$240,000 predevelopment loan executed in 2000. The proposed USV master plan includes rehabilitation of the Harrison House building, new construction adding approximately 17,000 square feet of new space to the site, and removal of three existing temporary trailers in order to expand and upgrade the space available for housing and services.

The property is zoned Mixed Use-Light Industrial (MU-LI). In July 2003, a Use Permit was approved by the Zoning Adjustments Board (ZAB) approving modification of the existing Use Permit and increasing the maximum number of people allowed to stay on the site from 100 to 132. In 2003, the ZAB also certified the Environmental Impact Report prepared to assess the potential environmental effects associated with the proposed USV project and the modification of the existing Use Permit.

In 2004, BOSS took the first step toward implementation of the USV master plan, when the City subdivided the parcel and developed a lease for Sankofa House, which occupies about one-quarter of the larger Harrison House site. The parcel created for Sankofa House development is 701 Harrison Street, indicated by the letter "A" on the attached map. Sankofa House provides transitional housing for up to 10 families in a shared living environment, and was financed with a \$500,000 loan from the State of California's Emergency Housing Assistance Program (EHAP), as well as a \$47,061 predevelopment loan and a \$938,250 development loan from the City. The related report to City Council on December 9, 2003 anticipated the future subdivision and lease of the site for further development of USV.

The City Parks Division has a parking lot located to the west of the portion occupied by BOSS, adjacent to the railroad right-of-way. Harrison House and Sankofa House currently share the use of this parking lot as well. The Environmental Impact Report completed for USV anticipated that future development on the site would also share the use of this parking lot. Since it is primarily for the use of playing field users, this parking lot is not included in the property currently leased to BOSS.

#### RATIONALE FOR RECOMMENDATION

To allow BOSS to access State funding and keep opportunities open for the future financing and development of the site, staff recommend subdividing the City-owned property to create two new legal parcels and developing two leases. Subdividing these parcels from each and from the larger Harrison Park parcel will ensure financing and compliance for each parcel are distinct. Making the subdivision feasible requires adding the Parks Division's parking lot to the legal definition of the rear parcel, to be leased to BOSS, although no change of use to the parking lot is intended or anticipated and continued use of the parking lot to support recreation programs would be a requirement of the lease.

#### ALTERNATIVE ACTIONS CONSIDERED

An alternative would be to create just one new parcel that includes both Harrison House and the portion currently occupied by the trailers. This approach was considered but not taken with the creation of the Sankofa House parcel. At that time, Housing Department and City Attorney's Office staff concluded that it was prudent that each building have its own lease and that the

security interests for the financing of each building be separated from each. Establishing separate parcels for each building would ensure the separate treatment of each building in case of foreclosure action by the State. These same considerations still apply. Additionally, separating the parcels make the projects eligible for a greater amount of State financing, since the EHAP limit is \$1 million per project site.

Another alternative is to leave the site and lease as they are. This would allow BOSS to continue occupancy of the parcel but not allow for State financing for rehabilitation or development.

CONTACT PERSON

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Lisa Caronna, Acting Director, Housing, 981-5400

Attachments:

1: Resolution

2: Illustration of Harrison Park proposed parcel subdivision

RESOLUTION NO. ##,###-N.S.

AUTHORIZING STAFF TO PROCEED WITH THE SUBDIVISION AND DEVELOPMENT  
OF LEASE AGREEMENTS FOR URSULA SHERMAN VILLAGE

WHEREAS, Building Opportunities for Self-Sufficiency (BOSS) currently leases the property known as 711 Harrison Street from the City of Berkeley on a month-to-month lease as a site to provide services to homeless families and individuals; and

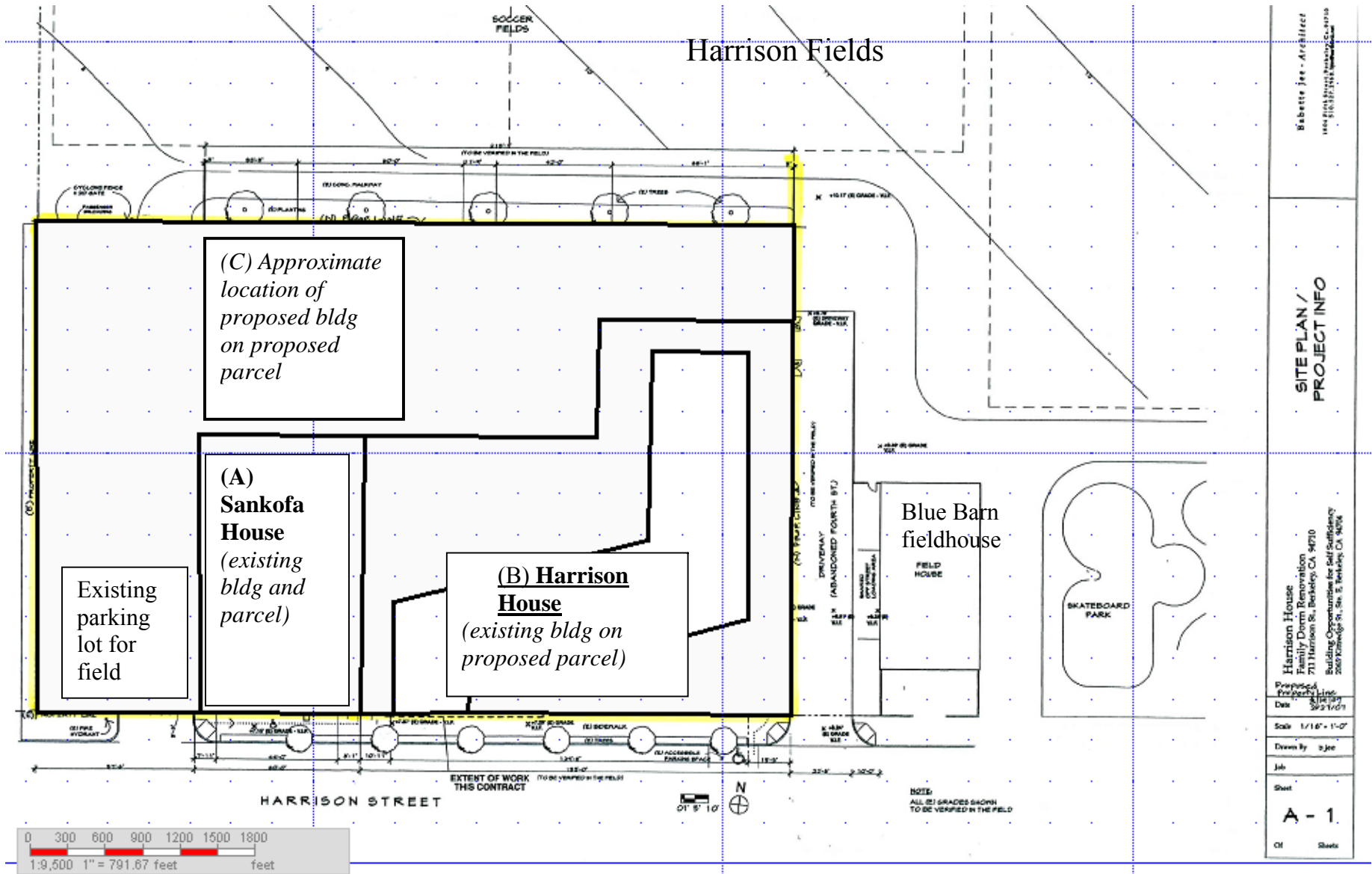
WHEREAS, to facilitate financing and development of Sankofa House, a transitional housing development, in 2004 the City Council approved a subdivision to create a separate parcel of land and entering into a 15-year lease; and

WHEREAS, to facilitate financing of rehabilitation of Harrison House and allow the potential for future development of the Village Center, it is necessary to create two additional separate parcels, which parcels may be created by the City pursuant to Government Code Section 66428(a)(2); and

WHEREAS, the use of this property for emergency shelter, transitional housing and social services for homeless people is an important part of the City's efforts to mitigate the devastating effects of homelessness and assist people to locate affordable housing.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to consider an application to subdivide the City-owned property currently under lease to Building Opportunities for Self-Sufficiency and prepare lease agreements for the two new parcels to allow for the financing, development, and continued operation of emergency and transitional housing on-site.

# Illustration of Harrison Park Proposed Parcel Subdivision



Sabette Jee - Architect  
 1444 101st Street, Suite 100  
 Berkeley, CA 94710

**SITE PLAN / PROJECT INFO**

**Harrison House Family Dorm Renovation**  
 711 Harrison St., Berkeley, CA 94710  
 Proposed Project Name  
 Building Opportunity for Self-Sufficiency  
 2009 Killebrew St., Ste. E, Berkeley, CA 94704

Date: 09/21/07

Scale: 1/16" = 1'-0"

Drawn By: s.jee

Job:

Sheet:

**A - 1**

Of: 5 sheets

