

ML - Rendeiro, Peck and Hovbitt, Inc. v.
Borough of Lincoln Park

~1985 or later

Supplemental Complaint w/ exhibits A-F

Pg. ~~38~~ 185

WL 000716C

Hutt, Berkow & Jankowski
 459 Amboy Avenue
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 Attorneys for Plaintiffs

Plaintiff,	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION
JOSEPH RENDEIRO, GEORGE C. PECK	:	
and HOVBILT, INC., a New Jersey	:	MORRIS COUNTY/VENUE
Corporation	:	MIDDLESEX COUNTY/TRIAL
	:	
vs.	:	
	:	
Defendants,	:	Docket No.:
	:	
BOROUGH OF LINCLON PARK, a	:	
Municipal Corporation located in	:	MT. LAUREL II
Morris County and LINCOLN PARK	:	Civil Action
PLANNING BOARD	:	SUPPLEMENTAL COMPLAINT
	:	

Plaintiffs, Joseph Rendeiro and George C. Peck, with offices at 1200 Route 46, Clifton, Passaic County, New Jersey and Hovbilt, Inc., a New Jersey Corporation with offices at Suite 12, Dag Hammardskjold Blvd., Freehold, Monmouth County, New Jersey, by way of Complaint, say:

FIRST COUNT

1. Plaintiffs Rendeiro and Peck are the owners of property known and designated as a portion of Lots 7,10,12 and 14 in Block 3 as shown on the Tax Map of the Borough of Linclon Park, County of Morris, State of New Jersey. Plaintiff Hovbilt, Inc. is the contract purchaser of the aforesaid property which is located in the TH-S zone, a Set-Aside Zone under the Ordinances of defendant Borough. (Plaintiffs Rendeiro, Peck and Hovbilt, Inc. are hereinafter referred to as "plaintiffs.")

2. Plaintiffs have pending before the Planning Board of defendant an application for development of the aforesaid property.

3. Defendant Borough of Linclon Park is a Municipal Corporation located in the County of Morris.

4. On or about March 18, 1985, the governing Body of the Borough of Lincoln Park adopted Ordinance 788 entitled "AN ORDINANCE TO AMEND CHAPTER 28, ZONING ORDINANCE OF THE CODE OF THE BOROUGH OF LINCOLN PARK, IMPLEMENTING THE TERMS AND CONDITIONS OF THE SETTLEMENT OF A CERTAIN ACTION ENTITLED 'MORRIS COUNTY FAIR HOUSING COUNCIL, ET ALS., v. BOONTON TOWNSHIP, ET ALS., SUPERIOR COURT OF NEW JERSEY, LAW DIVISION, DOCKET NO. L-6001-78 P.W.,' BY ESTABLISHING ARTICLE VI-D, PHASING OF DEVELOPMENT." (Ordinance 788 is attached hereto as Exhibit A). Said Ordinance became effective on April 7, 1985.

5. Ordinance 788 establishes as a goal, in Sec. 28-50 D, the limitation of the number of new townhouse and apartment units to 890, including 178 set-aside units for low or moderate income households prior to December 31, 1990. Ordinance 788 is applicable only to the "Set-Aside Zones" designated in Article VI-A, VI-B and VI-C of Chapter 28 of the Code of defendant. (These articles are attached hereto as Exhibit B).

6. Ordinance 788 establishes a Borough wide limitation upon development approvals in all set-aside zones.

7. Sec. 28-51-D 1 of Ordinance 788 prohibits the Planning Board of defendant from approving development for more than 600 units through December 31, 1986.

8. There is no statutory authority for the defendant establishing a limitation upon the number of units of any kind which may be approved by the Planning Board.

9. There is no statutory authority for the defendant establishing a developmental limitation.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Declaring Ordinance 788 to be ultra vires.
- B. Declaring Ordinance 788 to be invalid.
- C. Awarding compensatory and punitive damages.
- D. Awarding costs of suit and counsel fees.
- E. Such other relief as the Court may deem just and proper.

SECOND COUNT

1. Plaintiffs repeat and incorporate all allegations of the First Count as if set forth herein at length.

2. The establishment of the limitation upon development set forth in Ordinance 788 is arbitrary, capricious, discriminatory and unreasonable.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Declaring Ordinance 788 to be ultra vires.
- B. Declaring Ordinance 788 to be invalid.
- C. Awarding compensatory and punitive damages.

D. Awarding costs of suit and counsel fees.

E. Such other relief as the Court may deem just and proper.

THIRD COUNT

1. Plaintiffs repeat and incorporate all allegations of the Second Count as if set forth herein at length.

2. Sec. 28-51-D 1a of Ordinance 788 establishes a priority ranking if more than one application for development has been submitted and has not yet received Preliminary Approval and if such applications would bring the total number of approved set aside units to more than 120 in all set aside zones.

3. To establish said priority of applications, the following factors are examined by the Plainning Board:

- (1) Impact of the projected peak hour traffic on the flow of existing peak hour traffic on surrounding streets and on major and secondary streets throughout the Borough, and on the safety of pedestrians and motorists;
- (2) Impact of the projected development on adjacent developments in terms of compatibility and property values;
- (3) Need for contribution of Borough facilities at public expense;
- (4) Need for extension of Borough Utilities;
- (5) Acreage of flood plain to be filled and acreage of wet lands areas to be filled or otherwise destroyed;
- (6) Total volume of fill required to raise housing above flood level or if a develop-

ment is not in a flood plain, the volume of fill required to raise housing and roads above the water table if such fill is proposed.

The depths to water table will be calculated as the shallowest depth shown by the Soils Map and Soils Characteristics Tables published in the Master Plan unless the developer provides evidence as to a greater depth at the highest seasonal level.

- (7) Ease of access to site as determined by 10 year flood elevations;
- (8) Suitability of the size of the development in relation to the goal of limiting development to not more than 600 new townhouse, garden apartment and adult community housing units (120 Set-Aside units) Borough-wide by December 31, 1986, giving due consideration to the ultimate set-aside unit mix expressed in Section 28-51D 2 a (8) of this ordinance.

4. The Planning Board is instructed by Ordinance 788 to rate every application against each other application for each of the above stated criteria. The best rated application for each category shall receive a rating of 1, the next best a 2, and so on. The total score of each application shall be established. Applications are then rated with the lowest total score being ranked first and the highest total score being ranked last.

5. There is no statutory authority for the Planning Board of defendant considering those factors set forth in Ordinance 788 during the course of evaluating an application for development.

6. The consideration of those factors set forth in Ordinance 788 by a Planning Board is contrary to law.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Declaring Ordinance 788 to be ultra vires.
- B. Declaring Ordinance 788 to be invalid.
- C. Awarding compensatory and punitive damages.
- D. Awarding costs of suit and counsel fees.
- E. Such other relief as the Court may deem just and proper.

FOURTH COUNT

1. Plaintiffs repeat and incorporate all allegations of the Third Count as if set forth herein at length.

2. The criteria to be used by the Planning Board of defendant to determine the priority as set forth in Ordinance 788 are arbitrary, capricious, discriminatory and unreasonable.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Declaring Ordinance 788 to be ultra vires.
- B. Declaring Ordinance 788 to be invalid.
- C. Awarding compensatory and punitive damages.
- D. Awarding costs of suit and counsel fees.
- E. Such other relief as the Court may deem just and proper.

FIFTH COUNT

1. Plaintiffs repeat and incorporate all allegations of the Fourth Count as if set forth herein at length.

2. There is no statutory authority for the rating of one developmental application against other applications for the purpose of determining which application shall be granted by a Planning Board and which shall be denied by the Planning Board.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Declaring Ordinance 788 to be ultra vires.
- B. Declaring Ordinance 788 to be invalid.
- C. Awarding compensatory and punitive damages.
- D. Awarding costs of suit and counsel fees.
- E. Such other relief as the Court may deem just and proper.

SIXTH COUNT

1. Plaintiffs repeat and incorporate all allegations of the Fifth Count as if set forth herein at length.

2. The comparison of one application to another application as a basis of determining whether to grant or deny an application before a Planning Board, as is required pursuant to Ordinance 788 is arbitrary, capricious, discriminatory and unreasonable.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Declaring Ordinance 788 to be ultra vires.
- B. Declaring Ordinance 788 to be invalid.
- C. Awarding compensatory and punitive damages.

- D. Awarding costs of suit and counsel fees.
- E. Such other relief as the Court may deem just and proper.

SEVENTH COUNT

1. Plaintiffs repeat and incorporate all allegations of the Sixth Count as if set forth herein at length.

2. The procedure set forth in Ordinance 788 denies each application consideration based upon its own merits, all in contravention of law.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Declaring Ordinance 788 to be ultra vires.
- B. Declaring Ordinance 788 to be invalid.
- C. Awarding compensatory and punitive damages.
- D. Awarding costs of suit and counsel fees.
- E. Such other relief as the Court may deem just and proper.

EIGHTH COUNT

1. Plaintiffs repeat and incorporate all allegations of the Seventh Count as if set forth herein at length.

2. The comparison of one application for development to other applications for development denies all applicants the substantive due process and equal protection guarantees inherent in ARTICLE I, Section 1 of the New Jersey Constitution.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Declaring Ordinance 788 to be ultra vires.
- B. Declaring Ordinance 788 to be invalid.
- C. Awarding compensatory and punitive damages.
- D. Awarding costs of suit and counsel fees.
- E. Such other relief as the Court may deem just and proper.

NINTH COUNT

1. Plaintiffs repeat and incorporate all allegations of the Eighth Count as if set forth herein at length.

2. Ordinance 788 provides that the criteria set forth in the ordinance may be weighted "depending on the Planning Board's assessment of the relative importance of each factor."

3. Permitting this weighing of factors by the Planning Board as set forth in Ordinance 788 is arbitrary, capricious, discriminatory and unreasonable.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Declaring Ordinance 788 to be ultra vires.
- B. Declaring Ordinance 788 to be invalid.
- C. Awarding compensatory and punitive damages.
- D. Awarding costs of suit and counsel fees.
- E. Such other relief as the Court may deem just and proper.

TENTH COUNT

1. Plaintiffs repeat and incorporate all allegations of the Ninth Count as if set forth herein at length.

2. Sec. 28-51-D 1b of Ordinance 788 provides that once the 600 townhouse or apartment units have been approved by the Planning Board, all other applications for such development in set-aside zones shall be denied until January 1, 1987.

3. There is no statutory authority for the a Planning Board denying an application for development because other similar developments have been approved.

4. The aforesaid provision of Ordinance 788 denies an applicant the substantive due process and equal protection guarantees inherent in ARTICLE I, Section 1 of the New Jersey Constitution.

5. The aforesaid provision of Ordinance 788 denies an applicant a hearing on the merits of its application in violation of the law.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Declaring Ordinance 788 to be ultra vires.
- B. Declaring Ordinance 788 to be invalid.
- C. Awarding compensatory and punitive damages.
- D. Awarding costs of suit and counsel fees.
- E. Such other relief as the Court may deem just and proper.

ELEVENTH COUNT

1. Plaintiffs repeat and incorporate all allegations of the Tenth Count as if set forth herein at length.

2. The denial of an application for development because other similar developments have been approved, as set forth in Sec. 28-51-D 1b of Ordinance 788 is arbitrary, capricious, discriminatory and unreasonable.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Declaring Ordinance 788 to be ultra vires.
- B. Declaring Ordinance 788 to be invalid.
- C. Awarding compensatory and punitive damages.
- D. Awarding costs of suit and counsel fees.
- E. Such other relief as the Court may deem just and proper.

TWELVTH COUNT

1. Plaintiffs repeat and incorporate all allegations of the Eleventh Count as if set forth herein at length.

2. Sec. 28-51-D 1c of Ordinance 788 provides that any priority development which has not received preliminary approval within 180 days following Determination of Completeness shall be denied.

3. The aforesaid provision of Ordinance 788 is contrary to the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.).

WHEREFORE, plaintiffs demand judgment as follows:

- A. Declaring Ordinance 788 to be ultra vires.
- B. Declaring Ordinance 788 to be invalid.
- C. Awarding compensatory and punitive damages.
- D. Awarding costs of suit and counsel fees.
- E. Such other relief as the Court may deem just and proper.

THIRTEENTH COUNT

1. Plaintiffs repeat and incorporate all allegations of the Twelvth Count as if set forth herein at length.

2. Sec. 28-51-D 2 of Ordinance 788 prohibits the Planning Board of defendant from approving development for more than 890 units in all set-aside zones (at least 178 set-aside units) through December 31, 1988.

3. There is no statutory authority for the defendant establishing a limitation upon the number of units of any kind which may be approved by the Planning Board.

4. There is no statutory authority for the defendant establishing a developmental limitation.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Declaring Ordinance 788 to be ultra vires.
- B. Declaring Ordinance 788 to be invalid.
- C. Awarding compensatory and punitive damages.

- D. Awarding costs of suit and counsel fees.
- E. Such other relief as the Court may deem just and proper.

FOURTEENTH COUNT

1. Plaintiffs repeat and incorporate all allegations of the Thirteenth Count as if set forth herein at length.

2. The establishment of the limitation upon development set forth in Sec. 28-51 D 2 of Ordinance 788 is arbitrary, capricious, discriminatory and unreasonable.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Declaring Ordinance 788 to be ultra vires.
- B. Declaring Ordinance 788 to be invalid.
- C. Awarding compensatory and punitive damages.
- D. Awarding costs of suit and counsel fees.
- E. Such other relief as the Court may deem just and proper.

FIFTEENTH COUNT

1. Plaintiffs repeat and incorporate all allegations of the Fourteenth Count as if set forth herein at length.

2. Sec. 28-51-D 2a of Ordinance 788 establishes a priority ranking if more than one application for development has been submitted and has not yet received Preliminary Approval and if such applications would

bring the total number of approved set aside units to more than 178 in all set aside zones prior to December 31, 1988.

3. To establish said priority of applications, the following factors are examined by the Plainning Board:

- (1) Impact of the projected peak hour traffic on the flow of existing peak hour traffic on surrounding streets and on major and secondary streets throughout the Borough, and on the safety of pedestrians and motorists;
- (2) Impact of the projected development on adjacent developments in terms of compatibility and property values;
- (3) Need for contribution of Borough facilities at public expense;
- (4) Need for extension of Borough Utilities;
- (5) Acreage of flood plain to be filled and acreage of wet lands areas to be filled or otherwise destroyed;
- (6) Total volume of fill required to raise housing above flood level or if a development is not in a flood plain, the volume of fill required to raise housing and roads above the water table if such fill is proposed.

The depths to water table will be calculated as the shallowest depth shown by the Soils Map and Soils Characteristics Tables published in the Master Plan unless the developer provides evidence as to a greater depth at the highest seasonal level.

- (7) Ease of access to site as determined by 10 year flood elevations;
- (8) Suitability of the size of the development in relation to the goal of limiting development to not more than 600 new townhouse, garden apartment and adult community

housing units (120 Set-Aside units)
Borough-wide by December 31, 1986, giving
due consideration to the ultimate set-aside
unit mix expressed in Section 28-51D 2 a
(8) of this ordinance.

4. The Planning Board is instructed by Ordinance 788 to rate every application against each other application for each of the above stated criteria. The best rated application for each category shall receive a rating of 1, the next best a 2, and so on. The total score of each application shall be established. Applications are then rated with the lowest total score being ranked first and the highest total score being ranked last.

5. There is no statutory authority for the Planning Board of defendant considering those factors set forth in Ordinance 788 during the course of evaluating an application for development.

6. The consideration of those factors set forth in Ordinance 788 by a Planning Board is contrary to law.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Declaring Ordinance 788 to be ultra vires.
- B. Declaring Ordinance 788 to be invalid.
- C. Awarding compensatory and punitive damages.
- D. Awarding costs of suit and counsel fees.
- E. Such other relief as the Court may deem just and proper.

SIXTEENTH COUNT

1. Plaintiffs repeat and incorporate all allegations of the Fifteenth Count as if set forth herein at length.

2. The criteria to be used by the Planning Board of defendant to determine the priority as set forth in Sec. 28-50 D 2a of Ordinance 788 are arbitrary, capricious, discriminatory and unreasonable.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Declaring Ordinance 788 to be ultra vires.
- B. Declaring Ordinance 788 to be invalid.
- C. Awarding compensatory and punitive damages.
- D. Awarding costs of suit and counsel fees.
- E. Such other relief as the Court may deem just and proper.

SEVENTENTH COUNT

1. Plaintiffs repeat and incorporate all allegations of the Sixteenth Count as if set forth herein at length.

2. There is no statutory authority for the rating of one developmental application against other applications for the purpose of determining which application shall be granted by a Planning Board and which shall be denied by the Planning Board.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Declaring Ordinance 788 to be ultra vires.
- B. Declaring Ordinance 788 to be invalid.

- C. Awarding compensatory and punitive damages.
- D. Awarding costs of suit and counsel fees.
- E. Such other relief as the Court may deem just and proper.

EIGHTEENTH COUNT

1. Plaintiffs repeat and incorporate all allegations of the Seventeenth Count as if set forth herein at length.

2. The comparison of one application to another application as a basis of determining whether to grant or deny an application before a Planning Board, as is required pursuant to Ordinance 788 is arbitrary, capricious, discriminatory and unreasonable.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Declaring Ordinance 788 to be ultra vires.
- B. Declaring Ordinance 788 to be invalid.
- C. Awarding compensatory and punitive damages.
- D. Awarding costs of suit and counsel fees.
- E. Such other relief as the Court may deem just and proper.

NINETEENTH COUNT

1. Plaintiffs repeat and incorporate all allegations of the Eighteenth Count as if set forth herein at length.

2. The procedure set forth in Ordinance 788 denies each application consideration based upon its own merits, all in contravention of law.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Declaring Ordinance 788 to be ultra vires.
- B. Declaring Ordinance 788 to be invalid.
- C. Awarding compensatory and punitive damages.
- D. Awarding costs of suit and counsel fees.
- E. Such other relief as the Court may deem just and proper.

TWENTITH COUNT

1. Plaintiffs repeat and incorporate all allegations of the Nineteenth Count as if set forth herein at length.

2. The compairson of one application for development to other applications for development denies all applicants the substantive due process and equal protection guarantees inherent in ARTICLE I, Section 1 of the New Jersey Constitution.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Declaring Ordinance 788 to be ultra vires.
- B. Declaring Ordinance 788 to be invalid.
- C. Awarding compensatory and punitive damages.
- D. Awarding costs of suit and counsel fees.
- E. Such other relief as the Court may deem just and proper.

TWENTY-FIRST COUNT

1. Plaintiffs repeat and incorporate all allegations of the Twentieth Count as if set forth herein at length.

2. Ordinance 788 provides that the criteria set forth in the ordinance may be weighted "depending on the Planning Board's assessment of the relative importance of each factor."

3. Permitting this weighing of factors by the Planning Board as set forth in Ordinance 788 is arbitrary, capricious, discriminatory and unreasonable.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Declaring Ordinance 788 to be ultra vires.
- B. Declaring Ordinance 788 to be invalid.
- C. Awarding compensatory and punitive damages.
- D. Awarding costs of suit and counsel fees.
- E. Such other relief as the Court may deem just and proper.

TWENTY-SECOND COUNT

1. Plaintiffs repeat and incorporate all allegations of the Twenty First Count as if set forth herein at length.

2. Sec. 28-51-D 2b of Ordinance 788 provides that once the 890 townhouse or apartment units have been approved by the Planning Board, all other applications for such development in set-aside zones shall be denied until January 1, 1989.

3. There is no statutory authority for the a Planning Board denying an application for development because other similar developments have been approved.

4. The aforesaid provision of Ordinance 788 denies an applicant the substantive due process and equal protection guarantees inherent in ARTICLE I, Section 1 of the New Jersey Constitution.

5. The aforesaid provision of Ordinance 788 denies an applicant a hearing on the merits of its application in violation of the law.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Declaring Ordinance 788 to be ultra vires.
- B. Declaring Ordinance 788 to be invalid.
- C. Awarding compensatory and punitive damages.
- D. Awarding costs of suit and counsel fees.
- E. Such other relief as the Court may deem just and proper.

TWENTY-THIRD COUNT

1. Plaintiffs repeat and incorporate all allegations of the Twenty-Second Count as if set forth herein at length.

2. The denial of an application for development because other similar developments have been approved, as set forth in Ordinance 788 is arbitrary, capricious, discriminatory and unreasonable.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Declaring Ordinance 788 to be ultra vires.
- B. Declaring Ordinance 788 to be invalid.

- C. Awarding compensatory and punitive damages.
- D. Awarding costs of suit and counsel fees.
- E. Such other relief as the Court may deem just and proper.

TWENTY-FOURTH COUNT

1. Plaintiffs repeat and incorporate all allegations of the Twenty-Third Count as if set forth herein at length.

2. Sec. 28-51-D 2c of Ordinance 788 provides that any priority development which has not received preliminary approval within 180 days following Determination of Completeness shall be denied.

3. The aforesaid provision of Ordinance 788 is contrary to the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.).

WHEREFORE, plaintiffs demand judgment as follows:

- A. Declaring Ordinance 788 to be ultra vires.
- B. Declaring Ordinance 788 to be invalid.
- C. Awarding compensatory and punitive damages.
- D. Awarding costs of suit and counsel fees.
- E. Such other relief as the Court may deem just and proper.

TWENTY-FIFTH COUNT

1. Plaintiffs repeat and incorporate all allegations of the Twenty-Fourth Count as if set forth herein at length.

2. In Southern Burlington County N.A.A.C.P. v. Township of Mount Laurel, 92 N.J. 158, 456 A.2d 390 (1983) (hereinafter referred to as Mt. Laurel II), the Court determined that every municipality located within the growth or limited growth area as designated on the Statewide Developmental Guide Plan, has an affirmative obligation to provide a realistic opportunity for the development of that municipality's fair share of the regions need for low and moderate income housing.

3. Defendant is a municipality which has such affirmative obligation to provide the realistic opportunity for the development of low and moderate income housing.

4. To comply with the mandate of Mt. Laurel II, a municipality must be free from all excessive restrictions and exactions or other cost generating devices not necessary to protect health and safety.

5. Ordinance 788 makes it impossible for an applicant for development in Lincoln Park to determine when and if his application will be approved.

6. The priority setting mechanism of Ordinance 788 does not come into play until after a completed application is submitted and all expenses involved therewith have been incurred.

7. Ordinance 788 is an excessive restriction and exaction which is cost generating and which is unrelated to the protection of health or safety.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Declaring Ordinance 788 to be ultra vires.
- B. Declaring Ordinance 788 to be invalid.
- C. Awarding compensatory and punitive damages.
- D. Awarding costs of suit and counsel fees.
- E. Such other relief as the Court may deem just and proper.

TWENTY-SIXTH COUNT

1. Plaintiffs repeat and incorporate all allegations of the Twenty-Fifth Count as if set forth herein at length.

2. The uncertainty created by Ordinance 788 makes it less likely that actual construction of low and moderate income housing will occur.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Declaring Ordinance 788 to be ultra vires.
- B. Declaring Ordinance 788 to be invalid.
- C. Awarding compensatory and punitive damages.
- D. Awarding costs of suit and counsel fees.
- E. Such other relief as the Court may deem just and proper.

TWENTY-SEVENTH COUNT

1. Plaintiffs repeat and incorporate all allegations of the Twenty-Sixth Count as if set forth herein at length.

2. The standards for assigning priority set forth in Ordinance 788 are unrelated to the concerns articulated by the Court in Mt. Laurel II.

3. The standards for assigning priority set forth in Ordinance 788 are contrary to principals of sound planning.

4. The criteria set forth in Ordinance 788 lack standards and are vague.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Declaring Ordinance 788 to be ultra vires.
- B. Declaring Ordinance 788 to be invalid.
- C. Awarding compensatory and punitive damages.
- D. Awarding costs of suit and counsel fees.
- E. Such other relief as the Court may deem just and proper.

TWENTY-SEVENTH COUNT

1. Plaintiffs repeat and incorporate all allegations of the Twenty-Seventh Count as if set forth herein at length.

2. An action entitled Morris County Fair Housing Council, et al. v. Boonton Township, et al., Docket No. L-6001-78 P.W. was instituted alleging, inter alia, that the zoning ordinance of defendant Lincoln Park was violative of the Constitution in that it did not provide a realistic opportunity for the development of low and moderate income housing in the municipality.

3. On August 17, 1984, an agreement was entered into among defendant and the plaintiffs in the Boonton Township case which agreement represented the terms of settlement of the action as to defendant (Exhibit C hereto).

4. In October, 1984, the Honorable Stephen Skillman, J.S.C., entered a conditional Order Approving Negotiated Settlement as to Lincoln Park Borough (Exhibit D hereto).

5. Paragraph 6 b) of the aforesaid judicially approved settlement agreement provided that defendant was to:

Use its best efforts to expedite disposition of complete applications and municipal approvals by a developer in the affordable housing zones;

6. Paragraph 16 of the aforesaid judicially approved settlement agreement provided that:

Upon enactment into law, the low and moderate income housing amendments as set forth in Exhibit A shall not be repealed, amended, or modified without the express consent of the plaintiff. . . .

7. Plaintiffs in the Boonton Township case never consented to Ordinance 788

8. Paragraph 16 of the aforesaid judicially approved settlement agreement provided that:

In the event of any breach of any provision of this agreement the plaintiffs may seek relief by way of any remedy provided by law. The owners or assignees of the lands which are rezoned by this amendment are also recognized as third party beneficiaries with authority to enforce the terms of this settlement agreement.

9. Ordinance 788 is violative of the aforesaid judicially approved settlement agreement.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Declaring Ordinance 788 to be ultra vires.
- B. Declaring Ordinance 788 to be invalid.
- C. Awarding compensatory and punitive damages.
- D. Awarding costs of suit and counsel fees.
- E. Such other relief as the Court may deem just and proper.

TWENTY-EIGHTH COUNT

1. Plaintiffs repeat and incorporate all allegations of the Twenty-Seventh Count as if set forth herein at length.

2. On or about September 9, 1985, defendant repealed ordinance 788 and replaced it with a new phasing Ordinance.

3. On or about July 25, 1985, defendant adopted Ordinance 814, entitled AN ORDINANCE TO ESTABLISH STORMWATER CONTROL REGULATIONS FOR THE MANAGEMENT OF STORMWATER WITHIN THE BOROUGH OF LINCOLN PARK, MORRIS COUNTY, STATE OF NEW JERSEY. Said Ordinance became effective August 4, 1985. (Exhibit E).

4. Plaintiffs applied to defendant Lincoln Park Planning Board for Preliminary and Final Major Site Plan and Minor Subdivision approval

to construct 360 condominium units with 36 moderate and 36 low income set-aside units.

5. Plaintiffs requested a variance and/or waiver of the requirements of Ordinance 814, Section 8.3 - Fill Requirements, which provision limits to no more than ten (10.0%) percent of the volume of fill which would be necessary to be brought onto the site to raise the elevation of the site to the elevation of the 100 year storm. This requirement of the ordinance is only for development within residential zones. A 20.0% limitation is established for non residential properties.

6. A public hearing on plaintiffs' application was held on September 5, 1985. At that meeting, defendant Lincoln Park Planning Board voted to deny the application.

7. A resolution purporting to set forth the reasons for denial of this application was adopted by defendant Lincoln Park Planning Board on or about October 3, 1985. (Exhibit F).

8. Defendant Lincoln Planning Board used as one basis of denial the requirements of Ordinance 814.

9. Ordinance 814 is an arbitrary, capricious, unreasonable and ultra vires action by defendant.

10. The denial of the variance from the requirements of Ordinance 814 by defendant Planning Board was arbitrary, capricious, unreasonable and discriminatory.

11. The denial of the variance from the requirements of Ordinance 814 by defendant Planning Board was contrary to the evidence presented.

12. The conclusion by defendant Planning Board that the grant of the requested variance would result in increased flood heights, additional threats to public safety, extraordinary public expense, would adversely affect the public health, safety and welfare and would impair the appropriate use and development of adjacent property is arbitrary, capricious, unreasonable and is not supported by evidence contained in the record.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Declaring Ordinance 814 to be ultra vires.
- B. Declaring Ordinance 814 to be invalid.
- C. Reversing the decision of defendant Planning Board and granting approval of the application of plaintiffs.
- D. Awarding costs of suit and counsel fees.
- E. Such other relief as the Court may deem just and proper.

TWENTY-NINTH COUNT

1. Plaintiffs repeat and incorporate all allegations of the Twenty-Seventh Count as if set forth herein at length.

2. Ordinance 814 has the affect of prohibiting residential development set aside zones in which residential development, including housing for low and moderate income persons, is permitted.

3. Ordinance 814 establishes cost generating standards and restrictions which are not related to health or safety.

4. Ordinance 814 violates the Constitution of the State of New Jersey as interpreted in Mt. Laurel II.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Declaring Ordinance 814 to be ultra vires.
- B. Declaring Ordinance 814 to be invalid.
- C. Reversing the decision of defendant Planning Board and granting approval of the application of plaintiffs.
- D. Awarding costs of suit and counsel fees.
- E. Such other relief as the Court may deem just and proper.

THIRTIETH COUNT

1. Plaintiffs repeat and incorporate all allegations of the Twenty-Ninth Count as if set forth herein at length.

2. Defendant, Planning Board, denied plaintiffs' application, inter alia, because of an Ordinance which the defendant Planning Board believed might be introduced in the future, which ordinance would relate to the Air Safety and Hazardous Zoning Act.

3. Denial of plaintiffs' permitted use of property in reliance upon an anticipated ordinance was arbitrary, capricious, unreasonable and improper.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Reversing the decision of defendant Planning Board and granting approval of the application of plaintiffs.
- B. Awarding costs of suit and counsel fees.
- C. Such other relief as the Court may deem just and proper.

THIRTY-FIRST COUNT

1. Plaintiffs repeat and incorporate all allegations of the Thirtieth Count as if set forth herein at length.
2. Defendant, Planning Board, denied plaintiffs' application inter alia, because plaintiffs presented no testimony concerning the impact of the proposed development upon off tract traffic conditions as such off site traffic conditions existed on the date of hearing.
3. The consideration of off site traffic impact by a planning board is improper when the application before such board involves a permitted use.
4. The denial of plaintiffs' application for reasons related to off site traffic conditions was arbitrary, capricious, unreasonable and improper.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Revising the decision of defendant Planning Board and granting approval of the application of plaintiffs.

- B. Awarding costs of suit and counsel fees.
- C. Such other relief as the Court may deem just and proper.

THIRTY-SECOND COUNT

1. Plaintiffs repeat and incorporate all allegations of the Thirty First Count as if set forth herein at length.
2. Defendant, Planning Board, denied plaintiffs' application, inter alia, based upon the conclusion that plaintiff "failed to establish that the disturbance of 38+ acres of flood plain area which encompasses removal of approximately 65,000 cubic yards of soil and the replacement of 195,000 cubic yards of soil will not adversely affect the lands in and about the Borough of Lincoln Park.
3. This conclusion by defendant, Planning Board, is arbitrary, capricious, unreasonable, improper and not supported by the record established before the Board.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Reversing the decision of defendant Planning Board and granting approval of the application of plaintiffs.
- B. Awarding costs of suit and counsel fees.
- C. Such other relief as the Court may deem just and proper.

THIRTY-THIRD COUNT

1. Plaintiffs repeat and incorporate all allegations of the Thirty Second Count as if set forth herein at length.

2. Defendant, Planning Board, denied plaintiffs' application, inter alia, because plaintiffs "failed to provide any satisfactory proposal or design for the control of storm water runoff."

3. Plaintiffs' plan called for contribution of its proportionate share of the expense of constructing an area wide detention system as permitted by Ordinance.

4. Defendant, Planning Board, based the denial, inter alia, upon the belief that the New Jersey Department of Environmental Protection will not approve the proposed regional storm water detention basin designated by the Borough. Such items are not part of the record before the Board.

5. The denial of plaintiffs' application due to issues related to storm water runoff was arbitrary, capricious, unreasonable, improper and not supported by an evidence in the record.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Reversing the decision of defendant Planning Board and granting approval of the application of plaintiffs.
- B. Awarding costs of suit and counsel fees.
- C. Such other relief as the Court may deem just and proper.

THIRTY-FOURTH COUNT

1. Plaintiffs repeat and incorporate all allegations of the Thirty Third Count as if set forth herein at length.

2. Plaintiffs were never advised that N.J.D.E.P. would not approve the proposed regional storm water detention system designated by defendant.

3. Plaintiffs relied upon the ordinances of defendant and presented a plan which provided for storm water to be retained in a regional basin.

4. In the event the N.J.D.E.P. will not allow regional detention, a determination made due to no fault of plaintiffs, plaintiffs are entitled to a remand on the sole issue of plaintiffs plan for on site detention of storm water.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Remanding the application of plaintiffs on the sole issue of plaintiffs' plan for on site detention of storm water.
- B. Reversing all other items determined by defendant, Planning Board, and granting plaintiffs approval subject only to presenting a plan for on site detention of storm water.
- C. Awarding costs of suit and counsel fees.
- D. Such other relief as the Court may deem just and proper.

THIRTY-FIFTH COUNT

1. Plaintiffs repeat and incorporate all allegations of the Thirty Fourth Count as if set forth herein at length.
2. Defendant, Planning Board, denied the application of plaintiffs, inter alia, due to the alleged testimony that plaintiffs will be unable to obtain water from the Borough of Pequannock.
3. Such conclusion is not supported by testimony in the record.
4. Plaintiffs have, and at the time of hearing, had made arrangements for water service to the project.
5. The denial of plaintiffs' application due to the alleged lack of plan for the provision of water service to the project was arbitrary, capricious, unreasonable, improper and is not supported by the record established before defendant Planning Board.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Reversing the decision of defendant Planning Board and granting approval of the application of plaintiffs.
- B. Awarding costs of suit and counsel fees.
- C. Such other relief as the Court may deem just and proper.

THIRTY-SIXTH COUNT

1. Plaintiffs repeat and incorporate all allegations of the Thirty Fifth Count as if set forth herein at length.

2. Defendant, Planning Board, denied the application of plaintiffs, inter alia, due to conclusions of the Morris County Planning Board set forth in a letter dated January 22, 1985.

3. Said report of the County Planning Board set forth considerations which could not be considered by defendant, Planning Board, as the proposed use was permitted by Ordinance.

4. The denial of plaintiffs' application in reliance upon the report of the Morris County Planning Board was arbitrary, capricious, unreasonable, improper and not supported by the record established before defendant, Planning Board.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Reversing the decision of defendant Planning Board and granting approval of the application of plaintiffs.
- B. Awarding costs of suit and counsel fees.
- C. Such other relief as the Court may deem just and proper.

THIRTY-SEVENTH COUNT

1. Plaintiffs repeat and incorporate all allegations of the Thirty Sixth Count as if set forth herein at length.

2. Defendant, Planning Board, denied the application of plaintiffs, inter alia, due to the alleged failure of plaintiffs to supply certain information defendant Planning Board desired.

3. Defendant Planning Board wanted the following items:

A. A diagram of the project as it relates to the Air Safety and Hazardous Zoning Act and the not yet introduced to the Borough Ordinance.

B. A plan to remove "muck" from the site.

4. The requirement of the defendant Planning Board that plaintiffs' present plans to satisfy an irrelevant Act and a non-existent ordinance is arbitrary, capricious, unreasonable and improper.

5. The demand that plaintiffs provide defendant Planning Board a plan for "muck" removal is arbitrary, capricious, unreasonable and improper.

WHEREFORE, plaintiffs demand judgment as follows:

A. Reversing the decision of defendant Planning Board and granting approval of the application of plaintiffs.

B. Awarding costs of suit and counsel fees.

C. Such other relief as the Court may deem just and proper.

THIRTY-EIGHTH COUNT

1. Plaintiffs repeat and incorporate all allegations of the Thirty-Seventh Count as if set forth at length.

2. Defendant, Planning Board, denied the application of plaintiffs, inter alia, based upon the failure of plaintiffs to demonstrate

that the truck trips necessary to move soil to and from the site would not adversely impact off-site roadways and properties in the Borough.

3. The action of defendant Planning Board was arbitrary, capricious, unreasonable and improper.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Reversing the decision of defendant Planning Board and granting approval of the application of plaintiffs.
- B. Awarding costs of suit and counsel fees.
- C. Such other relief as the Court may deem just and proper.

THIRTY-NINTH COUNT

1. Plaintiffs repeat and incorporate all allegations of the Thirty-Eighth Count as if set forth at length.

2. The use of the property proposed by plaintiffs was permitted by the applicable zoning ordinance.

3. The decision of defendant Planning Board denies plaintiffs the ability to use the land as zoned.

4. The decisions of defendant Planning Board has resulted in a taking of the property without compensation.

5. The decision of defendant Planning Board has resulted in a condemnation of the property.

WHEREFORE, plaintiffs demand judgment as follows:

- A. Ordering defendant to commence formal condemnation proceedings.
- B. Ordering defendants to pay the fair market value of plaintiffs' land to plaintiffs.
- C. Reversing the decision of the defendant Planning Board.
- D. Awarding plaintiff costs of suit and counsel fees.
- E. Such other relief as the Court may deem just and proper.

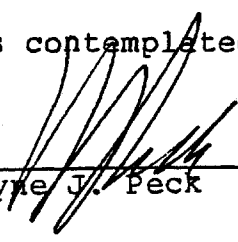
Hutt, Berkow & Jankowski
Attorneys for Plaintiff

BY: 

WAYNE J. PECK

CERTIFICATION

Pursuant to R. 4:5-1, this is to certify that to the best of my knowledge the within matter is not the subject of any other action pending in any court or arbitration and none is contemplated.


Wayne J. Peck

AN ORDINANCE TO AMEND CHAPTER
28, ZONING ORDINANCE OF THE
CODE OF THE BOROUGH OF LINCOLN
PARK, IMPLEMENTING THE TERMS AND
CONDITIONS OF THE SETTLEMENT OF
A CERTAIN ACTION ENTITLED "MORRIS
COUNTY FAIR HOUSING COUNCIL, et
als. v. BOONTON TOWNSHIP, et als.,
SUPERIOR COURT OF NEW JERSEY,
LAW DIVISION, DOCKET NO. L-6001-
78 P.W.", BY ESTABLISHING ARTICLE
VI-D., PHASING OF DEVELOPMENT.

Ordinance No. 78

Adopted March 1

Effective April 7

BE IT ORDAINED, by the Governing Body of the Borough of
Lincoln Park, in the County of Morris, New Jersey, as follows:

SECTION 1. ARTICLE VI-D, shall be entitled "PHASING OF
DEVELOPMENT", and shall read as follows:

ARTICLE VI-D

PHASING OF DEVELOPMENT

Sec. 28-50-D. Purpose.

The Purpose of this ARTICLE is to limit the impact of the
development permitted in ARTICLES VI-A, VI-B and VI-C on the
municipal services and facilities of the Borough, and to insure
that there is a balance among the types of development provided for
in ARTICLES VI-A, VI-B and VI-C. It is hereby determined that in
the period September 1, 1984 to December 31, 1990, the Borough of
Lincoln Park cannot reasonably expand its municipal services and
facilities to serve more than 890 new townhouse and apartment
units, including 178 set-aside units for low-moderate income
households (SET-ASIDE UNITS), in addition to the expected growth of
one and two family homes. In order to serve the development
permitted under ARTICLE VI-A, VI-B and VI-C, the Borough must
upgrade its Fire Department's equipment, expand the Police

"EXHIBIT A"

Department, provide additional services and expand recreational facilities and services as well as accommodate the increased load on administrative services resulting from the expected increase in population resulting from development permitted under ARTICLES VI-A, VI-B and VI-C.

Sec. 28-51-D. Phasing in Set-Aside Zones.

1. Initial Phasing Allocation.

There is hereby established a Borough-wide limitation upon development approval in all Set-Aside Zones, and the Planning Board shall not approve development for more than 600 units (at least 120 SET ASIDE UNITS), through December 31, 1986.

a. Priority Ranking. If one or more applications for development have been submitted and have not yet received Preliminary Approval and such applications would bring the total of Set-Aside units in all Set-Aside Zones to more than 120, including those units which may already have been approved, then the Planning Board shall, prior to preliminary approval, determine which applications shall be granted priority for purposes of development review, based on the following factors:

- (1) Impact of the projected peak hour traffic on the flow of existing peak hour traffic on surrounding streets and on major and secondary streets throughout the Borough, and on the safety of pedestrians and motorists;
- (2) Impact of the projected development on adjacent developments in terms of compatibility and property values;
- (3) Need for contribution of Borough facilities at public expense;
- (4) Need for extension of Borough Utilities;

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(5) Acreage of flood plain to be filled and acreage of wet lands areas to be filled or otherwise destroyed;

(6) Total volume of fill required to raise housing above flood level or if a development is not in a flood plain, the volume of fill required to raise housing and roads above the water table if such fill is proposed.

The depths to water table will be calculated as the shallowest depth shown by the Soils Map and Soils Characteristics Tables published in the Master Plan unless the developer provides evidence as to a greater depth at the highest seasonal level.

(7) Ease of access to site as determined by 10 year flood elevations;

(8) Suitability of the size of the development in relation to the goal of limiting development to not more than 600 new townhouse, garden apartment and adult community housing units (120 Set-Aside units) Borough-wide by December 31, 1986, giving due consideration to the ultimate set-aside unit mix expressed in Section 28-51-D 2 a (8) of this ordinance.

It shall be the obligation of the applicant to provide the information required to enable the Planning Board to make a determination on factors (1) through (8) above as well as in Sec. 2 a hereafter.

The Planning Board shall rank the applications being reviewed as to their relative standing in regard to the above list of factors. For each factor, the proposed development with the best rating shall be assigned the rank of one (1), the next best the rank of two (2), and so on. Where developments rank equal in a factor, the Planning Board shall assign each the same rank. The first priority shall be assigned to the proposed developments with the lowest score as determined by adding the rank assignments. The Planning Board may, at its discretion assign

weights to each factor depending on the Planning Board's assessment of the relative importance of each factor. In this case, the Planning Board shall multiply the rank for each factor by the weight assigned to that factor, to arrive at the priority score for each development.

b. Denial of Lesser Ranked Applications. The first priority development shall be processed for preliminary approval. In the event the first priority development does not satisfy the goal of 600 units, including 120 set-aside units, then the next application or applications shall be similarly processed for preliminary approval provided that the total number of units approved shall not exceed 600 by December 31, 1986, including 120 set-aside units. All other pending applications shall be denied without prejudice.

c. Deadline For Preliminary Approval. If any priority development being processed pursuant to paragraph b., above, has not received preliminary development approval within 180 days following Determination of Completeness, then the Planning Board shall deny, without prejudice, such development application and proceed to review other development applications.

2. Subsequent Phasing Allocation.

There is hereby established a subsequent Borough-wide limitation upon development approval in all Set-Aside Zones, and the Planning Board shall not approve development for more than a total of 890 units (at least 178 SET ASIDE UNITS), through December 31, 1988.

- (7) Ease of access to site at times of flooding:
- (8) Suitability of the size of the development in relation to the goal of limiting development to not more than 890 townhouse, garden apartment and adult community housing units (not more than 178 set-aside units) Borough wide by 12/31/88 and the goal of limiting development to not more than the following number of set-aside units: 120 townhouses, 20 garden apartments, and 38 adult community housing.

The Planning Board shall rank the applications being reviewed as to their relative standing in regard to the above list of factors. For each factor, the proposed development with the best rating shall be assigned the rank of one (1), the next best rating shall be assigned the rank of two (2), and so on. Where developments rank equal in a factor, the Planning Board shall assign each the same rank. The first priority shall be assigned to the proposed developments with the lowest score as determined by adding the rank assignments. The Planning Board may, at its discretion, assign weights to each factor depending on the Planning Board's assessment of the relative importance of each factor. In this case, the Planning Board shall multiply the rank for each factor by the weight assigned to that factor, to arrive at the priority score for each development.

b. Denial of Lesser Ranked Applications. The first priority development shall be processed for preliminary approval. In the event the first priority development does not satisfy the goal of 890 total units of development including 178 set-aside units, then the next ranked application or applications shall be similarly processed for preliminary approval provided

that the total number of units shall not exceed 890 (178 set-aside units) approved by December 31, 1988. All other pending applications shall be denied without prejudice.

c. Deadline for Final Approval. If any priority development being processed pursuant to paragraph b. has not received preliminary development approval within 180 days following determination of completeness, then the Planning Board shall deny, without prejudice, approval of such development application and proceed to review the other development applications.

3. Final Allocation.

If after two (2) years following final approval of any development, the authorized number of set-aside units has not been constructed and project development has been abandoned, then the Planning Board shall be authorized to grant development approval for an additional number of set-aside and fair market townhouse units necessary to provide a total of 178 set-aside units within the Borough. In such case, the Planning Board shall follow the procedures in paragraph 2 of this section.

BE IT FURTHER ORDAINED, that if any section, paragraph, subdivision, clause or provision of this ordinance shall be judged invalid, such adjudication shall apply only to the section, paragraph, sub-division, clause or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

BE IT FURTHER ORDAINED, that all ordinances or parts of ordinances inconsistent herewith are hereby repealed as to such inconsistency only.

BE IT FURTHER ORDAINED, that this ordinance shall take effect
twenty (20) days after adoption.

Michael Harrigan, Council President

ATTEST:

Kay A. Wittman, Clerk

AN ORDINANCE TO AMEND CHAPTER 28, ZONING ORDINANCE, OF THE CODE OF THE BOROUGH OF LINCOLN PARK, IMPLEMENTING THE TERMS AND CONDITIONS OF THE SETTLEMENT OF A CERTAIN ACTION ENTITLED "MORRIS COUNTY FAIR HOUSING COUNCIL, et als. v. BOONTON TOWNSHIP, et als., SUPERIOR COURT OF NEW JERSEY, LAW DIVISION, DOCKET NO. L-6001-78 P.W.", BY ESTABLISHING THE TH-S, TOWNHOUSE SET-ASIDE ZONE, THE GA-S, GARDEN APARTMENT SET-ASIDE ZONE, AND INCORPORATING THE ACH, ADULT COMMUNITY HOUSING ZONE, BY THE TRANSFER THEREOF FROM ARTICLE V. OF THIS CHAPTER, AND BY THE TRANSFER AND SUBSTITUTION IN SUCH ARTICLE V., SEC. 28-44, OF THE PRD II, PLANNED RESIDENTIAL DEVELOPMENT II REGULATIONS, AND BY ESTABLISHING AFFORDABILITY REGULATIONS.

BE IT ORDAINED, by the Governing Body of the Borough of Lincoln Park, in the County of Morris, New Jersey, as follows:

SECTION 1. ARTICLE VI, Sec. 28-50 through 28-56, PRD II, PLANNED RESIDENTIAL DEVELOPMENT II, shall be redesignated and incorporated in the provisions of ARTICLE V., Sec. 28-44.1 through 44.7.

SECTION 2. ARTICLE VI. shall be entitled "TH-S, TOWNHOUSE SET-ASIDE ZONE, and shall be amended to read as follows:

ARTICLE VI.

TH-S, TOWNHOUSE SET-ASIDE ZONE

Sec. 28-50. Purpose.

The purpose of the TH-S. Townhouse Set-Aside Zone, is to provide for and encourage the construction of housing affordable to low and moderate income households by permitting townhouse development conditioned upon the agreement to set-aside at least twenty (20%) percent of the units built for low and moderate income households.

EXHIBIT 13

Sec. 28-51. Permitted Uses.

Within the TH-S Zone, the following uses only are permitted:

1. Provided that 20% of the dwelling units constructed are set-aside for lease or purchase by low and moderate income households set forth in ARTICLE VI, C the following two uses are permitted:

- a. Townhouses as defined in Sec. 28-2 except that individual yards shall not be required and flats may be included in the same building with townhouse units;

- b. Flats.

2. Other uses permitted are:

- a. Common Open Space;

- b. Signs as accessory uses, as follows:

- (1) Signs located at the entrance of a TH-S Development. The total surface area of any such sign shall not exceed thirty-two (32) square feet in surface area. No more than one (1) sign shall be permitted per entrance.

- (2) Directional signs for the convenience of the residents to identify parking areas, rental offices, recreation areas, entrances and exits, which signs shall not exceed two (2) square feet in surface area.

(3) The design, location and landscaping of signs shall be in accordance with the specifications and conditions determined by ARTICLE XIII (SIGNS) of this Chapter.

c. Single-family and two-family dwellings in accordance with ARTICLE III, Schedule of General Requirements, and ARTICLE V of this Chapter for the R-15 Zone.

d Accessory uses customarily incidental to the above uses.

3. Suspension of Zoning

Following the construction of 120 townhouse set-aside units for low and moderate income households, the TH-S Zone, together with the regulations in Sec. 28-45 shall cease to be in effect for undeveloped lands, and upon such event all undeveloped lands designated TH-S shall be rezoned in accordance with the designations provided by ordinance.

Sec. 28-52. Density Standard.

The density of a TH-S development shall not exceed 10 dwelling units per acre of site, including any new on-site streets, public or private.

Sec. 28-53. Parking Requirements.

There shall be off-street parking facilities for at least two (2) automobiles for each dwelling unit. Each parking space

shall measure at least 9 feet by 19 feet. Off-street parking spaces may be covered or uncovered, within or adjacent to each dwelling unit or separate, or any combination of such parking arrangements. Any parking area for three or more automobiles shall be at least 25 feet from the front or rear wall of any dwelling unit, and at least 10 feet from the side or end wall of any dwelling unit or group of dwelling units. There shall be no parking in the front yard setback of the lot, except on a driveway serving an individual townhouse unit.

Parking areas shall be paved and curbed and provided with adequate storm water drainage. The parking plan must be approved by the Municipal Agency. Each dwelling unit shall be assigned at least one parking space, either in a garage or in a parking area.

Sec. 28-54. Minimum Site Area.

The minimum area for a TH-S development shall be five contiguous acres exclusive of existing public streets.

Sec. 28-55. Building Coverage and Impervious Surface.

The maximum coverage of the site by all buildings shall be 30 percent of the site area exclusive of existing public streets. The maximum impervious surface shall be 60% of the site area exclusive of existing public streets.

Sec. 28-56. Building Requirements.

1. The minimum width of any townhouse dwelling unit or flat shall be 18 feet.
2. The distance between buildings shall be not less than 30 feet.

3. The maximum size of any building containing townhouses, flats or a combination thereof shall be eight (8) dwelling units per floor. When a dwelling unit occupies more than one floor, the part of each floor shall be counted as a whole dwelling unit for the purposes of computing the number of dwelling units per floor.
4. Each building shall contain an enclosed, lockable storage space for each unit, exclusive of closets. Such storage space shall be at least 60 square feet in area and 6 feet in height and shall be provided within the unit or in a common area such as a basement or cellar.
5. Built-in air conditioning units shall not project more than two inches from the outside face of the wall.
6. Each dwelling unit shall have at least two (2) exterior exposures, each of which shall be provided with windows, doors or a combination thereof, so as to provide cross or through ventilation for such unit.
7. The minimum floor space of any unit shall be:

1-bedroom	550 square feet
2-bedroom	660 square feet
3-bedroom	800 square feet

or in conformity with the standards set forth in the Department of Housing and Urban Development, Minimum Property Standards for Multi-Family Housing, 401-3.1

to 3.6 (1979), whichever is less. At least 20 percent of the low and moderate income units shall be three bedroom units, and no more than 50 percent shall be one bedroom or efficiency units. No garage, cellar or storage area shall be counted towards meeting the minimum floor area requirement for dwelling units.

8. The front or rear set-back of any dwelling, as measured from the curb to any private street, drive, or parking area for three or more automobiles, shall be not less than 25 feet. The side set-back of any dwelling shall be not less than 10 feet as measured from the curb of any private street, drive or parking area for three or more automobiles.

- X 9. Other building requirements shall be as set forth in Sec. 28-21, Schedule of General Requirements. The Municipal Agency shall reduce the 50 foot yard requirement if the developer demonstrates to the Agency's satisfaction, that the cost of utility installation would be excessive unless a smaller yard is permitted. In no case, however, will a yard of less than 25 feet be permitted.

Sec. 28-57. Streets and Sidewalks.

1. Any new public street, private interior road or driveway shall be constructed so as to intersect any existing or proposed public street at least 100 feet from any existing or proposed intersection. If, in the opinion of the Municipal Agency, a proposed inter-

section located 100 feet from another intersection would create a special hazard because of road alignment, topographic conditions, or existing or projected traffic conditions or other conditions, the Agency may require such proposed intersection to be located up to 200 feet from such other intersection.

2. Each development of eight (8) or more acres, having frontage in excess of 400 feet, (or) smaller development with frontages on two (2) existing streets, shall be provided with at least two (2) access roads as means of traffic ingress and egress to the development. Said roads shall not be less than two hundred (200) feet apart.
3. Streets which are to be dedicated as public streets shall conform with the Borough standards for public streets as to width and construction. All dedicated streets shall have curbs. Streets which are to be private interior roads shall have a right-of-way width of 40 feet and a curbed pavement width of 30 feet for two-way streets and a right-of-way width of 35 feet and a curbed pavement width of 25 feet for one-way streets. All private roads and access ways shall be kept open for access by all emergency vehicles and the Department of Public Works. Maintenance, cleaning and snow removal of all such roads shall be carried out by the management of the development according to the satisfaction of the Borough. Any failure on the part

of the owner to comply shall result in the work being done by the Borough at the expense of the owner and, to the extent permitted by law, such expense shall become a lien against said property.

4. Sidewalks along public streets shall be constructed in accordance with the municipal standards, except that the Municipal Agency shall have the power to decrease the number and width of such sidewalks if it deems it necessary in accordance with ARTICLE VI.C, Affordability Controls.
5. Sidewalks of at least four (4) feet in width shall be provided to connect the entrance of each dwelling unit with a public street or interior road and to connect each residential building to the parking areas serving such building.
6. Sidewalks of at least four (4) feet in width shall be provided on at least one side of all private roads.
No sidewalk, except those leading to a building entrance, shall be closer to a building than 10 feet.
7. Sidewalks not on public streets shall be of concrete, constructed in accordance with the Borough's specification ordinance except that the Municipal Agency shall have the power to modify these standards if it deems it necessary in accordance with ARTICLE VI.C, Affordability Controls.

Sec. 28-58. Utilities and Services.

1. Every dwelling unit shall be provided with public water and public sanitary sewer which shall be installed by and at the expense of the developer.
2. All utilities shall be installed underground.
3. Street lighting on public and private streets shall be in accordance with the specifications in the Borough ordinances. Additional lighting shall be provided as necessary to minimize hazards to pedestrians and motor vehicles in parking areas near dwelling entrances and along sidewalks.
4. If refuse pick-up areas are provided, they shall be located for the occupants' convenience. All such areas shall be screened with evergreens on three (3) sides and planted to the height of at least 4 feet, or with a solid wood or decorative masonry screen high enough to shield the containers in the pick-up areas.
5. Television antenna equipment shall be built into the building or provided by means of a common antenna tower, provided that such tower receives all required municipal approvals.

Sec. 28-59. Landscaping and Screening.

1. All developments shall be provided with liberal and functional landscaping schemes. Roads and

pedestrian walks shall be provided with shade trees which are at least a minimum size and character in accordance with the standards in the DRO and the Shade Tree Committee of the Borough.

2. Open space adjacent to buildings, malls between buildings intended for utilization by residents and border strips along the sides of pedestrian walks shall be graded and seeded to provide a thick stand of grass or planted with trees and shrubs or any combination thereof. Areas not used for buildings, terraces, recreation equipment, drives, parking spaces or sidewalks shall be seeded or landscaped and maintained in a proper condition. Unless all of the dwelling units are to be rented, these areas shall be placed in a common open space organization plan, pursuant to ARTICLE XIV of Chapter 17 (DRO).
3. Where necessary to shield occupants and adjoining properties from unsightly, disturbing or light-glaring areas, screening or buffers consisting of a solid evergreen hedge at least five (5) feet tall at planting or earth berms and smaller plantings totaling five (5) feet in height shall be installed. The Municipal Agency may permit a solid wood fence or decorative masonry wall in lieu of an evergreen hedge where conditions warrant.
4. The developer shall furnish, together with the plans and specification required under Chapter 17 (Development Review Ordinance) of the Code of the Borough of Lincoln

Park, landscaping plans drawn by a licensed professional, indicating landscaping intended for the development as well as plans for lighting the grounds, roads, drives, walks, parking areas and building entrances. Additional plans shall show contours, drainage areas, streams, wooded areas and any other natural features of the land in a natural state before development proposals.

5. There shall be a buffer strip of at least twenty-five (25) feet in width on all lot lines adjoining zone district lines and on all lot lines adjoining existing existing improved residential property. No buffer shall be required where such lot line borders a public street. All such buffer strips, if wooded, shall remain in their natural state or otherwise shall be planted with an evergreen screen at least six (6) feet in height.

SECTION 3. ARTICLE VI-A., shall be entitled "GA-S, GARDEN APARTMENT SET-ASIDE OVERLAY ZONE, and shall read as follows:

ARTICLE VI-A

GA-S, GARDEN APARTMENT SET-ASIDE OVERLAY
ZONE

Sec. 28-50A. Purpose.

The primary purpose of the GA-S, Garden Apartment Set-Aside Overlay Zone, is to provide for and encourage the construction of housing affordable to low and moderate income households by offering a developer alternative uses and development standard-

in exchange for an agreement to set-aside at least 20 percent of units built for low and moderate income households.

Sec. 28-51A. Permitted Uses.

Within the GA-S Overlay Zone, in addition to the uses otherwise permitted in the underlying zones, the following uses are permitted, provided that at least 20% of the dwelling units shall be set-aside for rent by low and moderate income households in accordance with ARTICLE VI-C, Affordability Standards:

1. An apartment building or a group of apartment buildings conforming to the definition of garden apartments as set forth in Sec. 28-2.
2. Common Open Space
3. Accessory uses customarily incidental to the above uses.
4. The following signs shall be permitted as accessory uses:
 - a. Signs located at the entrance of a Garden Apartment Development. The total surface area of any such sign shall not exceed thirty-two (32) square feet in surface area. No more than one (1) sign shall be permitted per entrance.
 - b. Directional signs for the convenience of the residents to identify parking areas, rental offices, recreation areas, entrances and exits, which signs shall not exceed two (2) square feet in surface area.

- c. The design, location and landscaping of signs shall be in accordance with the specifications and conditions determined by ARTICLE XIII (SIGNS) of this Chapter.

5. Susepnson of Zcning

Following the construction of 20 garden apartment units set-aside for low and moderate income households, the GA-S Overlay Zone, together with the regulations in Sec. 28-60 shall cease to be in effect.

Sec.28-52A. Density.

The density of the development shall not exceed 15 dwelling units per acre of site including any new on-site streets, public or private.

Sec. 28-53A. Parking.

1. There shall be off-street parking facilites in accordance with the following schedule as a minimum requirement:

Each 1-bedroom or studio unit	1½ spaces
Each 2-bedroom unit	1-3/4 spaces
Each 3-bedroom unit	2 spaces
2. Each off-street parking space shall measure at least 9 feet by 19 feet.
3. No parking shall be permitted on any road within a GA-S development. Off-street parking spaces may be uncovered or in a garage or carport. Unless located in a garage at the basement or cellar level of a garden apartment building, all parking areas shall

be at least 20 feet from any front or rear wall of any building containing a dwelling unit, and at least 10 feet from any side or end wall of any building containing a dwelling unit. There shall be no parking in the front yard set-back of the lot. Parking areas shall be paved and curbed and provided with adequate storm water drainage. The parking plan must be approved by the Municipal Agency. Each dwelling unit shall be assigned one parking space, either in a garage or in a parking area.

4. Garages shall not be allowed as separate structures, but may be built under the apartment structure as hereinafter provided:
 - (a) Size: Each garage space shall be at least ten (10) feet wide and twenty-two (22) feet in depth.
 - (b) Vehicular access to garages shall be from the side or rear of the building.
 - (c) The entrance to garages shall not be on any main access street or public street.

Sec. 28-54A. Building Coverage and Impervious Surface.

The maximum coverage of the site by all buildings shall be 30% of the site area exclusive of existing public streets. The maximum impervious surface shall be 65% of the site area exclusive of existing public streets.

Sec. 28-55A. Building Requirements.

1. The general architectural plan of the building must be approved by the municipal Agency. The maximum number of units per floor, shall be eight (8) units, except that the Municipal Agency shall have the power to increase the number of units per floor in accordance with ARTICLE VI-C., Affordability Control.
2. Each building shall contain an enclosed, lockable storage space for each unit, exclusive of closets. Such storage space shall be at least 60 square feet in area and at least six (6) feet in height and shall be provided within the unit or in a common area such as a basement or cellar.
3. Each principal building shall provide, in an enclosed area, laundry facilities for the exclusive use of the occupants of the building.
4. Cellars shall be permitted, but the use of any cellar must be specified in detail in the site plan. No dwelling units shall be permitted in cellars.
5. Built-in air conditioning units shall not project more than two inches from the outside face of the wall.
6. The minimum floor area for any unit shall be:

1-bedroom	550 square feet
2-bedroom	660 square feet
3-bedroom	800 square feet

or in conformity with the standards set forth in the Department of Housing and Urban Development, Minimum Property Standards for Multi-Family Housing, 401.3.1

to 3.6 (1979), whichever is less. No garage, cellar or storage area shall be counted towards meeting the minimum floor area requirement for dwelling units.

At least 20 percent of the low and moderate income units shall be three bedroom units and no more than 50 percent shall be one bedroom or efficiency units.

7. The front or rear set-back of any garden apartment building as measured from the curb of any private street, drive or parking area, shall be not less than 20 feet. The side set-back of any garden apartment building as measured from the curb of any private street, drive or parking area shall be not less than 10 feet.
8. The distance between walls of adjacent buildings shall be not less than 20 feet for side or end walls and not less than 30 feet for front or rear walls.
9. Other building requirements shall be as set forth in Sec. 28-21, Schedule of Requirements, Residential Zones.

Sec. 28-56A. Streets and Sidewalks.

1. Any new public street, private interior road or driveway shall be constructed so as to intersect any existing or proposed public street at least 100 feet from any existing or proposed intersection. If, in the opinion of the Municipal Agency, a proposed intersection located 100 feet from another intersection would create a special hazard because of road alignment, topographic conditions, or existing or projected traffic conditions

or other conditions, the Agency may require such proposed intersection to be located up to 200 feet from such other intersection.

2. All roads and other access ways within a Garden Apartment development shall be private roads constructed by the developer. All construction and maintenance shall be completed in accordance with specifications set by the Department of Public Works of the Borough. All interior roads and access ways shall be kept open for access by all emergency vehicles and the Department of Public Works. Maintenance, cleaning and snow removal of all such roads shall be carried out by the owner of the development according to the satisfaction of the Borough. Any failure on the part of the owner to comply shall result in the work being done by the Borough at the expense of the owner and, to the extent permitted by law, such expense shall become a lien against said property.
3. All private interior roads shall have a right-of-way width of 40 feet and a curbed pavement width of 30 feet for two-way streets and a right-of-way width of 35 feet and a curbed pavement width of 25 feet for one-way streets.
4. Sidewalks along public streets shall be constructed in accordance with municipal standards, except that

the Municipal Agency shall have the power to decrease the number and width of such sidewalks if it deems it necessary in accordance with ARTICLE VI-C, Affordability Controls.

5. Sidewalks of at least four (4) feet in width shall be provided to connect every entrance to each building with a public street or interior road, to connect each residential building to the parking areas serving such building, to provide access to each service entrance and wherever else required by the Municipal Agency at the time of site plan approval.
6. Sidewalks of at least four (4) feet in width shall be provided on at least one side of all private roads.
7. No sidewalks, with the exception of those leading to and from building entrances and exits, shall be placed closer to a building than ten (10) feet.
8. Sidewalks not on public streets shall be of concrete, constructed in accordance with the Borough's specification ordinance except that the Municipal Agency shall have the power to modify these standards if it deems it necessary in accordance with ARTICLE VI-C, Affordability Controls.

Sec. 28-57A. Utilities and Services

1. Every dwelling unit shall be provided with public water and public sanitary sewer, which shall be installed by and at the expense of the developer. The design and

installation of the sewer system shall be subject to the written approval of the Borough Engineer.

2. All utilities shall be installed underground.
3. Street lighting on public and private streets shall be in accordance with specifications in the Borough ordinances. Additional lighting shall be provided as necessary, to minimize hazards to pedestrians and motor vehicles in parking areas, near dwelling entrances and along sidewalks.
4. If refuse pick-up areas are provided, they shall be located for the occupants' convenience. All such areas shall be screened with evergreens on three (3) sides and planted to the height of at least 4 feet, or with a solid wood or decorative masonry screen high enough to shield the containers in the pick-up areas.
5. Television antenna equipment shall be built into the building or provided by means of a common antenna tower, provided that such tower receives all required municipal approvals.

Se. 28-58A. Landscaping and Screening.

1. All developments shall be provided with liberal and functional landscaping schemes. Roads and pedestrian walks shall be provided with shade trees which are at least a minimum size and character in accordance with the recommendations of the Shade Tree Committee of the Borough.

2. Open space adjacent to buildings, malls between buildings intended for utilization by residents and border strips along the sides of pedestrian walks shall be graded and seeded to provide a thick stand of grass or planted with trees and shrubs or any combination thereof. Areas not used for buildings, recreation equipment, drives, parking spaces or sidewalks shall be seeded or landscaped, and maintained in a proper condition. Unless all of the dwelling units are to be rented, these areas shall be placed in a common open space organization plan, pursuant to ARTICLE XIV of Chapter 17 (DRO).
3. Where necessary to shield occupants and adjoining properties from unsightly, disturbing or light glaring areas, screening or buffers consisting of a solid evergreen hedge at least five (5) feet tall at planting or earth berms and smaller plantings totaling five (5) feet in height shall be installed. The Municipal Agency may permit a solid wood fence or decorative masonry wall in lieu of an evergreen hedge where conditions warrant.
4. The developer shall furnish, together with the plans and specifications required under Chapter 17 (Development Review Ordinance) of the Code of the Borough of Lincoln Park, landscaping plans drawn by a licensed professional indicating landscaping intended for the development as well as plans for

lighting the grounds, roads, drives, walks, parking areas and building entrances. Additional plans shall show contours, drainage areas, streams, wooded areas and any other natural features of the land in a natural state before development proposals.

5. There shall be a buffer strip of at least twenty (20) feet in width on all lot lines adjoining zone district line and on all lot lines adjoining existing improved residential property. No buffer shall be required where such lot line borders a public street. All such buffer strips, if wooded, shall remain in their natural state or otherwise shall be planted with an evergreen screen at least six (6) feet in height.

Sec. 28-59A. Miscellaneous Provisions.

1. Recreational equipment, if any, shall not be located in the front yard.
2. All living rooms and bedrooms shall have at least standard size windows to provide adequate light and ventilation.

SECTION 4. ARTICLE VI-B, shall be entitled "ACH, ADULT COMMUNITY HOUSING, SUBSIDIZED AND NON-SUBSIDIZED OVERLAY ZONE", and shall read as follows:

ARTICLE VI-B

ACH, ADULT COMMUNITY HOUSING, SUBSIDIZED
AND NON-SUBSIDIZED OVERLAY ZONE

Sec. 28-50B. Permitted Uses.

Within the ACH Zone, no premises, lot, building or structure shall be used and no building or structure shall be erected or altered to be used in whole or in part for any other than the following purposes:

1. All underlying zone uses. Bulk regulations for the underlying zones apply except when the land is developed in accordance with the provisions of the ACH Zone.
2. Subsidized low and moderate income senior citizen housing developed by non-profit or limited profit qualified sponsors financed and otherwise subsidized by the U. S. Department of Housing and Urban Development and/or the N.J. Housing Finance Agency, subject, nevertheless, to the further provisions of this Ordinance.
3. Non-subsidized fair market developments in accordance with standards applicable to the PRD II Zone, ARTICLE V., except that:
 - (a) Occupancy shall be limited to persons 52 years and older having no resident child less than 19 years of age;

- (b) Density shall not exceed ten (10) dwelling units per acre.
- (c) All special conditions in Sec. 28-53B 2 and Sec. 28-55B 1,2,6 & 7, applicable to Subsidized Senior Citizen development shall be applied to fair market Adult Community Housing;
- (d) 1.5 off-street parking spaces shall be required for each dwelling unit.
- (e) The developer shall set aside not more than (25%) percent of the total units for low and moderate income senior citizen households in accordance with ARTICLE VI-C, Affordability Control Standards.

Sec. 28-51B. General Requirements for Subsidized ACH Development:

1. The residents of a Subsidized ACH Development established pursuant to this Subsection, shall be limited to qualifying low and moderate income elderly and handicapped persons as defined and otherwise in accordance with the standards and requirements established by the U. S. Department of Housing and Urban Development and/or the N.J. Housing Finance Agency, provided that handicap unit allocation shall not exceed such requirements and further provided that an adult at least eighteen (18) years of age may reside in a dwelling unit with a qualified resident if the presence of such person is essential for the physical well being of the qualified resident.

2. Residency Priority (Federal or State Funded Projects). Subject to requirements and standards established by the funding agency, preference shall be given in the following order:

First Priority: Lincoln Park senior citizens.

of any application the Municipal Agency shall have the right to reject those standards where it is deemed detrimental to the zone plan.

4. Building Coverage:

The total ground area of all buildings, including accessory buildings, shall not exceed eighteen (18%) percent of the lot area. Maximum impervious surface shall not exceed fifty (50%) percent of the lot area.

5. In all subsidized ACH developments, the architectural design of all buildings and recreation facilities must be consistent with the ultimate purpose of achieving independent, self-reliant and pleasant living arrangements for senior citizens and should take into account the desires and needs of older persons for privacy, participation in social and community activities and access to community activity areas. At the same time, provisions should be made to accommodate the limitations that sometimes accompany advancing years so that independent living can be sustained.

Sec. 28-52B. Dimensional Requirements.

1. All developments shall have a minimum frontage of two hundred (200) feet upon an accepted public street, improved to the standards of the street specifications of the Borough.

2. No building or structure shall be located closer than fifty (50) feet to any boundary line of the development. No off street parking area shall be located within the front yard set-back, nor closer than twenty-five (25) feet to any property line.

3. Distance between buildings. There shall be a minimum distance between adjacent buildings equal to or greater than the height of the taller building.

4. Height Requirements. The maximum height of any building or structure shall be as required by the funding agency.

5. The minimum living floor area for each dwelling unit shall be as required by the funding agency for subsidized developments.

6. An overall theme of architectural design shall be utilized within the development for the purpose of presenting an aesthetically desirable effect and shall be such that they provide varied building elevations, design and structural appearance within the context of the overall theme.

Sec. 28-53B. Parking and Circulation:

1. Two (2) means of safe traffic ingress and egress shall be provided into the tract.

2. Each residential unit, sidewalk, driveway and common area shall be designated to provide adequate, convenient and safe use of all facilities by older persons. The grades of sidewalks, driveways and roads shall not exceed six (6) percent. Minor exceptions may be made to the grade requirements by the Municipal Agency in exceptional circumstances.

3. All internal roadways and off-street parking areas shall be paved, bounded by permanent curbing and, as required, sidewalks. All of which shall be constructed in accordance with Borough specifications.

4. Internal roadways and parking areas shall be located at least twenty-five (25) feet from a building, except where a driveway leads to a garage; at least twenty-five (25) feet from a property line and from a public street.

5. The Borough may require all streets or drives within the complex to be retained by the owner for maintenance and repairs..

6. Internal roadways shall be at least forty (40) feet of right-of-way with thirty (30) feet of pavement width for two-way traffic and thirty (30) feet of right-of-way with twenty (20) feet of pavement width for one-way traffic and shall not enter a public street within fifty (50) feet of an intersection. Guest parking on internal roadways shall be designated and limited.

7. The arrangement and location of internal roadways, garages and parking areas shall be subject to the approval of the Municipal Agency and shall be designed to insure safe and adequate circulation for residents and their guests.

8. Pedestrian sidewalks shall also be provided in suitable locations including entrances and exits wherever normal pedestrian traffic will occur and in order to handle the pedestrian traffic which the development will create. Special consideration shall be given to provide pedestrian access to the central business district.

9. It is the intent of the zone plan that all multi-family ACH developments shall be designed and maintained as private developments. Maintenance of all internal roadways, sidewalks, curbs, drainage, landscaping, sewer lines, garbage collection, lighting and other common space services such as snow and ice removal for all internal streets and walkways, shall be provided by the owner so as to maintain adequate, convenient and safe use.

10. The Municipal Agency may waive any of the above provisions and request the municipality to accept improvements as public.

Sec. 28-54B. Landscaping and Screening:

1. The developer shall furnish along with the plans and specifications required under Chapter 17 (Development Review Ordinance) of the Code of the Borough of Lincoln Park, landscaping plans drawn by a licensed landscape architect which shall include plans for lighting the grounds, roads, drives, walks, parking areas and building entrances of the development as well as the plantings and other landscaping intended for the development. Plans shall show separately, contours, drainage areas, streams, wooded areas, and any other natural features of the land in a natural state before development proposals.

2. Downlighting shall be provided around all buildings. All walkways, parking areas, and outdoor activity areas to be used after dusk shall be lighted. Adequate shielding shall be provided so that direct or reflected glare from any on-site

source shall measure no more than one-half (1/2) foot candle at any property line where adjacent property is residentially zoned.

3. Any development shall be provided with liberal and functional landscaping schemes. Roads and pedestrian walks shall be provided with shade trees which are a minimum size and character in accordance with the reasonable recommendations of the Shade Tree Committee of the Borough of Lincoln Park, and ARTICLE VIII, Sec. 17-112 of the Development Review Ordinance. The owner shall be required to maintain all plantings so that they do not obstruct walks or parking areas and, where adjacent to buildings, so that they do not grow higher than any windowsill so as to obstruct the window.

4. Open Space adjacent to buildings, malls between buildings intended for utilization by residents and border strips along the sides of pedestrian walks shall be graded and seeded to provide a thick stand of grass or planted with trees and shrubs or any combination thereof. Areas not used for buildings, terraces, drives and parking spaces shall be seeded and landscaped and shall be maintained in a proper condition.

5. Screening or buffers consisting of plantings, strips and fences shall be required around outdoor utilities and around any other similar areas, along property lines of adjacent properties and around all parking areas in order to shield occupants and adjoining properties from such unsightly disturbing or light glaring areas. Such screening or buffers shall be installed by the owner and shall consist . . . of a solid evergreen hedge at least five (5) feet tall at planting or earth berms and smaller plantings totaling five (5) feet in height.

6. There shall be a buffer strip of at least twenty-five (25) feet in width on all lot lines adjoining zone district lines and on all lot lines adjoining existing improved residential property. No buffer shall be required where such lot line borders a public street. All such buffer strips, if wooded, shall remain in their natural state or otherwise planted with a landscaped visual screen at least six (6) feet in height.

Sec. 28-55B. Special Considerations for ACH Developments:

1. The size and arrangement of bathrooms and fixtures therein shall be adequate for the convenient use of the older person. The floor finish shall be impervious to water, have non-slip characteristics and slope toward the center away from the door. The threshold of the bathroom shall be flush with the floor. All plumbing fixtures, accessories and trim shall be selected for and provide the maximum contribution to the safety, convenience and aid of older persons. Grab bars shall be provided beside toilets and in bathtubs and/or shower stalls. Shower stalls will include a built-in seat or bench or sufficient space for a bath stool.

2. Emergency buzzers which also unlock the front door should be installed in the bathroom and next to the bed.

3. Community/recreation facilities and lounge areas shall be provided as required by the funding agency.

4. ACH developments shall be provided with adequate public areas, such as mailroom, laundry room, lobby, lounge and/or recreation area as required by the funding agency for the use

of the residents.

5. A lockable storage space of at least thirty-two (32) square feet and not less than six (6) feet high shall be provided, for each dwelling unit. Storage shall be located in the basement or in other areas of the buildings, unless such a storage area is provided within the dwelling unit, in addition to the normal complement of closets.

6. Ramps shall be provided for access to all outdoor recreation areas within the development, as needed.

7. Ramps shall be provided at the entrances of at least twenty-five (25%) percent of all apartments in the development.
Sec. 28-56B.

Where applicable, an open space organization shall be provided pursuant to ARTICLE XIV of the DRO.

The following additions shall be made to the Schedule of General Requirements,
Section 28-21, Residential Zones:

Minimum Lot Requirements				Minimum Yard Requirements (feet) ¹					Maximum Bldg. Height		Maximum Impervious Surface (Percent)		Minimum Open Space, Lot Cluster Option (Acres)	Minimum Floor Area Per Dwelling Unit (sq. ft.)
Conventional Lot		Lot Cluster		Principal Bldg.			Accessory Bldg.		Stories	Feet	Conventional Lot	Lot Cluster		
Area (sq. ft./acres)	Frontage (feet)	Area (sq. ft./acres)	Frontage (feet)	Front	Side	Rear	Side	Rear						
TH-S District 5 ac.	100	NA	NA	50 ⁸⁾	50 ⁸⁾	50 ⁸⁾	25 ⁸⁾	25 ⁸⁾	3	35	60%	NA		See Section 28-45
LA-S District none	none	NA	NA	30 ⁸⁾	20 ⁸⁾	30 ⁸⁾	20 ⁸⁾	20 ⁸⁾	3	35 ⁹⁾	65%	NA		See Section 28-60

- 1) from the property line. The municipal agency may permit lesser distance where conditions warrant, in the TH-S Zone (see Sect. 28-45 G.9.)
- 2) except that the municipal agency shall permit a height of up to 40 feet where necessary to accommodate three stories above the flood plain.

SECTION 5. ARTICLE VI-C shall be entitled "AFFORDABILITY CONTROL", and shall read as follows:

ARTICLE VI-C

AFFORDABILITY CONTROL

Sec. 28-50C. Purpose.

The purpose of this SUBARTICLE is to insure that low and moderate income housing units constructed pursuant to set-aside regulations in the Zoning Ordinance remain a low and moderate income housing resource, and to provide affordability control procedures and implementing mechanisms.

Sec. 28-51C. Definitions.

Affordable (A) means that ownership expenses for principal, interest, taxes and insurance, and condominium fees, if any, excluding, however, maintenance, heating and utility costs, shall not exceed (without the express written consent of the New Jersey Office of Public Interest Advocacy) 25% of the upper income limit for low or moderate income households, as the case may be. In determining ownership expenses in terms of qualifying household size -

1-bedroom	=	a 2-person household
2-bedrooms	=	a 4-person household
3-bedrooms	=	a 6-person household

(B) means that rental expenses for monthly contract rent, excluding utility charges, if any, shall not exceed 25% of the upper income limit for low or moderate income households, as the case may be.

Association, means an organization for the private ownership and maintenance of any open space, community buildings' amenities and improvements, including utilities, for the benefit of owners or residents of the development, whether or not such organization shall be controlled by the developer or home owners. .

Economic Analysis Model, is a financial analysis of housing cost components and development costs, modeling the effect of set-asides and other inclusionary zoning devices, upon the delivery of affordable (low-moderate income) housing; (1) in developments where mandatory set-aside regulations apply; or (2) where a developer seeks a density bonus or other inclusionary relief; or (3) where a developer seeks a density bonus or other inclusionary relief by means of a

zoning variance.

Interest rate, for the purpose of calculating affordability, shall mean the average of the National Mortgage Contract Rate blend of fixed and adjusted mortgages and the Federal Mortgage Bank published averages, not to currently exceed a 12.5% mortgage interest rate, but subject to subsequent annual adjustment by the Fair Housing Committee, based upon a survey of prevailing mortgage interest rates.

Low Income households, are those whose income fall below 50% of the area's median household income, adjusted for household size, as established periodically by H.U.D.

Mandatory Set-Aside, is an inclusionary zoning device providing internally subsidized dwelling units for low and moderate income households for rent or sale, as part of a development proposal.

Moderate Income households, are those whose income fall between 50 to 80% of the area's median household income, adjusted for household size, as established periodically by H.U.D.

Sales Price, means a stabilized sale price for low-moderate income units, fixed as a condition of final development approval and thereafter adjusted with the written approval of the Fair Housing Committee, based on changes in the Consumer Price Index, subsequent to the date of final approval.

Sec. 28-52C. Fair Housing Committee.

A Fair Housing Committee (FHC) is hereby established consisting of five (5) citizens of the Borough, to be appointed by the Mayor, with the advice and consent of the Council, to serve for initial, staggered terms as follows:

- 2 members for 1 year,
- 2 members for 2 years,
- 1 member for 3 years

Thereafter, each member shall serve for a 3-year term.

The FHC shall be charged with the following responsibilities:

- (A) assist the developer, owner or tenant association, in establishing procedures and standards in accordance with this Ordinance, for implementing the affordability control mechanism.
- (B) monitor affordability control compliance by developers, owner or tenant associations, fee owners and other parties in interest, including compliance with deed restrictions and disposition covenants.
- (C) in connection with the first and subsequent occupancy of all set-aside sale and rental units, review and amend the approved price stabilization plan, review implementation of affordability control standards and procedures, and in its sole discretion, make binding recommendations for changes in procedures or exercise the

right to disapprove occupancy for any or all set-aside sale or rental units in instances where eligibility is in question.

- (D) thereafter, review and approve annual set-aside occupancy reports prepared and filed by the developer, association or any party in interest, as may be required by its practices and procedures, or as contained in its rules and regulations.
- (E) promulgate rules and regulations subject to approval by the Governing Body and implementation in ordinance form.
- (F) file periodic reports with the Mayor and Council concerning the discharge of its responsibilities and immediately report non-compliance with affordability control standards and procedures for such action as the Council may deem appropriate.
- (G) monitor all governmental subsidy programs and make recommendations to Governing Body and Planning Board in connection therewith.

Sec. 28-53C. Affordability Control Standards.

Deed restrictions or disposition covenants in recordable

form, satisfactory to the Borough Attorney, shall restrict fee or leasehold disposition of all set-aside units for a term of 30 years. Restrictions or covenants shall provide that sale price or rent may not exceed original price or rent as inflated by 75% of the CPI plus documented capital improvements unless the owner or landlord can demonstrate to a Court of Law that such limitations are confiscatory with respect to the income stream for the entire project.

Sec. 28-54C. Economic Analysis.

Each development application in any zoning district having low and moderate income set-aside units shall provide an economic analysis of the effect of the proposed number of set-aside units upon the economic feasibility of the development. The economic analysis shall provide the information required and otherwise be generally in accordance with the sample project development models hereto annexed as Schedule A.

Sec. 28-55C. Application Procedures.

(A) Fair Marketing Program. The Fair Housing Committee shall establish procedures in connection with initial sales or rentals of all set-aside units and the developer shall be required to submit to the Fair Housing Committee, for its approval, an approved affirmative fair marketing program in accordance with such established procedures.

(B) Forms. Application forms and procedures for initial or first occupancy shall be subject to the approval of the FHC, provided that the same shall be submitted to the FHC for its review, not later than 120 days in advance of the estimated first occupancy date of any unit within a project. Applications shall provide information respecting the applicants' most recent Federal income tax return for the immediate past two (2) annual filing periods, and data as to family size and age, and a certification as to income from any other source.

(C) Review-Summary Report. The developer shall review all applications for set-aside dwelling unit occupancy in accordance with the standards and procedures in this Ordinance. The developer shall file with the FHC, summary report containing a compilation of data taken from application forms for all unit's occupants and pending and rejected applicants, together with the reason for any rejection. Action on all applications shall, at all times, comply with applicable fair housing law and practices. The names and addresses of applicants shall not be divulged in summary reports, provided that the FHC may, under appropriate safeguards so as to avoid public disclosure, require production of such information.

Notwithstanding the foregoing, the FHC, in its discretion, shall have the right to disapprove occupancy as provided in paragraph (C) of Sec. 28-52 C above.

(D) Certification, Each developer shall certify, to the FHC, the eligibility of all applicants for sale and rental units not less than 10 days after execution of a sales contract or binder or lease application or agreement; however, not less than 30 days prior to occupancy. The Certification shall provide information respecting applicant's compliance with all applicable affordability control standards, including a statement that price or rent shall not exceed original or amended price or rent as annually inflated by 75% of the CPI, plus documented capital improvements. Certification shall be made in affidavit form, subject to penalty for perjury, and personally signed by the developer, or in the case of a corporation, the principal stockholder, or in the case of a partnership, the general or principal partner. Association certification shall be made by the president or chairman of the board of trustees. Rental occupants shall be periodically recertified provided that all certifications shall lapse within the period of three (3) years.

(E) Low-Moderate Ratio. In acting upon applications, the Fair Housing Committee shall maintain a one-to-one low-moderate income ratio within each development project and throughout the Borough.

(F) Phasing Schedule. The developer shall submit a phasing schedule for the construction of the low and moderate income units. The developer may construct the first twenty (20%) percent of the development without constructing any low or moderate income units. Not more than forty (40%) percent of the units in the development shall be constructed until at least twenty (20%)

percent of the low and moderate income units shall have been constructed and sold to or reserved for eligible purchasers. Not more than sixty (60%) percent of the units in the development shall be constructed until at least forty-five (45%) percent of the low and moderate income units shall have been constructed and sold to or reserved for eligible persons. Not more than eighty (80%) percent of the units in the development shall be occupied until at least seventy (70%) percent of the low and moderate income units shall be constructed and sold to or reserved for lower income persons. No certificate of occupancy shall be issued for units other than units affordable to low or moderate income households until all low and moderate income units in the previous phase have been completed.

Sec. 28-56C. Resale and Rental Controls.

(A) Sales. The developer shall submit a plan for resale or rental controls to ensure that the units remain affordable to low and moderate income households for at least thirty (30) years. Where a low moderate income unit remains unsold for a period of six (6) months the developer shall be at liberty to rent such unit for a period not to exceed one (1) year and thereupon the resale limitations in this article shall automatically reapply. The purchaser of a unit shall be entitled to resell the unit for:

- (a) the original sales price plus the original sales price multiplied by seventy-five (75%) of the percentage increase in the Consumer Price Index between the date of purchase and the date of resale, and
- (b) reimbursement of documented monetary outlays for reasonable improvements, and
- (c) any reasonable costs incurred in selling the unit.

ordinance standards, or to grant tax abatement to qualifying units, where authorized by law.

Additionally, following satisfaction of the Borough's Mount Laurel obligations on a community-wide basis, the developer may request the Planning Board or the Borough Governing Body, to further increase fair market unit density and allow set-aside unit apportionment at a ratio of two (2) moderate units for one (1) low unit.

Sec. 28-58C. Rules and Regulations.

The FHC shall be authorized to adopt by-laws and other rules and procedures, and to hire a secretary, or to provide clerical assistance and legal counsel, as may be required, subject to budgetary limitations. The FHC shall also provide a mechanism for insuring that waiting lists of certified eligible occupants shall not be less than ten (10%) percent of the total number of set-aside units in the Borough.

All FHC by-laws and other rules and procedures shall be subject to the prior approval of the Governing Body, by resolution or ordinance, as may be appropriate.

Sec. 28-59C. Penalty.

Any person, firm, corporation, partnership or association violating the provisions of any section of this Ordinance, or any rule, regulation or order promulgated pursuant thereto, shall be punished by a fine not to exceed \$500.00, or by imprisonment for a period of not exceeding ninety (90) days, or by both such fine and imprisonment. The violation of this Ordinance, or any section, or any rule, regulation or order

CONSOLE A., AFFORDABILITY CONTROL

Total No. of units

Total Acres

Gross density _____

Total Units

Fair Market	1 Br. \$ _____	Moderate	1 Br. \$ _____	Low	1 Br. \$ _____
	2 Br. \$ _____		2 Br. \$ _____		2 Br. \$ _____
	3 Br. \$ _____		3 Br. \$ _____		3 Br. \$ _____

Stablized Sales Prices

Fair Market	1 Br. \$ _____	Moderate	1 Br. \$ _____	Low	1 Br. \$ _____
	2 Br. \$ _____		2 Br. \$ _____		2 Br. \$ _____
	3 Br. \$ _____		3 Br. \$ _____		3 Br. \$ _____

Monthly Costs

	Moderate			Low		
	1 Br.	2 Br.	3 Br.	1 Br.	2 Br.	3 Br.
Principal & Interest	\$	\$	\$	\$	\$	\$
Insurance	\$	\$	\$	\$	\$	\$
Taxes	\$	\$	\$	\$	\$	\$
Utilities	\$	\$	\$	\$	\$	\$
Assoc. Fees (if any)	\$	\$	\$	\$	\$	\$
TOTAL	\$	\$	\$	\$	\$	\$

Qualifying Incomes

Family Size	<u>Moderate</u>		<u>Low</u>	
	Monthly	Annual	Monthly	Annual
2	\$ _____	\$ _____	\$ _____	\$ _____
4	\$ _____	\$ _____	\$ _____	\$ _____
6	\$ _____	\$ _____	\$ _____	\$ _____

List in detail all public improvements, the cost of such improvements and the apportionment of costs between public and private.

List in detail the cost of all off-tract improvements and the per unit cost, attributable to Set-Aside Units.

AN ORDINANCE TO AMEND CHAPTER 28,
ZONING MAP OF THE BOROUGH OF
LINCOLN PARK, MORRIS COUNTY, NEW
JERSEY, DATED APRIL, 1978, IM-
PLEMENTING THE TERMS AND CONDITIONS
OF THE SETTLEMENT OF A CERTAIN ACTION
ENTITLED "MORRIS COUNTY FAIR HOUSING
COUNCIL, et als. v. BOONTON TOWNSHIP,
et als., SUPERIOR COURT OF NEW JERSEY,
LAW DIVISION, DOCKET NO. L-6001-78 P.W."

BE IT ORDAINED, by the Governing Body of the Borough of
Lincoln Park, Morris County, New Jersey, that the Zoning Map of
the Borough of Lincoln Park, Morris County, New Jersey, dated
April, 1978, and adopted as part of the Zoning Ordinance, be
amended as follows:

SECTION 1. The following described premises located in the
R-15 and R-20 districts shall be, and the same is hereby rezoned
to TH-S, TOWNHOUSE SET-ASIDE ZONE, as follows:

Townhouse Set-Aside,
East Tract
Located on Skyline Drive:

See Schedule A annexed hereto and made a part hereof.

SECTION 2. The following described premises located in the
R20 and CR (Commercial-Recreation) districts, shall be, and the
same is hereby rezoned to TH-S, TOWNHOUSE SET-ASIDE ZONE, as follow.

Townhouse Set-Aside,
South Tract
Located on Pine Brook Rd.

See Schedule B annexed hereto and made a part hereof.

SECTION 3. The following described premises located in the
R-40, TI (Transitional-Industrial) and I (Industrial) districts,
shall be, and the same is hereby rezoned to TH-S, TOWNHOUSE SET-
ASIDE ZONE, as follows:

Townhouse Set-Aside,
West Tract
Located west of the Airport

See Schedule C annexed hereto and made a part hereof.

SECTION 4. The following described premises located in the B-2 district, shall be, and the same is hereby additionally rezoned to GA-S, GARDEN APARTMENT SET-ASIDE OVERLAY ZONE, as follows:

Garden Apartment Set-Aside,
West Tract
Located on Beaver Brook Road

See Schedule D annexed hereto and made a part hereof.

SECTION 5. The following described premises located in the PRD II district, shall be, and the same is hereby additionally rezoned to GA-S, GARDEN APARTMENT SET-ASIDE OVERLAY ZONE, as follows:

Garden Apartment Set-Aside,
Central Tract
Located on Boonton Turnpike

See Schedule E annexed hereto and made a part hereof.

SECTION 6. The following described premises located in the R-20 district, shall be, and the same is hereby additionally rezoned to GA-S, GARDEN APARTMENT SET-ASIDE OVERLAY ZONE, as follows:

Garden Apartment Set-Aside,
East Tract
Located on Pine Brook Road

See Schedule F annexed hereto and made a part hereof.

SECTION 7. The Zoning Map of the Borough of Lincoln Park referred to in Chapter 28, Section 28-11, Zoning Ordinance, of the Revised Ordinances of the Borough of Lincoln Park, shall be

amended in accordance with the provisions of this ordinance.

SECTION 8. All ordinances or parts of ordinances which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistencies

SECTION 9. This ordinance shall take effect twenty (20) days after final passage and publication as prescribed by law.

ATTEST:

BOROUGH OF LINCOLN PARK

By: _____

ROBERT A. HOSLEY, Council Pres

Margaret Piccoli, Deputy Clerk

SCHEDULE A
TOWNHOUSE EAST
SKYLINE DRIVE

DESCRIPTION OF TH-S ZONE

Beginning at a point in the easterly sideline of Skyline Drive (60 feet wide) said point being distant 68.98 feet on a bearing of N 32°29'50" E from the intersection of said easterly sideline of Skyline Drive and the northerly sideline of Pine Brook Road (60 feet wide) and running; thence,

1. N 57°30'10" W ✓ 144.75 feet to a point; thence,
2. N 01°18'00" E ✓ 896.31 feet to a point; thence,
3. S 88°42'00" E ✓ 198.66 feet to a point; thence,
4. S 74°46'43" E ✓ 260.32 feet to a point; thence,
5. S 41°49'06" E ✓ 50.99 feet to a point; thence,
6. S 70°59'22" E ✓ 100.00 feet to a point; thence,
7. S 19°00'38" W ✓ 57.45 feet to a point; thence,
8. S 84°27'10" E ✓ 284.16 feet to a point of curvature thence,
9. Southeasterly, ✓
Easterly and
Northeasterly ✓ Along a curve to the left having a radius of 342.37 feet, a central angle of 31°56'56" and an arc length of 190.91 feet to a point of reverse curvature; thence,
10. Northeasterly and ✓
Easterly ✓ Along a curve to the right having a radius of 301.00 feet, a central angle of 32°07'15" and an arc length of 168.75 feet to a point of reverse curvature; thence,

11. Easterly and Northeastery ✓
✓ Along a curve to the left having a radius of 484.10 feet, a central angle of $18^{\circ}03'09''$ and an arc length of 152.53 feet to a point of tangency; thence,
12. N $77^{\circ}40'00''$ E ✓
✓ 56.37 feet to a point of curvature; thence,
13. Northeastery, Easterly and Southeastery ✓
✓ Along a curve to the right having a radius of 250.00 feet, a central angle of $14^{\circ}00'00''$ and an arc length of 61.09 feet to a point of tangency; thence,
14. S $88^{\circ}20'00''$ E ✓
✓ 305.00 feet to a point; thence,
15. S $01^{\circ}40'00''$ W ✓
✓ 1063.92 feet to a point; thence,
16. S $83^{\circ}45'02''$ W ✓
✓ 820.73 feet to a point; thence,
17. N $88^{\circ}42'00''$ W ✓
✓ 100.00 feet to a point; thence,
18. N $53^{\circ}11'06''$ W ✓
✓ 326.28 feet to a point; thence,
19. N $58^{\circ}28'50''$ W ✓
✓ 200.00 feet to a point; thence,
20. N $31^{\circ}30'17''$ W ✓
✓ 266.46 feet to a point on a curve in the easterly sideline of Skyline Drive; thence,
21. Southwesterly ✓
✓ Along a curve to the left having a radius of 270.00 feet, a central angle of $16^{\circ}07'40''$ and an arc length of 76.00 feet to a point of tangency; thence,
22. S $32^{\circ}29'50''$ W ✓
✓ 177.12 feet to the point or place of beginning.

CONTAINING - 40.91 ACRES

Schedule B

Townhouse Set-Aside
South Tract Located on Pine Brook Road

BEGINNING AT A POINT, said point being the northwest corner of Lot 8, Block 136 and the southwest corner of Lot 8-3, Block 136, said point also being in the eastern line of Lot 3, Block 136, as shown on the Tax Maps of the Borough of Lincoln Park, thence;

1. southeasterly along the common line of Lot 8 and Lot 8-3, 171.92 feet to a point, said point being the southeast corner of Lot 8-3 and the southwest corner of Lot 8-1, Block 136, thence;
2. southeasterly along the southern line of Lot 8-1, said line being also the common to Lot 8, 186.00 feet to a point, said point being the southeast corner of Lot 8-1, thence;
3. northeasterly along the eastern line of Lot 8-1, said line being also common to Lot 8, 365.12 feet to a point, said point being in the southern right-of-way line of Pine Brook Road, thence;
4. southeasterly along said right-of-way line to a point, said point being the northeast corner of Lot 8 and the northwest corner of Lot 8-2, Block 136, thence;
5. southwesterly along the eastern line of Lot 8, 871.12 feet to a point, thence;
6. northwesterly along the northerly line of Lot 8-2, 212.16 feet to a point in the easterly right-of-way line of the 50 foot right-of-way, thence;
7. southwesterly along the westerly line of Lot 8-2, 722.13 feet to a point, thence;
8. southwesterly along the westerly line of Lot 9, 924.00 feet to a point in the northerly line of Lot 4, thence;
9. southwesterly along the eastern line of Lot 5, said line being also common to Lot 4, 8.38 feet to a point, said point being the southeast

corner of Lot 5, thence;

10. southwesterly along the southern line of Lot 5, said line being also common to Lot 4, 503.98 feet to a point, said point being the southwest corner of Lot 5 and the southeast corner of Lot 3, point also being in the line of Lot 4, thence;
11. northeasterly along the eastern line of Lot 3, said line being also common to Lot 5, 946.56 feet to a point, thence;
12. northwesterly along the eastern line of Lot 3, said line being also common to Lot 5, 47.06 feet to a point, thence;
13. northeasterly along the eastern line of Lot 3, said line being also common to Lot 5, 378.18 feet to a point, said point being the northwest corner of Lot 5, point being also in the southern line of Lot 8, thence;
14. northwesterly along the southern line of Lot 8, said line being also common to Lot 3, 63.80 feet to a point, said point being the southwest corner of Lot 8, thence;
15. northeasterly along the eastern line of Lot 3, said line being also common to Lot 8, 1027.93 feet to THE POINT AND PLACE OF BEGINNING.

This is meant to describe a parcel of land comprised of Lot 5 and Lot 8, Block 136 containing approximately 34.16 acres. Distances described are those distances shown on the Tax Maps of the Borough of Lincoln Park, New Jersey.

Schedule C

Townhouse Set-Aside
West Tract Located West of The Airport

BEGINNING AT A POINT in the southerly line of Jacksonville Road said point being at the division line of Block 3, Lot 3-2, on the west and Block 3, Lot 4, said point being 1730 feet more or less from the point of intersect of the southerly right-of-way of Jacksonville Road and the westerly right-of-way of Beaver Brook Road thence;

1. along the division line of Block 3, Lot 4 and Block 3 Lot 3 southerly 1060 feet more or less to a point and corner, thence;
2. along the division line of Block 3, Lots 3 and 4 on the north and Block 3, Lot 7 on the south, westerly 340 feet more or less to a point and corner, thence;
3. along the division line of Block 3, Lot 3-1 on the west and Block 3, Lot 7 on the east, southerly a distance of 200 feet more or less to a point and corner, thence;
4. along the division line of Block 3, Lots 6 and 8 on the south and Block 3 Lot 7 on the north, easterly a distance of 80 feet more or less to a point and corner, thence;
5. along the division line of Block 3, Lot 8 on the west and Block 3, Lot 7 on the east, southerly a distance of 1150 feet more or less to a point a corner, thence;
6. still along the division line of Block 3, Lot 8 and 9 on the north and Block 3, Lot 7 on the south, westerly a distance of 890 feet more or less to a point a corner, thence;
7. along the division line of Block 3, Lot 9 and Block 3, Lot 7, the following three (3) courses; southerly a distance of 550 feet more or less to a point and corner, thence;
8. along the last menticted division line westerly a distance of 40

feet more or less to a point and corner, thence;

9. still along the same, southerly a distance of 560 feet more or less to a point thence;
10. making a new line through lands of Block 3, Lot 7 northeasterly a distance of 1300 feet more or less to a point, thence;
11. along the division line of Block 3, Lot 11 on the south and Block 3, Lot 7 on the north a distance of 500 feet more or less to a point, thence;
12. making a new line through lands of Block 3, Lot 7 northeasterly a distance of 880 feet more or less to a point and corner thence;
13. making a new line through lands of Block 3, Lot 7 northerly a distance of 2470 feet more or less to a point and corner thence;
14. along the division line of Block 3, Lot 10 on the east and Block 3, Lot 7 on the west, northerly a distance of 680 feet more or less to a point in the southerly line of Jacksonville Road, thence;
15. along the last mentioned line of Jacksonville Road westerly 770 feet more or less to THE POINT AND PLACE OF BEGINNING.

Containing 73 acres of land more or less.

SCHEDULE D.

Garden Apartment Set-Aside West.
Beaver Brook Road

BEGINNING in the centerline of McKelvey Street, at the point of intersection of said centerline of McKelvey Street with the centerline of Beaver Brook Road, running thence (1) Northwesterly along the centerline of Beaver Brook Road to its intersection with the southerly right-of-way of the Conrail property; thence (2) Easterly along the southerly right-of-way of said Conrail property a distance of approximately 1100 feet to the westerly sideline of McKelvey Street; thence (3) In a southerly direction along the westerly sideline of McKelvey Street to the point and place of BEGINNING.

SCHEDULE E.

Garden Apartment Set Aside, Central Tract
Boonton Turnpike

BEGINNING in the centerline of East Main Street, at the point of intersection of said centerline of East Main Street with the centerline of Summerbell Lane, running thence (1) Southerly along the centerline of Summerbell Lane to the northerly line of Lot 317, Block 22, thence (2) Westerly along the northerly line of Lot 317 a distance of approximately 20 ft. to the easterly sideline of Lot 328, Block 22, thence (3) Southerly along the westerly line of Lots 317, 336 and 335 to the centerline of Boonton Turnpike, thence (4) Westerly along the centerline of Boonton Turnpike to the prolongation of the westerly line of Lot 321, Block 22, thence (5) Northerly along the westerly line of Lot 321, Block 22, to its prolongation and intersection with Lot 310, Block 22, thence (6) Northerly along the westerly line of Lot 310, Block 22 to the point of intersection with the centerline of Main Street, thence (7) Easterly along the centerline of Main Street to the point of intersection with East Main Street, thence (8) Easterly along the centerline of East Main Street to the point of intersection with the centerline of Summerbell Lane, to the point and place of BEGINNING.

SCHEDULE F.

GARDEN APARTMENT SET-ASIDE, EAST TRACT
Pine Brook Road

Beginning at a point in northerly sideline of Pine Brook Road (60 feet wide) said point being distant along the following courses from the intersection of the northerly sideline of Pine Brook Road and the easterly sideline of Skyline Drive (60 feet wide) and running; thence,

A. S $58^{\circ}28'50''$ E ✓

✓463.83 feet along the northerly sideline of Pine Brook Road to a point; t

B. S $52^{\circ}21'10''$ E ✓

✓567.85 feet along said northerly sideline to the point of beginning and running; thence,

1. N $01^{\circ}18'00''$ E ✓

✓325.00 feet to a point; thence,

2. N $83^{\circ}45'02''$ E ✓

✓820.73 feet to a point; thence,

3. S $88^{\circ}20'00''$ E ✓

✓87.30 feet to a point; thence,

4. S $01^{\circ}40'00''$ W ✓

✓473.26 feet to a point; thence,

5. S $25^{\circ}15'10''$ W ✓

✓366.47 feet to a point in the north sideline of Pine Brook Road; thence

6. N $64^{\circ}44'50''$ W ✓

✓505.09 feet to a point of curvature in said northerly sideline; thence,

7. Northwestery ✓

Along a curve to the right having a radius of 1,407.69 feet, a central angle of $12^{\circ}23'40''$ and an arc length of 304.52 feet to a point of tangent thence,

8. N 52°21'10" W

30.67 feet still along said northerly
sideline to the point or place of
beginning.

CONTAINING 12.15 ACRES

AN ORDINANCE TO FURTHER AMEND
 CHAPTER 28, ZONING ORDINANCE,
 OF THE CODE OF THE BOROUGH OF
 LINCOLN PARK, IMPLEMENTING THE
 TERMS AND CONDITIONS OF THE
 SETTLEMENT OF A CERTAIN ACTION
 ENTITLED "MORRIS COUNTY FAIR
 HOUSING COUNCIL, et als. v.
 BOONTON TOWNSHIP, et als.,
 SUPERIOR COURT OF NEW JERSEY,
 LAW DIVISION, DOCKET NO.
 L-6110-78 P.W."

BE IT ORDAINED, by the Governing Body of the Borough of
 Lincoln Park, in the County of Morris, New Jersey, as follows:

SECTION 1. ARTICLE VI-B, ACH, ADULT COMMUNITY HOUSING,
 SUBSIDIZED AND NON-SUBSIDIZED OVERLAY ZONE, Sec. 28-50B (e),
 shall be amended to read as follows:

- ✓ (e) The developer shall set aside twenty (20%) per-
 cent of the total units for low and moderate
 senior citizens households in accordance with
 ARTICLE VI-C, Affordability Control Standards.

SECTION 2. ARTICLE VI-C, AFFORDABILITY CONTROL, shall be
 amended by the addition of a new Sec. 28-50C.1, Prohibition,
 which shall read as follows:

Sec.28-50C.1. Prohibition.

- ✓ 1. The Borough shall not zone, rezone, grant
 variances or grant any preliminary or final
 site plan approval for townhouses or garden
 apartments, at gross densities higher than
 4 units/acre unless the development is
 subject to a mandatory set-aside for
 units affordable to low and moderate
 income households as defined in this
 Ordinance.

*Formerly
 Not more than
 25%*

SECTION 3. ARTICLE VI-C, AFFORDABILITY CONTROL, Sec.28-51C.

Definitions.

A. Affordable (A), shall be amended by revising the Schedule of household sizes and bedroom sizes in determining ownership expenses for purposes of qualifying household size, and shall read as follows:

- 1 Bedroom = 2 person household
- ✓ 2 Bedrooms = 3 person household
- 3 Bedrooms = 5 person household

B. By the inclusion of a new definition "Flat", between the definitions of "Economic Analysis Model" and "Interest rate", and shall read as follows:

- ✓ "Flat" means a 1-story apartment unit in a building which may or may not contain 2-story apartment units.

✓C. "Interest Rate" shall be amended by substituting the term "Federal Home Loan Bank" for "Federal Mortgage Bank".

SECTION 4. ARTICLE VI-C, Sec. 28-53C. Affordability Control Standards, shall be amended to read as follows:

✓ "Deed restrictions or disposition covenants in recordable form, satisfactory to the Borough Attorney, shall restrict fee or leasehold disposition of all set-aside units for a term of 30 years, and shall contain resale or rental control provisions in accordance with the provisions of Sec. 28-56C of this Ordinance."

SECTION 5. ARTICLE VI-C, Sec. 28-55C, Application Procedures, subparagraph (D) Certification; subparagraph (E) Low-Moderate Ratio; and subparagraph (F) Phasing Schedule, shall be amended to read as follows:

✓ "(D) Certification. Each developer shall certify, to the FHC; the eligibility of all applicants for sale and rental units not less than 10 days after execution of a sales contract or binder or lease application or agreement; however, not less than 30 days prior to occupancy. The Certification shall provide information respecting applicant's compliance with all applicable affordability control standards, including a statement that price or rent shall not exceed ~~resale and rental control~~ provisions, ~~as contained in Sec. 28-56C of this Ordinance.~~ Certification shall be made in affidavit form, subject to penalty for perjury, and personally signed by the developer, or in the case of a corporation, the principal stockholder, or in the case of a partnership, the general or principal partner. Association certification shall be made by the president or chairman of the board of trustees. Rental occupants shall be periodically recertified provided that all certifications shall lapse within the period of three (3) years."

✓ (E) ~~Low-Moderate Ratio.~~ In acting upon applications, the Fair Housing Committee shall maintain a one-to-one low-moderate income ratio within each development project and throughout the Borough, and in addition, ~~one-half of all 2 and 3-bedroom units shall be low income units.~~

(F) ~~Phasing Schedule~~. The Developer shall submit a phasing schedule for the construction of Low and Moderate Income Units. The phasing schedule shall provide that the number of Low Income Units constructed in each phase shall be approximately equal to the number of Moderate Income Units constructed in that phase. The developer may construct and receive certificates of occupancy for the first twenty (20%) per cent of the Market Units without receiving certificates of occupancy for any Low or Moderate Income Units. Not more than forty (40%) per cent of the Market Units in the development shall receive certificates of occupancy until at least twenty (20%) per cent of the Low and Moderate Income Units shall have received certificates of occupancy. Not more than sixty (60%) per cent of the Market Units in the development shall receive certificates of occupancy until at least forty-five (45%) per cent of the Low and Moderate Income Units shall have received certificates of occupancy. Not more than eighty (80%) per cent of the Market Units in the development shall receive certificates of occupancy until at least seventy (70%) per cent of the Low and Moderate Income Units shall have received certificates of occupancy. The developer may receive certificates of occupancy for 90% of the Market Units as soon as 90% or more of the Low and Moderate Income Units have received certificates of occupancy. The developer may receive certificates of occupancy for 100% of the Market Units as soon as 100% of the Low and Moderate Income Units have received certificates of occupancy."

FILED

OCT 31 1984

STEPHEN SKILLMAN, J.S.C. JOHN J. HANCOCK, JR.
JOSEPH H. RODRIGUEZ, PUBLIC ADVOCATE
DEPARTMENT OF THE PUBLIC ADVOCATE
BY: STEPHEN EISDORFER
ASSISTANT DEPUTY PUBLIC ADVOCATE
DIVISION OF PUBLIC INTEREST ADVOCACY
HUGHES JUSTICE COMPLEX
CN-850
TRENTON, NEW JERSEY 08625
(609) 292-1692

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION-MIDDLESEX/MORRIS COUNTIES
DOCKET NO. L-6001-78 P.W.

MORRIS COUNTY FAIR HOUSING
COUNCIL, et al.

Plaintiffs,

vs.

BOONTON TOWNSHIP, et al.,

Defendants.

:

:

RM Civil Action
(Mt. Laurel Action)

:

ORDER APPROVING NEGOTIATED SETTLE-
MENT AS TO LINCOLN PARK BOROUGH

:

This matter having been heard on October 11, 1984, in the presence of counsel for plaintiffs, defendant Lincoln Park Borough, objector K. Hovnanian, Inc., and amicus curiae Wildlife Preserves, Inc., on the joint application of plaintiffs and defendant Lincoln Park Borough for approval of a negotiated settlement and entry of a judgment of compliance in favor of Lincoln Park Borough; and the Court having considered the papers, testimony and arguments of counsel for the parties and the papers and arguments of counsel for K. Hovnanian, Inc. and Wildlife Preserves, Inc., and it appearing to the Court that, subject to certain conditions, the negotiated settlement should be approved and judgment of compliance should be permitted to enter;

"EXHIBIT C"

It is on this day of October, 1984, ORDERED:

1. Subject to the following conditions, the settlement agreement annexed as Attachment A is fair, adequate, and reasonable:

a) That the agreement provide for annual reporting by defendant to the Court and the plaintiffs;

b) That the schedule for phasing construction of lower income units and market-rate units set forth on page 34 of the ordinance be revised to assure equal numbers of low and moderate units be developed in each phase and that construction of market rate units clearly be made contingent upon maintaining an appropriate schedule for development of low and moderate income;

c) That the ordinance provide that half of all two and three bedroom lower income units be low income units;

d) The formula for resale prices set forth at pages 37 and 39 of the ordinance be conformed to the formula set forth at page 40;

e) That the schedule of household sizes and bedroom sizes set forth at page ~~32~~³² of the ordinance be amended as follows:

- 1 bedroom - ~~1~~ 2 persons
- 2 bedroom - 3 persons
- 3 bedroom - ~~4~~ 5 persons;

f) That the term "flat" be defined in the ordinance;

g) That the ordinance incorporate the provision of section 14 of the agreement;

h) The term "Federal Home Loan Bank Board" be substituted for ^{"Federal} ~~National~~ Mortgage Bank" on page ~~32~~³⁴ of the ordinance;

i) That the phrase "not more than" be deleted from

Section 28-50B of page 23 of the ordinance.

2. Upon submission of an executed supplemental agreement in which the defendant undertakes in accordance with applicable law to comply with these conditions, a final judgment of compliance may enter.

3. Counsel for plaintiffs and Lincoln Park Borough shall confer with counsel for K. Hovnanian forthwith on proposed revisions of Section 28-55C(f) of the ordinance concerning phasing. If the parties cannot devise language acceptable to K. Hovnanian, Inc., K. Hovnanian, Inc. may submit a written objection to this Court setting forth proposed alternative language on or before October 18, 1984.


STEPHEN SKILLMAN, J.S.C.

Dated: 10/31/84

THIS AGREEMENT, made this 17th day of August, 1984, by and between:

THE BOROUGH OF LINCOLN PARK,
A Municipal Corporation of the State of New Jersey,

-and-

The Morris County Branch of the National Association for
the Advancement of Colored People;

The Morris County Fair Housing Council; and

Joseph H. Rodriguez, Public Advocate of the State of
New Jersey;

hereinafter collectively designated as "Plaintiffs."

WHEREAS, the Plaintiffs on October 13, 1978, instituted a certain
action in the Superior Court, Law Division, Morris County, bearing
docket number L-6001-78 P.W., against the Borough and other parties:
and

WHEREAS, the parties hereto are desirous of entering into an
agreement of settlement to resolve their differences in the aforesaid
litigation;

NOW, THEREFORE in consideration of the mutual covenants, promises,
terms and conditions hereinafter provided, it is agreed by and between
the Borough and the Plaintiffs as follows:

1. This agreement is reached after due deliberation by all parties
and upon the considered judgment of all parties that it is in the best
interest of the public good and welfare to settle the aforesaid litigation
upon the terms and conditions contained herein so as to fully meet
the fair share obligation of the Borough.

2. In accordance with the law, the Borough agrees to amend the
zoning ordinance of the Borough to establish affordable townhouse, garden
apartment and adult community housing zones as set forth in Exhibit "A"

~~EXHIBIT~~

attached hereto and made part hereof. The coverage of these zones is limited to lands designated in Exhibit A.

3. The parties have agreed that 212 units represents the Borough fair share through the year 1990.

4. On or before March 1, 1990 the Borough shall, through its normal planning process, assess its fair share of housing needs to determine whether an opportunity for additional low and moderate income units is necessary and, if so, to create such additional opportunity.

5. In the event that additional publicly subsidized housing affordable to low or moderate income households is constructed in the Borough on or before March 1, 1990, the Borough shall receive credit for each unit towards satisfaction of its fair share obligation.

6. In addition to the provisions in Exhibit A, the municipality shall take all reasonable steps to foster development of the units affordable to low and moderate households called for by paragraphs 2, and 3 including but not limited to:

- a) adoption of such resolutions of need, execution of payment in-lieu-of-taxes resolutions, or public housing cooperation agreements as may be necessary to facilitate a developer in obtaining public subsidies for the construction of housing affordable to low and moderate income households;
- b) Use its best efforts to expedite disposition of complete applications and municipal approvals by a developer in the affordable housing zones;
- c) cooperation with a developer in the affordable housing

- d) cooperation with the needs of a developer and the requirements of state and federal agencies concerning the administration of resale price controls.
- e) waiver of the following fees for the low and moderate income units in the affordable housing developments:
 - (1) Subdivision and site plan application fees on a pro-rata basis based on the percentage of low and moderate income housing the development.
 - (2) Building permit fees, except state fees.
 - (3) Certificate of occupancy fees.
 - (4) Engineering fees in excess of 2½% of improvement costs, on a pro-rata basis based on the percentage of low and moderate income housing in the development.

7. The Borough shall provide written notice to plaintiffs of any applications for preliminary or final approval by developers in the affordable housing zones, and of any preliminary or final approvals or denials, whether conditional or unconditional.

8. Upon enactment of the amendments described in paragraph 2, the parties shall enter a stipulation of dismissal of this complaint with prejudice incorporating this agreement.

9. This settlement is conditioned upon entry of a final judgment of compliance by the courts pursuant to Southern Burlington County N.A.A.C.P. v. Mt. Laurel Tp., 92 N.J. 158 at 291. Plaintiffs agree to support defendants application for a final judgment of compliance.

10. Upon the construction and occupancy of sufficient units

affordable to low and moderate income households under the ordinance set forth as Appendix A to satisfy the municipality's fair share under paragraphs 3, 5 and 6 of this agreement and upon written notice to plaintiff, the municipality may repeal or amend the ordinance set forth in Appendix A.

11. In the event that more than 50% of the land by area in any of the zones established under this agreement ceases to be available for development pursuant to the provisions adopted under section 2 of this agreement because of development for other purposes, condemnation, state or federal prohibitions or restrictions upon development or any other reason, the municipality upon written notice to and with the approval of plaintiffs, shall rezone sufficient other developable land pursuant to this provision to make it realistically likely that a sufficient number of units affordable to low and moderate income households will be constructed to satisfy the municipality's fair share.

12. With the written consent of plaintiffs, the municipality may substitute any area of equivalent size and suitability for any of the areas rezoned pursuant to paragraph 2.

13. The municipality shall receive credit against its housing obligation for up to 34 units of housing currently occupied by low or moderate income households that have been rehabilitated with public funds since April 1, 1980, upon presentation of documentation acceptable to plaintiffs.

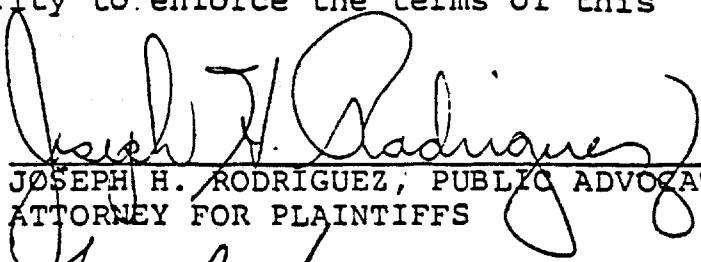
14. The municipality shall not zone, rezone, grant variances or grant any preliminary or final site plan approval for town-

houses or garden apartments, at gross densities higher than 4 units/acre unless:

- a) the development is subject to a mandatory set aside for units affordable to low and moderate income households identical to that contained in Exhibit A, or
- b) the municipality has met its fair share obligation.

15. The parties agree that nothing in this agreement shall constitute any admission on the part of the Borough of Lincoln Park or determination by the parties as to the region within which the Borough of Lincoln Park is situate, for purposes of fair share low/moderate income housing allocation.

16. Upon enactment into law, the low and moderate income housing amendments as set forth in Exhibit A shall not be repealed, amended, or modified without the express consent of the plaintiffs, through their counsel, the Department of the Public Advocate, except as provided in paragraph 10 above. In the event of any breach of any provision of this agreement the plaintiffs may seek relief by way of any remedy provided by law. The owners or assignees of the lands which are rezoned by this amendment are also recognized as third party beneficiaries with authority to enforce the terms of this settlement agreement.


JOSEPH H. RODRIGUEZ, PUBLIC ADVOCATE
ATTORNEY FOR PLAINTIFFS

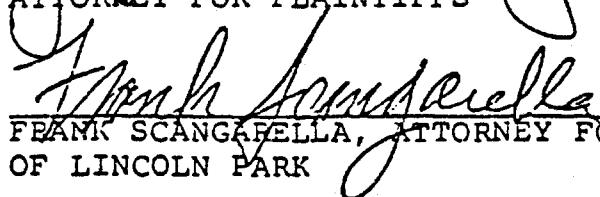

FRANK SCANGARELLA, ATTORNEY FOR BOROUGH
OF LINCOLN PARK

Exhibit D

CERTIFIED to be a true and correct copy of an ORDINANCE adopted on Roll Call at a Regular Meeting of the Governing Body of the Borough of Lincoln Park on July 23, 1984 *Margaret Piccoli*

Margaret Piccoli, Deputy Borough Clerk

~~BOROUGH OF LINCOLN PARK IN THE COUNTY OF MORRIS AND STATE OF NEW JERSEY~~

EXHIBIT A

19-84

Ordinance No. 750

Adopted July 23, 1984

Effective August 14, 1984

AN ORDINANCE TO AMEND CHAPTER 28, ZONING ORDINANCE, OF THE CODE OF THE BOROUGH OF LINCOLN PARK, IMPLEMENTING THE TERMS AND CONDITIONS OF THE SETTLEMENT OF A CERTAIN ACTION ENTITLED "MORRIS COUNTY FAIR HOUSING COUNCIL, et als. v. BOONTON TOWNSHIP, et als., SUPERIOR COURT OF NEW JERSEY, LAW DIVISION, DOCKET NO. L-6001-78 P.W.", BY ESTABLISHING THE TH-S, TOWNHOUSE SET-ASIDE ZONE, THE GA-S, GARDEN APARTMENT SET-ASIDE ZONE, AND INCORPORATING THE ACH, ADULT COMMUNITY HOUSING ZONE, BY THE TRANSFER THEREOF FROM ARTICLE V. OF THIS CHAPTER, AND BY THE TRANSFER AND SUBSTITUTION IN SUCH ARTICLE V., SEC. 28-44, OF THE PRD II, PLANNED RESIDENTIAL DEVELOPMENT II REGULATIONS, AND BY ESTABLISHING AFFORDABILITY REGULATIONS.

BE IT ORDAINED, by the Governing Body of the Borough of Lincoln Park, in the County of Morris, New Jersey, as follows:

SECTION 1. ARTICLE VI, Sec. 28-50 through 28-56, PRD II, PLANNED RESIDENTIAL DEVELOPMENT II, shall be redesignated and incorporated in the provisions of ARTICLE V., Sec. 28-44.1 through 44.7.

SECTION 2. ARTICLE VI. shall be entitled "TH-S, TOWNHOUSE SET-ASIDE ZONE, and shall be amended to read as follows:

ARTICLE VI.

TH-S, TOWNHOUSE SET-ASIDE ZONE

Sec. 28-50. Purpose.

The purpose of the TH-S. Townhouse Set-Aside Zone, is to provide for and encourage the construction of housing affordable to low and moderate income households by permitting townhouse development conditioned upon the agreement to set-aside at least twenty (20%) percent of the units built for low and moderate income households.

"EXHIBIT D"

Sec. 28-51. Permitted Uses.

Within the TH-S Zone, the following uses only are permitted:

1. Provided that 20% of the dwelling units constructed are set-aside for lease or purchase by low and moderate income households set forth in ARTICLE VI, C the following two uses are permitted:
 - a. Townhouses as defined in Sec. 28-2 except that individual yards shall not be required and flats may be included in the same building with townhouse units;
 - b. Flats.
2. Other uses permitted are:
 - a. Common Open Space;
 - b. Signs as accessory uses, as follows:
 - (1). Signs located at the entrance of a TH-S Development. The total surface area of any such sign shall not exceed thirty-two (32) square feet in surface area. No more than one (1) sign shall be permitted per entrance.
 - (2) Directional signs for the convenience of the residents to identify parking areas, rental offices, recreation areas, entrances and exits, which signs shall not exceed two (2) square feet in surface area.

(3) The design, location and landscaping of signs shall be in accordance with the specifications and conditions determined by ARTICLE XIII (SIGNS) of this Chapter.

c. Single-family and two-family dwellings in accordance with ARTICLE III, Schedule of General Requirements, and ARTICLE V of this Chapter for the R-15 Zone.

d Accessory uses customarily incidental to the above uses.

3. Suspension of Zoning

Following the construction of 120 townhouse set-aside units for low and moderate income households, the TH-S Zone, together with the regulations in Sec. 28-45 shall cease to be in effect for undeveloped lands, and upon such event all undeveloped lands designated TH-S shall be rezoned in accordance with the designations provided by ordinance.

Sec. 28-52. Density Standard.

The density of a TH-S development shall not exceed 10 dwelling units per acre of site, including any new on-site streets, public or private.

Sec. 28-53. Parking Requirements.

There shall be off-street parking facilities for at least two (2) automobiles for each dwelling unit. Each parking space

shall measure at least 9 feet by 19 feet. Off-street parking spaces may be covered or uncovered, within or adjacent to each dwelling unit or separate, or any combination of such parking arrangements. Any parking area for three or more automobiles shall be at least 25 feet from the front or rear wall of any dwelling unit, and at least 10 feet from the side or end wall of any dwelling unit or group of dwelling units. There shall be no parking in the front yard setback of the lot, except on a driveway serving an individual townhouse unit.

Parking areas shall be paved and curbed and provided with adequate storm water drainage. The parking plan must be approved by the Municipal Agency. Each dwelling unit shall be assigned at least one parking space, either in a garage or in a parking area.

Sec. 28-54. Minimum Site Area.

The minimum area for a TH-S development shall be five contiguous acres exclusive of existing public streets.

Sec. 28-55. Building Coverage and Impervious Surface.

The maximum coverage of the site by all buildings shall be 30 percent of the site area exclusive of existing public streets. The maximum impervious surface shall be 60% of the site area exclusive of existing public streets.

Sec. 28-56. Building Requirements.

1. The minimum width of any townhouse dwelling unit or flat shall be 18 feet.
2. The distance between buildings shall be not less than 30 feet.

3. The maximum size of any building containing townhouses, flats or a combination thereof shall be eight (8) dwelling units per floor. When a dwelling unit occupies more than one floor, the part of each floor shall be counted as a whole dwelling unit for the purposes of computing the number of dwelling units per floor.
4. Each building shall contain an enclosed, lockable storage space for each unit, exclusive of closets. Such storage space shall be at least 60 square feet in area and 6 feet in height and shall be provided within the unit or in a common area such as a basement or cellar.
5. Built-in air conditioning units shall not project more than two inches from the outside face of the wall.
6. Each dwelling unit shall have at least two (2) exterior exposures, each of which shall be provided with windows, doors or a combination thereof, so as to provide cross or through ventilation for such unit.
7. The minimum floor space of any unit shall be:

1-bedroom	550 square feet
2-bedroom	660 square feet
3-bedroom	800 square feet

or in conformity with the standards set forth in the Department of Housing and Urban Development, Minimum Property Standards for Multi-Family Housing, 401-3.1

to 3.6 (1979), whichever is less. At least 20 percent of the low and moderate income units shall be three bedroom units, and no more than 50 percent shall be one bedroom or efficiency units. No garage, cellar or storage area shall be counted towards meeting the minimum floor area requirement for dwelling units.

8. The front or rear set-back of any dwelling, as measured from the curb to any private street, drive, or parking area for three or more automobiles, shall be not less than 25 feet. The side set-back of any dwelling shall be not less than 10 feet as measured from the curb of any private street, drive or parking area for three or more automobiles.
9. Other building requirements shall be as set forth in Sec. 28-21, Schedule of General Requirements. The Municipal Agency shall reduce the 50 foot yard requirement if the developer demonstrates to the Agency's satisfaction, that the cost of utility installation would be excessive unless a smaller yard is permitted. In no case, however, will a yard of less than 25 feet be permitted.

Sec. 28-57. Streets and Sidewalks.

1. Any new public street, private interior road or driveway shall be constructed so as to intersect any existing or proposed public street at least 100 feet from any existing or proposed intersection. If, in the opinion of the Municipal Agency, a proposed inter-

section located 100 feet from another intersection would create a special hazard because of road alignment, topographic conditions, or existing or projected traffic conditions or other conditions, the Agency may require such proposed intersection to be located up to 200 feet from such other intersection.

2. Each development of eight (8) or more acres, having frontage in excess of 400 feet, (or) smaller development with frontages on two (2) existing streets, shall be provided with at least two (2) access roads as means of traffic ingress and egress to the development. Said roads shall not be less than two hundred (200) feet apart.
3. Streets which are to be dedicated as public streets shall conform with the Borough standards for public streets as to width and construction. All dedicated streets shall have curbs. Streets which are to be private interior roads shall have a right-of-way width of 40 feet and a curbed pavement width of 30 feet for two-way streets and a right-of-way width of 35 feet and a curbed pavement width of 25 feet for one-way streets. All private roads and access ways shall be kept open for access by all emergency vehicles and the Department of Public Works. Maintenance, cleaning and snow removal of all such roads shall be carried out by the management of the development according to the satisfaction of the Borough. Any failure on the part

of the owner to comply shall result in the work being done by the Borough at the expense of the owner and, to the extent permitted by law, such expense shall become a lien against said property.

4. Sidewalks along public streets shall be constructed in accordance with the municipal standards, except that the Municipal Agency shall have the power to decrease the number and width of such sidewalks if it deems it necessary in accordance with ARTICLE VI.C, Affordability Controls.
5. Sidewalks of at least four (4) feet in width shall be provided to connect the entrance of each dwelling unit with a public street or interior road and to connect each residential building to the parking areas serving such building.
6. Sidewalks of at least four (4) feet in width shall be provided on at least one side of all private roads.
No sidewalk, except those leading to a building entrance, shall be closer to a building than 10 feet.
7. Sidewalks not on public streets shall be of concrete, constructed in accordance with the Borough's specification ordinance except that the Municipal Agency shall have the power to modify these standards if it deems it necessary in accordance with ARTICLE VI.C, Affordability Controls.

Sec. 28-58. Utilities and Services.

1. Every dwelling unit shall be provided with public water and public sanitary sewer which shall be installed by and at the expense of the developer.
2. All utilities shall be installed underground.
3. Street lighting on public and private streets shall be in accordance with the specifications in the Borough ordinances. Additional lighting shall be provided as necessary to minimize hazards to pedestrians and motor vehicles in parking areas near dwelling entrances and along sidewalks.
4. If refuse pick-up areas are provided, they shall be located for the occupants' convenience. All such areas shall be screened with evergreens on three (3) sides and planted to the height of at least 4 feet, or with a solid wood or decorative masonry screen high enough to shield the containers in the pick-up areas.
5. Television antenna equipment shall be built into the building or provided by means of a common antenna tower, provided that such tower receives all required municipal approvals.

Sec. 28-59. Landscaping and Screening.

1. All developments shall be provided with liberal and functional landscaping schemes. Roads and

pedestrian walks shall be provided with shade trees which are at least a minimum size and character in accordance with the standards in the DRO and The Shade Tree Committee of the Borough.

2. Open space adjacent to buildings, malls between buildings intended for utilization by residents and border strips along the sides of pedestrian walks shall be graded and seeded to provide a thick stand of grass or planted with trees and shrubs or any combination thereof. Areas not used for buildings, terraces, recreation equipment, drives, parking spaces or sidewalks shall be seeded or landscaped and maintained in a proper condition. Unless all of the dwelling units are to be rented, these areas shall be placed in a common open space organization plan, pursuant to ARTICLE XIV of Chapter 17 (DRO).
3. Where necessary to shield occupants and adjoining properties from unsightly, disturbing or light-glaring areas, screening or buffers consisting of a solid evergreen hedge at least five (5) feet tall at planting or earth berms and smaller plantings totaling five (5) feet in height shall be installed. The Municipal Agency may permit a solid wood fence or decorative masonry wall in lieu of an evergreen hedge where conditions warrant.
4. The developer shall furnish, together with the plans and specification required under Chapter 17 (Development Review Ordinance) of the Code of the Borough of Lincoln

Park, landscaping plans drawn by a licensed professional, indicating landscaping intended for the development as well as plans for lighting the grounds, roads, drives, walks, parking areas and building entrances. Additional plans shall show contours, drainage areas, streams, wooded areas and any other natural features of the land in a natural state before development proposals.

5. There shall be a buffer strip of at least twenty-five (25) feet in width on all lot lines adjoining zone district lines and on all lot lines adjoining existing existing improved residential property. No buffer shall be required where such lot line borders a public street. All such buffer strips, if wooded, shall remain in their natural state or otherwise shall be planted with an evergreen screen at least six (6) feet in height.

SECTION 3. ARTICLE VI-A., shall be entitled "GA-S, GARDEN APARTMENT SET-ASIDE OVERLAY ZONE, and shall read as follows:

ARTICLE VI-A

GA-S, GARDEN APARTMENT SET-ASIDE OVERLAY
ZONE

Sec. 28-50A. Purpose.

The primary purpose of the GA-S, Garden Apartment Set-Aside Overlay Zone, is to provide for and encourage the construction of housing affordable to low and moderate income households by offering a developer alternative uses and development standards

in exchange for an agreement to set-aside at least 20 percent of units built for low and moderate income households.

Sec. 28-51A. Permitted Uses.

Within the GA-S Overlay Zone, in addition to the uses otherwise permitted in the underlying zones, the following uses are permitted, provided that at least 20% of the dwelling units shall be set-aside for rent by low and moderate income households in accordance with ARTICLE VI-C, Affordability Standards:

1. An apartment building or a group of apartment buildings conforming to the definition of garden apartments as set forth in Sec. 28-2.
2. Common Open Space
3. Accessory uses customarily incidental to the above uses.
4. The following signs shall be permitted as accessory uses:
 - a. Signs located at the entrance of a Garden Apartment Development. The total surface area of any such sign shall not exceed thirty-two (32) square feet in surface area. No more than one (1) sign shall be permitted per entrance.
 - b. Directional signs for the convenience of the residents to identify parking areas, rental offices, recreation areas, entrances and exits, which signs shall not exceed two (2) square feet in surface area

c. The design, location and landscaping of signs shall be in accordance with the specifications and conditions determined by ARTICLE XIII (SIGNS) of this Chapter.

5. Susepnsion of Zoning

Following the construction of 20 garden apartment units set-aside for low and moderate income households, the GA-S Overlay Zone, together with the regulations in Sec. 28-60 shall cease to be in effect.

Sec.28-52A. Density.

The density of the development shall not exceed 15 dwelling units per acre of site including any new on-site streets, public or private.

Sec. 28-53A. Parking.

1. There shall be off-street parking facilites in accordance with the following schedule as a minimum requirement:

Each 1-bedroom or studio unit	1½ spaces
Each 2-bedroom unit	1-3/4 spaces
Each 3-bedroom unit	2 spaces

2. Each off-street parking space shall measure at least 9 feet by 19 feet.
3. No parking shall be permitted on any road within a GA-S development. Off-street parking spaces may be uncovered or in a garage or carport. Unless located in a garage at the basement or cellar level of a garden apartment building, all parking areas shall

be at least 20 feet from any front or rear wall of any building containing a dwelling unit, and at least 10 feet from any side or end wall of any building containing a dwelling unit. There shall be no parking in the front yard set-back of the lot. Parking areas shall be paved and curbed and provided with adequate storm water drainage. The parking plan must be approved by the Municipal Agency. Each dwelling unit shall be assigned one parking space, either in a garage or in a parking area.

4. Garages shall not be allowed as separate structures, but may be built under the apartment structure as hereinafter provided:
 - (a) Size: Each garage space shall be at least ten (10) feet wide and twenty-two (22) feet in depth.
 - (b) Vehicular access to garages shall be from the side or rear of the building.
 - (c) The entrance to garages shall not be on any main access street or public street.

Sec. 28-54A. Building Coverage and Impervious Surface.

The maximum coverage of the site by all buildings shall be 30% of the site area exclusive of existing public streets. The maximum impervious surface shall be 65% of the site area exclusive of existing public streets.

the Municipal Agency shall have the power to decrease the number and width of such sidewalks if it deems it necessary in accordance with ARTICLE VI-C, Affordability Controls.

5. Sidewalks of at least four (4) feet in width shall be provided to connect every entrance to each building with a public street or interior road, to connect each residential building to the parking areas serving such building, to provide access to each service entrance and wherever else required by the Municipal Agency at the time of site plan approval.
6. Sidewalks of at least four (4) feet in width shall be provided on at least one side of all private roads.
7. No sidewalks, with the exception of those leading to and from building entrances and exits, shall be placed closer to a building than ten (10) feet.
8. Sidewalks not on public streets shall be of concrete, constructed in accordance with the Borough's specification ordinance except that the Municipal Agency shall have the power to modify these standards if it deems it necessary in accordance with ARTICLE VI-C, Affordability Controls.

Sec. 28-57A. Utilities and Services

1. Every dwelling unit shall be provided with public water and public sanitary sewer, which shall be installed by and at the expense of the developer. The design and

Sec. 28-55A. Building Requirements.

1. The general architectural plan of the building must be approved by the municipal Agency. The maximum number of units per floor, shall be eight (8) units, except that the Municipal Agency shall have the power to increase the number of units per floor in accordance with ARTICLE VI-C., Affordability Control.
2. Each building shall contain an enclosed, lockable storage space for each unit, exclusive of closets. Such storage space shall be at least 60 square feet in area and at least six (6) feet in height and shall be provided within the unit or in a common area such as a basement or cellar.
3. Each principal building shall provide, in an enclosed area, laundry facilities for the exclusive use of the occupants of the building.
4. Cellars shall be permitted, but the use of any cellar must be specified in detail in the site plan. No dwelling units shall be permitted in cellars.
5. Built-in air conditioning units shall not project more than two inches from the outside face of the wall.
6. The minimum floor area for any unit shall be:

1-bedroom	550 square feet
2-bedroom	660 square feet
3-bedroom	800 square feet

or in conformity with the standards set forth in the Department of Housing and Urban Development, Minimum Property Standards for Multi-Family Housing, 401.3.1

to 3.6 (1979), whichever is less. No garage, cellar or storage area shall be counted towards meeting the minimum floor area requirement for dwelling units.

At least 20 percent of the low and moderate income units shall be three bedroom units and no more than 50 percent shall be one bedroom or efficiency units.

7. The front or rear set-back of any garden apartment building as measured from the curb of any private street, drive or parking area, shall be not less than 20 feet. The side set-back of any garden apartment building as measured from the curb of any private street, drive or parking area shall be not less than 10 feet.
8. The distance between walls of adjacent buildings shall be not less than 20 feet for side or end walls and not less than 30 feet for front or rear walls.
9. Other building requirements shall be as set forth in Sec. 28-21, Schedule of Requirements, Residential Zones.

Sec. 28-56A. Streets and Sidewalks.

1. Any new public street, private interior road or driveway shall be constructed so as to intersect any existing or proposed public street at least 100 feet from any existing or proposed intersection. If, in the opinion of the Municipal Agency, a proposed intersection located 100 feet from another intersection would create a special hazard because of road alignment, topographic conditions, or existing or projected traffic conditions

or other conditions, the Agency may require such proposed intersection to be located up to 200 feet from such other intersection.

2. All roads and other access ways within a Garden Apartment development shall be private roads constructed by the developer. All construction and maintenance shall be completed in accordance with specifications set by the Department of Public Works of the Borough. All interior roads and access ways shall be kept open for access by all emergency vehicles and the Department of Public Works. Maintenance, cleaning and snow removal of all such roads shall be carried out by the owner of the development according to the satisfaction of the Borough. Any failure on the part of the owner to comply shall result in the work being done by the Borough at the expense of the owner and, to the extent permitted by law, such expense shall become a lien against said property.
3. All private interior roads shall have a right-of-way width of 40 feet and a curbed pavement width of 30 feet for two-way streets and a right-of-way width of 35 feet and a curbed pavement width of 25 feet for one-way streets.
4. Sidewalks along public streets shall be constructed in accordance with municipal standards, except that

installation of the sewer system shall be subject to the written approval of the Borough Engineer.

2. All utilities shall be installed underground.
3. Street lighting on public and private streets shall be in accordance with specifications in the Borough ordinances. Additional lighting shall be provided as necessary, to minimize hazards to pedestrians and motor vehicles in parking areas, near dwelling entrances and along sidewalks.
4. If refuse pick-up areas are provided, they shall be located for the occupants' convenience. All such areas shall be screened with evergreens on three (3) sides and planted to the height of at least 4 feet, or with a solid wood or decorative masonry screen high enough to shield the containers in the pick-up areas.
5. Television antenna equipment shall be built into the building or provided by means of a common antenna tower, provided that such tower receives all required municipal approvals.

Se. 28-58A. Landscaping and Screening.

1. All developments shall be provided with liberal and functional landscaping schemes. Roads and pedestrian walks shall be provided with shade trees which are at least a minimum size and character in accordance with the recommendations of the Shade Tree Committee of the Borough.

2. Open space adjacent to buildings, malls between buildings intended for utilization by residents and border strips along the sides of pedestrian walks shall be graded and seeded to provide a thick stand of grass or planted with trees and shrubs or any combination thereof. Areas not used for buildings, recreation equipment, drives, parking spaces or sidewalks shall be seeded or landscaped, and maintained in a proper condition. Unless all of the dwelling units are to be rented, these areas shall be placed in a common open space organization plan, pursuant to ARTICLE XIV of Chapter 17 (DRO).
3. Where necessary to shield occupants and adjoining properties from unsightly, disturbing or light glaring areas, screening or buffers consisting of a solid evergreen hedge at least five (5) feet tall at planting or earth berms and smaller plantings totaling five (5) feet in height shall be installed. The Municipal Agency may permit a solid wood fence or decorative masonry wall in lieu of an evergreen hedge where conditions warrant.
4. The developer shall furnish, together with the plans and specifications required under Chapter 17 (Development Review Ordinance) of the Code of the Borough of Lincoln Park, landscaping plans drawn by a licensed professional indicating landscaping intended for the development as well as plans for

lighting the grounds, roads, drives, walks, parking areas and building entrances. Additional plans shall show contours, drainage areas, streams, wooded areas and any other natural features of the land in a natural state before development proposals.

5. There shall be a buffer strip of at least twenty (20) feet in width on all lot lines adjoining zone district line and on all lot lines adjoining existing improved residential property. No buffer shall be required where such lot line borders a public street. All such buffer strips, if wooded, shall remain in their natural state or otherwise shall be planted with an evergreen screen at least six (6) feet in height.

Sec. 28-59A. Miscellaneous Provisions.

1. Recreational equipment, if any, shall not be located in the front yard.
2. All living rooms and bedrooms shall have at least standard size windows to provide adequate light and ventilation.

SECTION 4. ARTICLE VI-B, shall be entitled "ACH, ADULT COMMUNITY HOUSING, SUBSIDIZED AND NON-SUBSIDIZED OVERLAY ZONE", and shall read as follows:

ARTICLE VI-B

ACH, ADULT COMMUNITY HOUSING, SUBSIDIZED
AND NON-SUBSIDIZED OVERLAY ZONE

Sec. 28-50B. Permitted Uses.

Within the ^{overlay} ACH/Zone, no premises, lot, building or structure shall be used and no building or structure shall be erected or altered to be used in whole or in part for any other than the following purposes:

1. All underlying zone uses. Bulk regulations for the underlying zones apply except when the land is developed in accordance with the provisions of the ACH Zone.
2. Subsidized low and moderate income senior citizen housing developed by non-profit or limited profit qualified sponsors financed and otherwise subsidized by the U. S. Department of Housing and Urban Development and/or the N.J. Housing Finance Agency, subject, nevertheless, to the further provisions of this Ordinance.
3. Non-subsidized fair market developments in accordance with standards applicable to the TH-S Zone, ARTICLE VI., except that:
 - (a) Occupancy shall be limited to persons 52 years and older having no resident child less than 19 years of age;

- (b) Density shall not exceed ten (10) dwelling units per acre.
- (c) All special conditions in Sec. 28-53B 2 and Sec. 28-55B 1,2,6 & 7, applicable to Subsidized Senior Citizen development shall be applied to fair market Adult Community Housing;
- (d) 1.5 off-street parking spaces shall be required for each dwelling unit.
- (e) The developer shall set aside not more than twenty (20%) percent of the total units for low and moderate income senior citizen households in accordance with ARTICLE VI-C, Affordability Control Standards.

Sec. 28-51B. General Requirements for Subsidized ACH Development:

1. The residents of a Subsidized ACH Development established pursuant to this Subsection, shall be limited to qualifying low and moderate income elderly and handicapped persons as defined and otherwise in accordance with the standards and requirements established by the U. S. Department of Housing and Urban Development and/or the N.J. Housing Finance Agency, provided that handicap unit allocation shall not exceed such requirements and further provided that an adult at least eighteen (18) years of age may reside in a dwelling unit with a qualified resident if the presence of such person is essential for the physical well being of the qualified resident.

2. Residency Priority (Federal or State Funded Projects). Subject to requirements and standards established by the funding agency, preference shall be given in the following order:

First Priority: Lincoln Park senior citizens.

Second Priority: Senior Citizens who are parents of Lincoln Park residents.

Third Priority: Senior citizens who have resided within Lincoln Park within the last three year.

Fourth Priority: Senior citizens residing within Morris County.

Fifth Priority: Senior citizens residing in contiguous counties to Morris County.

Sixth Priority: Other senior citizens.

4. Lot Area and Density:

- a. The minimum lot size shall be five (5) acres.
- b. No subsidized housing project shall be more than one hundred and fifty (150) units.
- c. No project shall exceed a density of fifteen (15) units per gross acre.
- d. Dimensional requirements shall be subject to waiver by the Planning Board when funding agency standards differ from the appropriate section of the ordinance.
- e. Off street parking spaces shall be provided at a rate of 1 per 2 dwelling units, plus guest parking as permitted by the funding agency.
- f. Where funding agency standards are made part

3. Distance between buildings. There shall be a minimum distance between adjacent buildings equal to or greater than the height of the taller building.

4. Height Requirements. The maximum height of any building or structure shall be as required by the funding agency.

5. The minimum living floor area for each dwelling unit shall be as required by the funding agency for subsidized developments.

6. An overall theme of architectural design shall be utilized within the development for the purpose of presenting an aesthetically desirable effect and shall be such that they provide varied building elevations, design and structural appearance within the context of the overall theme.

Sec. 28-53B. Parking and Circulation:

1. Two (2) means of safe traffic ingress and egress shall be provided into the tract.

2. Each residential unit, sidewalk, driveway and common area shall be designated to provide adequate, convenient and safe use of all facilities by older persons. The grades of sidewalks, driveways and roads shall not exceed six (6) percent. Minor exceptions may be made to the grade requirements by the Municipal Agency in exceptional circumstances.

3. All internal roadways and off-street parking areas shall be paved, bounded by permanent curbing and, as required, sidewalks. All of which shall be constructed in accordance with Borough specifications.

4. Internal roadways and parking areas shall be located at least twenty-five (25) feet from a building, except where a driveway leads to a garage; at least twenty-five (25) feet from a property line and from a public street.

5. The Borough may require all streets or drives within the complex to be retained by the owner for maintenance and repairs.

6. Internal roadways shall be at least forty (40) feet of right-of-way with thirty (30) feet of pavement width for two-way traffic and thirty (30) feet of right-of-way with twenty (20) feet of pavement width for one-way traffic and shall not enter a public street within one hundred (100) feet of an intersection. Guest parking on internal roadways shall be designated and limited.

7. the arrangement and location of internal roadways, garages and parking areas shall be subject to the approval of the Municipal Agency and shall be designed to insure safe and adequate circulation for residents and their guests, and for emergency vehicles.

8. Pedestrian sidewalks shall also be provided in suitable locations including entrances and exits wherever normal pedestrian traffic will occur and in order to handle the pedestrian traffic which the development will create. Special consideration shall be given to provide pedestrian access to the central business district.

of any application the Municipal Agency shall have the right to reject those standards where it is deemed detrimental to the zone plan.

4. Building Coverage:

The total ground area of all buildings, including accessory buildings, shall not exceed eighteen (18%) percent of the lot area. Maximum impervious surface shall not exceed fifty (50%) percent of the lot area.

5. In all subsidized ACH developments, the architectural design of all buildings and recreation facilities must be consistent with the ultimate purpose of achieving independent, self-reliant and pleasant living arrangements for senior citizens and should take into account the desires and needs of older persons for privacy, participation in social and community activities and access to community activity areas. At the same time, provisions should be made to accommodate the limitations that sometimes accompany advancing years so that independent living can be sustained.

Sec. 28-52B. Dimensional Requirements.

1. All developments shall have a minimum frontage of two hundred (200) feet upon an accepted public street, improved to the standards of the street specifications of the Borough.

2. No building or structure shall be located closer than fifty (50) feet to any boundary line of the development. No off street parking area shall be located within the front yard set-back, nor closer than twenty-five (25) feet to any property line.

9. It is the intent of the zone plan that all multi-family ACH developments shall be designed and maintained as private developments. Maintenance of all internal roadways, sidewalks, curbs, drainage, landscaping, sewer lines, garbage collection, lighting and other common space services such as snow and ice removal for all internal streets and walkways, shall be provided by the owner so as to maintain adequate, convenient and safe use.

10. The Municipal Agency may waive any of the above provisions and request the municipality to accept improvements as public.

Sec. 28-54B. Landscaping and Screening:

1. The developer shall furnish along with the plans and specifications required under Chapter 17 (Development Review Ordinance) of the Code of the Borough of Lincoln Park, landscaping plans drawn by a licensed landscape architect which shall include plans for lighting the grounds, roads, drives, walks, parking areas and building entrances of the development as well as the plantings and other landscaping intended for the development. Plans shall show separately, contours, drainage areas, streams, wooded areas, and any other natural features of the land in a natural state before development proposals.

2. Downlighting shall be provided around all buildings. All walkways, parking areas, and outdoor activity areas to be used after dusk shall be lighted. Adequate shielding shall be provided so that direct or reflected glare from any on-site

source shall measure no more than one-half (1/2) foot candle at any property line where adjacent property is residentially zoned.

3. Any development shall be provided with liberal and functional landscaping schemes. Roads and pedestrian walks shall be provided with shade trees which are a minimum size and character in accordance with the reasonable recommendations of the Shade Tree Committee of the Borough of Lincoln Park, and ARTICLE VIII, Sec. 17-112 of the Development Review Ordinance. The owner shall be required to maintain all plantings so that they do not obstruct walks or parking areas and, where adjacent to buildings, so that they do not grow higher than any windowsill so as to obstruct the window.

4. Open Space adjacent to buildings, malls between buildings intended for utilization by residents and border strips along the sides of pedestrian walks shall be graded and seeded to provide a thick stand of grass or planted with trees and shrubs or any combination thereof. Areas not used for buildings, terraces, drives and parking spaces shall be seeded and landscaped and shall be maintained in a proper condition.

5. Screening or buffers consisting of plantings, strips and fences shall be required around outdoor utilities and around any other similar areas, along property lines of adjacent properties and around all parking areas in order to shield occupants and adjoining properties from such unsightly disturbing or light glaring areas. Such screening or buffers shall be installed by the owner and shall consist of a solid evergreen hedge at least five (5) feet tall at planting or earth berms and smaller plantings totaling five (5)

6. There shall be a buffer strip of at least twenty-five (25) feet in width on all lot lines adjoining zone district lines and on all lot lines adjoining existing improved residential property. No buffer shall be required where such lot line borders a public street. All such buffer strips, if wooded, shall remain in their natural state or otherwise planted with a landscaped visual screen at least six (6) feet in height.

Sec. 28-55B. Special Considerations for ACH Developments:

1. The size and arrangement of bathrooms and fixtures therein shall be adequate for the convenient use of the older person. The floor finish shall be impervious to water, have non-slip characteristics and slope toward the center away from the door. The threshold of the bathroom shall be flush with the floor. All plumbing fixtures, accessories and trim shall be selected for and provide the maximum contribution to the safety, convenience and aid of older persons. Grab bars shall be provided beside toilets and in bathtubs and/or shower stalls. Shower stalls will include a built-in seat or bench or sufficient space for a bath stool.

2. Emergency buzzers which also unlock the front door should be installed in the bathroom and next to the bed.

3. Community/recreation facilities and lounge areas shall be provided as required by the funding agency.

4. ACH developments shall be provided with adequate public areas, such as mailroom, laundry room, lobby, lounge and/or recreation area as required by the funding agency for the use

of the residents.

5. A lockable storage space of at least thirty-two (32) square feet and not less than six (6) feet high shall be provided, for each dwelling unit. Storage shall be located in the basement or in other areas of the buildings, unless such a storage area is provided within the dwelling unit, in addition to the normal complement of closets.

6. Ramps shall be provided for access to all outdoor recreation areas within the development, as needed.

7. Ramps shall be provided at the entrances of at least twenty-five (25%) percent of all apartments in the development.
Sec. 28-56B.

Where applicable, an open space organization shall be provided pursuant to ARTICLE XIV of the DRO.

The following additions shall be made to the Schedule of General Requirements, Section 28-21, Residential Zones:

District	Minimum Lot Requirements				Minimum Yard Requirements (feet) ²					Maximum Bldg. Height		Maximum Impervious Surface (Percent)		Minimum Open Space, Lot Cluster Option (Acres)	Minimum Floor Area Per Dwelling Unit (sq. ft.)
	Conventional Lot		Lot Cluster ¹		Principal Bldg.			Accessory Bldg.		Stories	Feet	Maximum Impervious Surface (Percent)		Option (Acres)	
	Area (sq. ft./acres)	Frontage (feet)	Area (sq. ft./acres)	Frontage (feet)	Front	Side	Rear	Side	Rear			Conventional Lot	Lot Cluster		
TH-S District	5 ac.	100	NA	NA	50 ⁸⁾	50 ⁸⁾	50 ⁸⁾	25 ⁸⁾	25 ⁸⁾	3.	35	60%	NA	See Section 28-56.	
CA-S District	none	none	NA	NA	30 ⁸⁾	20 ⁸⁾	30 ⁸⁾	20 ⁸⁾	20 ⁸⁾	3	35 ⁹⁾	65%	NA	See Section 28-55A.	

8) from the property line. The municipal agency may permit lesser distance where conditions warrant/ in the TH-S Zone (see Sect. 28-45 G.9.)

9) except that the municipal agency shall permit a height of up to 40 feet where necessary to accommodate three stories above the flood plain.

SECTION 5. ARTICLE VI-C shall be entitled "AFFORDABILITY CONTROL", and shall read as follows:

ARTICLE VI-C

AFFORDABILITY CONTROL

Sec. 28-50C. Purpose.

The purpose of this SUBARTICLE is to insure that low and moderate income housing units constructed pursuant to set-aside regulations in the Zoning Ordinance remain a low and moderate income housing resource, and to provide affordability control procedures and implementing mechanisms.

Sec. 28-51C. Definitions.

Affordable (A) means that ownership expenses for principal, interest, taxes and insurance, and condominium fees, if any, excluding, however, maintenance, heating and utility costs, shall not exceed (without the express written consent of the New Jersey Office of Public Interest Advocacy) 25% of the upper income limit for low or moderate income households, as the case may be. In determining ownership expenses in terms of qualifying household size -

1-bedroom	=	a 2-person household
2-bedrooms	=	a 4-person household
3-bedrooms	=	a 6-person household

(B) means that rental expenses for monthly contract rent, excluding utility charges, if any, shall not exceed 25% of the upper income limit for low or moderate income households, as the case may be.

Association, means an organization for the private ownership and maintenance of any open space, community buildings' amenities and improvements, including utilities, for the benefit of owners or residents of the development, whether or not such organization shall be controlled by the developer or home owners. .

Economic Analysis Model, is a financial analysis of housing cost components and development costs, modeling the effect of set-asides and other inclusionary zoning devices, upon the delivery of affordable (low-moderate income) housing; (1) in developments where mandatory set-aside regulations apply; or (2) where a developer seeks a density bonus or other inclusionary relief; or (3) where a developer seeks a density bonus or other inclusionary relief by means of a

zoning variance.

Interest rate, for the purpose of calculating affordability, shall mean the average of the National Mortgage Contract Rate blend of fixed and adjusted mortgages and the Federal Mortgage Bank published averages, not to currently exceed a 12.5% mortgage interest rate, but subject to subsequent annual adjustment by the Fair Housing Committee, based upon a survey of prevailing mortgage interest rates.

Low Income households, are those whose income fall below 50% of the area's median household income, adjusted for household size, as established periodically by H.U.D.

Mandatory Set-Aside, is an inclusionary zoning device providing internally subsidized dwelling units for low and moderate income households for rent or sale, as part of a development proposal.

Moderate Income households, are those whose income fall between 50 to 80% of the area's median household income, adjusted for household size, as established periodically by H.U.D.

Sales Price, means a stabilized sale price for low-moderate income units, fixed as a condition of final development approval and thereafter adjusted with the written approval of the Fair Housing Committee, based on changes in the Consumer Price Index, subsequent to the date of final

Sec. 28-52C. Fair Housing Committee.

A Fair Housing Committee (FHC) is hereby established consisting of five (5) citizens of the Borough, to be appointed by the Mayor, with the advice and consent of the Council, to serve for initial, staggered terms as follows:

- 2 members for 1 year,
- 2 members for 2 years,
- 1 member for 3 years

Thereafter, each member shall serve for a 3-year term.

The FHC shall be charged with the following responsibilities

- (A) assist the developer, owner or tenant association, in establishing procedures and standards in accordance with this Ordinance, for implementing the affordability control mechanism.
- (B) monitor affordability control compliance by developers, owner or tenant associations, fee owners and other parties in interest, including compliance with deed restrictions and disposition covenants.
- (C) in connection with the first and subsequent occupancy of all set-aside sale and rental units, review and amend the approved price stabilization plan, review implementation of affordability control standards and procedures, and in its sole discretion, make binding recommendations for changes in procedures or exercise the

right to disapprove occupancy for any or all set-aside sale or rental units in instances where eligibility is in question.

- (D) thereafter, review and approve annual set-aside occupancy reports prepared and filed by the developer, association or any party in interest, as may be required by its practices and procedures, or as contained in its rules and regulations.
- (E) promulgate rules and regulations subject to approval by the Governing Body and implementation in ordinance form.
- (F) file periodic reports with the Mayor and Council concerning the discharge of its responsibilities and immediately report non-compliance with affordability control standards and procedures for such action as the Council may deem appropriate.
- (G) monitor all governmental subsidy programs and make recommendations to Governing Body and Planning Board in connection therewith.

Sec. 28-53C. Affordability Control Standards.

Deed restrictions or disposition covenants in recordable

form, satisfactory to the Borough Attorney, shall restrict fee or leasehold disposition of all set-aside units for a term of 30 years. Restrictions or covenants shall provide that sale price or rent may not exceed original price or rent as inflated by 75% of the CPI plus documented capital improvements unless the owner or landlord can demonstrate to a Court of Law that such limitations are confiscatory with respect to the income stream for the entire project.

Sec. 28-54C. Economic Analysis.

Each development application in any zoning district having low and moderate income set-aside units shall provide an economic analysis of the effect of the proposed number of set-aside units upon the economic feasibility of the development. The economic analysis shall provide the information required and otherwise be generally in accordance with the sample project development models hereto annexed as Schedule A.

Sec. 28-55C. Application Procedures.

(A) Fair Marketing Program. The Fair Housing Committee shall establish procedures in connection with initial sales or rentals of all set-aside units and the developer shall be required to submit to the Fair Housing Committee, for its approval, an approved affirmative fair marketing program in accordance with such established procedures.

(B) Forms. Application forms and procedures for initial or first occupancy shall be subject to the approval of the FHC, provided that the same shall be submitted to the FHC for its review, not later than 120 days in advance of the estimated first occupancy date of any unit within a project. Applications shall provide information respecting the applicants' most recent Federal income tax return for the immediate past two (2) annual filing periods, and data as to family size and age, and a certification as to income from any other source.

(C) Review-Summary Report. The developer shall review all applications for set-aside dwelling unit occupancy in accordance with the standards and procedures in this Ordinance. The developer shall file with the FHC, summary report containing a compilation of data taken from application forms for all unit's occupants and pending and rejected applicants, together with the reason for any rejection. Action on all applications shall, at all times, comply with applicable fair housing law and practices. The names and addresses of applicants shall not be divulged in summary reports, provided that the FHC may, under appropriate safeguards so as to avoid public disclosure, require production of such information.

Notwithstanding the foregoing, the FHC, in its discretion, shall have the right to disapprove occupancy as provided in paragraph (C) of Sec. 28-52 C above.

(D) Certification. Each developer shall certify, to the FHC, the eligibility of all applicants for sale and rental units not less than 10 days after execution of a sales contract or binder or lease application or agreement; however, not less than 30 days prior to occupancy. The Certification shall provide information respecting applicant's compliance with all applicable affordability control standards, including a statement that price or rent shall not exceed original or amended price or rent as annually inflated by 75% of the CPI, plus documented capital improvements. Certification shall be made in affidavit form, subject to penalty for perjury, and personally signed by the developer, or in the case of a corporation, the principal stockholder, or in the case of a partnership, the general or principal partner. Association certification shall be made by the president or chairman of the board of trustees. Rental occupants shall be periodically recertified provided that all certifications shall lapse within the period of three (3) years.

(E) Low-Moderate Ratio. In acting upon applications, the Fair Housing Committee shall maintain a one-to-one low-moderate income ratio within each development project and throughout the Borough.

(F) Phasing Schedule. The developer shall submit a phasing schedule for the construction of the low and moderate income units. The developer may construct the first twenty (20%) percent of the development without constructing any low or moderate income units. Not more than forty (40%) percent of the units in the development shall be constructed until at least twenty (20%)

percent of the low and moderate income units shall have been constructed and sold to or reserved for eligible purchasers. Not more than sixty (60%) percent of the units in the development shall be constructed until at least forty-five (45%) percent of the low and moderate income units shall have been constructed and sold to or reserved for eligible persons. Not more than eighty (80%) percent of the units in the development shall be occupied until at least seventy (70%) percent of the low and moderate income units shall be constructed and sold to or reserved for lower income persons. No certificate of occupancy shall be issued for units other than units affordable to low or moderate income households until all low and moderate income units in the previous phase have been completed.

Sec. 28-56C. Resale and Rental Controls.

(A) Sales. The developer shall submit a plan for resale or rental controls to ensure that the units remain affordable to low and moderate income households for at least thirty (30) years. Where a low moderate income unit remains unsold for a period of six (6) months the developer shall be at liberty to rent such unit for a period not to exceed one (1) year and thereupon the resale limitations in this article shall automatically reapply. The purchaser of a unit shall be entitled to resell the unit for:

- (a) the original sales price plus the original sales price multiplied by seventy-five (75%) of the percentage increase in the Consumer Price Index between the date of purchase and the date of resale, and
- (b) reimbursement of documented monetary outlays for reasonable improvements, and
- (c) any reasonable costs incurred in selling the unit.

The low income units upon resale may be sold only to low income persons, and the moderate income units may be sold to low or moderate income purchasers. If, however, no low income purchaser is found within six (6) months, the low income unit may be sold to a moderate income purchaser, or, if none is available to any interested purchaser. If no moderate income purchaser is found for a moderate income unit within six (6) months, the unit may be sold to any purchaser. Regardless of the income of the purchaser, the resale controls shall remain in effect for subsequent resales.

(B) Rentals. Where units are offered as rental units they shall continue to be offered as rental units for fifteen (15) years. After fifteen (15) years they may be sold at prices affordable to moderate income households, subject to such resale price controls as may be necessary to ensure that the unit continue to be affordable to moderate income households for the remainder of the thirty (30) year period commencing from the date of initial rental.

Sec. 28-57C. Other Inclusionary Relief.

To the extent that a developer may prove by an economic feasibility study (economic analysis) that additional inclusion relief may be required so as to develop a project with the required twenty (20%) percent low/moderate income housing, then such developer may request the Planning Board or the Borough Governing Body, to further increase unit density, waive condominium fees for set-aside units or modify cost generating

ordinance standards, or to grant tax abatement to qualifying units where authorized by law.

Additionally, following satisfaction of the Borough's Mount Laurel obligations on a community-wide basis, the developer may request the Planning Board or the Borough Governing Body, to further increase fair market unit density and allow set-aside unit apportionment at a ratio of two (2) moderate units for one (1) low unit.

Sec. 28-58C. Rules and Regulations.

The FHC shall be authorized to adopt by-laws and other rules and procedures, and to hire a secretary, or to provide clerical assistance and legal counsel, as may be required, subject to budgetary limitations. The FHC shall also provide a mechanism for insuring that waiting lists of certified eligible occupants shall not be less than ten (10%) percent of the total number of set-aside units in the Borough.

All FHC by-laws and other rules and procedures shall be subject to the prior approval of the Governing Body, by resolution or ordinance, as may be appropriate.

Sec. 28-59C. Penalty.

Any person, firm, corporation, partnership or association violating the provisions of any section of this Ordinance, or any rule, regulation or order promulgated pursuant thereto, shall be punished by a fine not to exceed \$500.00, or by imprisonment for a period of not exceeding ninety (90) days, or by both such fine and imprisonment. The violation of this Ordinance, or any section, or any rule, regulation or order

promulgated pursuant thereto, shall constitute a separate offense during each day that it continues, unless otherwise provided.

Whenever any such fine is imposed, such fine and costs and charges incident thereto may be collected in an action of debt or in such other manner as may be provided by law.

SECTION 6. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be judged to be invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged, and the remainder of this Ordinance shall be deemed valid and effective.

SECTION 7. All ordinances or parts of ordinances inconsistent herewith are hereby repealed as to such inconsistency only.

SECTION 8. This Ordinance shall take effect twenty (20) days after adoption

ATTEST:

Kay A. Wittman
Kay A. Wittman, Clerk

Dated: July 23, 1984

BOROUGH OF LINCOLN PARK
Robert A. Hosley
ROBERT A. HOSLEY, Council P

Total No. of units _____

Total Acres _____

Gross density _____

Total Units

Fair Market	1 Br. \$ _____	Moderate	1 Br. \$ _____	Low	1 Br. \$ _____
	2 Br. \$ _____		2 Br. \$ _____		2 Br. \$ _____
	3 Br. \$ _____		3 Br. \$ _____		3 Br. \$ _____

Stablized Sales Prices

Fair Market	1 Br. \$ _____	Moderate	1 Br. \$ _____	Low	1 Br. \$ _____
	2 Br. \$ _____		2 Br. \$ _____		2 Br. \$ _____
	3 Br. \$ _____		3 Br. \$ _____		3 Br. \$ _____

Monthly Costs

	1 Br.	Moderate 2 Br.	3 Br.	1 Br.	Low 2 Br.	3 Br.
Principal & Interest	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Insurance	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Taxes	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Utilities	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Assoc. Fees (if any)	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
TOTAL	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

Family Size	<u>Qualifying Incomes</u>		<u>Low</u>	
	<u>Moderate</u>		<u>Monthly</u>	<u>Annual</u>
2	\$ _____	\$ _____	\$ _____	\$ _____
4	\$ _____	\$ _____	\$ _____	\$ _____
6	\$ _____	\$ _____	\$ _____	\$ _____

List in detail all public improvements, the cost of such improvements and the apportionment of costs between public and private.

List in detail the cost of all off-tract improvements and the per unit cost, attributable to Set-Aside Units.

Adopted July 23, 1984
Effective August 14, 1984

AN ORDINANCE TO AMEND CHAPTER 28,
ZONING MAP OF THE BOROUGH OF
LINCOLN PARK, MORRIS COUNTY, NEW
JERSEY, DATED APRIL, 1978, IM-
PLEMENTING THE TERMS AND CONDITIONS
OF THE SETTLEMENT OF A CERTAIN ACTION
ENTITLED "MORRIS COUNTY FAIR HOUSING
COUNCIL, et als. v. BOONTON TOWNSHIP,
et als., SUPERIOR COURT OF NEW JERSEY,
LAW DIVISION, DOCKET NO. L-6001-78 P.W."

BE IT ORDAINED, by the Governing Body of the Borough of
Lincoln Park, Morris County, New Jersey, that the Zoning Map of
the Borough of Lincoln Park, Morris County, New Jersey, dated
April, 1978, and adopted as part of the Zoning Ordinance, be
amended as follows:

SECTION 1. The following described premises located in the
R-15 and R-20 districts shall be, and the same is hereby rezoned
to TH-S, TOWNHOUSE SET-ASIDE ZONE, as follows:

Townhouse Set-Aside,
East Tract
Located on Skyline Drive

See Schedule A annexed hereto and made a part hereof.

SECTION 2. The following described premises located in the
R20 and CR (Commercial-Recreation) districts, shall be, and the
same is hereby rezoned to TH-S, TOWNHOUSE SET-ASIDE ZONE, as foll

Townhouse Set-Aside,
South Tract
Located on Pine Brook Rd.

See Schedule B annexed hereto and made a part hereof.

SECTION 3. The following described premises located in the
R-40, TI (Transitional-Industrial) and I (Industrial) districts,
shall be, and the same is hereby rezoned to TH-S, TOWNHOUSE SET-
ASIDE ZONE, as follows:

Townhouse Set-Aside,

Certified to be a true and correct copy of an Ordinance adopted on
Roll Call at a Regular Meeting of the Governing Body of the Borough
of Lincoln Park on July 23, 1984. *Margaret Piccoli*

Margaret Piccoli, Deputy Clerk
BOROUGH OF LINCOLN PARK IN THE COUNTY OF MORRIS AND STATE OF NEW JERSEY

See Schedule C annexed hereto and made a part hereof.

SECTION 4. The following described premises located in the B-2 district, shall be, and the same is hereby additionally rezoned to GA-S, GARDEN APARTMENT SET-ASIDE OVERLAY ZONE, as follows:

Garden Apartment Set-Aside,
West Tract
Located on Beaver Brook Road

See Schedule D annexed hereto and made a part hereof.

SECTION 5. The following described premises located in the PRD II district, shall be, and the same is hereby additionally rezoned to GA-S, GARDEN APARTMENT SET-ASIDE OVERLAY ZONE, as follows:

Garden Apartment Set-Aside,
Central Tract
Located on Boonton Turnpike

See Schedule E annexed hereto and made a part hereof.

SECTION 6. The following described premises located in the R-20 district, shall be, and the same is hereby additionally rezoned to GA-S, GARDEN APARTMENT SET-ASIDE OVERLAY ZONE, as follows:

Garden Apartment Set-Aside,
East Tract
Located on Pine Brook Road

See Schedule F annexed hereto and made a part hereof.

SECTION 7. The Zoning Map of the Borough of Lincoln Park referred to in Chapter 28, Section 28-11, Zoning Ordinance, of the Revised Ordinances of the Borough of Lincoln Park, shall be

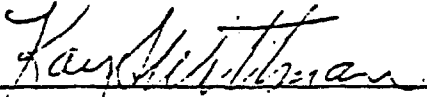
amended in accordance with the provisions of this ordinance.

SECTION 8. All ordinances or parts of ordinances which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistencies

SECTION 9. This ordinance shall take effect twenty (20) days after final passage and publication as prescribed by law.

ATTEST:

BOROUGH OF LINCOLN PARK



Kay A. Wittman, Clerk

By:



ROBERT A. HOSLEY, Council Pres

July 23, 1984

SCHEDULE A
TOWNHOUSE EAST
SKYLINE DRIVE

DESCRIPTION OF TH-S ZONE

Beginning at a point in the easterly sideline of Skyline Drive (60 feet wide) said point being distant 68.98 feet on a bearing of N 32°29'50" E from the intersection of said easterly sideline of Skyline Drive and the northerly sideline of Pine Brook Road (60 feet wide) and running; thence,

- | | |
|--|---|
| 1. N 57°30'10" W | ✓144.75 feet to a point; thence, |
| 2. N 01°18'00" E | ✓896.31 feet to a point; thence, |
| 3. S 88°42'00" E | ✓198.66 feet to a point; thence, |
| 4. S 74°46'43" E | ✓260.32 feet to a point; thence, |
| 5. S 41°49'06" E | ✓50.99 feet to a point; thence, |
| 6. S 70°59'22" E | ✓100.00 feet to a point; thence, |
| 7. S 19°00'38" W | ✓57.45 feet to a point; thence, |
| 8. S 84°27'10" E | ✓284.16 feet to a point of curvature
thence, |
| 9. Southeasterly,
Easterly and
Northeasterly | ✓Along a curve to the left having
radius of 342.37 feet, a central
angle of 31°56'56" and an arc l
of 190.91 feet to a point of re
curvature; thence, |
| 10. Northeasterly and
Easterly | ✓Along a curve to the right havi
radius of 301.00 feet, a centra
angle of 32°07'15" and an arc
of 168.75 feet to a point of re
curvature; thence, |

11. Easterly and Northeastery ✓
Along a curve to the left having a radius of 484.10 feet, a central angle of $18^{\circ}03'09''$ and an arc length of 152.53 feet to a point of tangency thence,
12. N $77^{\circ}40'00''$ E ✓
56.37 feet to a point of curvature; thence,
13. Northeastery, Easterly and Southeastery ✓
Along a curve to the right having a radius of 250.00 feet, a central angle of $14^{\circ}00'00''$ and an arc length of 61.09 feet to a point of tangency thence,
14. S $88^{\circ}20'00''$ E ✓
305.00 feet to a point; thence,
15. S $01^{\circ}40'00''$ W ✓
1063.92 feet to a point; thence,
16. S $83^{\circ}45'02''$ W ✓
820.73 feet to a point; thence,
17. N $88^{\circ}42'00''$ W ✓
100.00 feet to a point; thence,
18. N $53^{\circ}11'06''$ W ✓
326.28 feet to a point; thence,
19. N $58^{\circ}28'50''$ W ✓
200.00 feet to a point; thence,
20. N $31^{\circ}30'17''$ W ✓
266.46 feet to a point on a curve in the easterly sideline of Skylir Drive; thence,
21. Southwesterly ✓
Along a curve to the left having a radius of 270.00 feet, a central angle of $16^{\circ}07'40''$ and an arc length of 76.00 feet to a point of tangency thence,
22. S $32^{\circ}29'50''$ W ✓
177.12 feet to the point or place beginning.

CONTAINING - 40.91 ACRES

Schedule E

Townhouse Set-Aside
South Tract Located on Pine Brook Road

BEGINNING AT A POINT, said point being the northwest corner of Lot 8, Block 136 and the southwest corner of Lot 8-3, Block 136, said point also being in the eastern line of Lot 3, Block 136, as shown on the Tax Maps of the Borough of Lincoln Park, thence;

1. southeasterly along the common line of Lot 8 and Lot 8-3, 171.92 feet to a point, said point being the southeast corner of Lot 8-3 and the southwest corner of Lot 8-1, Block 136, thence;
2. southeasterly along the southern line of Lot 8-1, said line being also the common to Lot 8, 186.00 feet to a point, said point being the southeast corner of Lot 8-1, thence;
3. northeasterly along the eastern line of Lot 8-1, said line being also common to Lot 8, 365.12 feet to a point, said point being in the southern right-of-way line of Pine Brook Road, thence;
4. southeasterly along said right-of-way line to a point, said point being the northeast corner of Lot 8 and the northwest corner of Lot 8-2, Block 136, thence;
5. southwesterly along the eastern line of Lot 8, 871.12 feet to a point, thence;
6. northwesterly along the northerly line of Lot 8-2, 212.16 feet to a point in the easterly right-of-way line of the 50 foot right-of-way, thence;
7. southwesterly along the westerly line of Lot 8-2, 722.13 feet to a point, thence;
8. southwesterly along the westerly line of Lot 9, 924.00 feet to a point in the northerly line of Lot 4, thence;
9. southwesterly along the eastern line of Lot 5, said line being also said point being the southeast

corner of Lot 5, thence:

10. southwesterly along the southern line of Lot 5, said line being also common to Lot 4, 503.98 feet to a point, said point being the southwest corner of Lot 5 and the southeast corner of Lot 3, point also being in the line of Lot 4, thence;
11. northeasterly along the eastern line of Lot 3, said line being also common to Lot 5, 946.56 feet to a point, thence;
12. northwesterly along the eastern line of Lot 3, said line being also common to Lot 5, 47.06 feet to a point, thence;
13. northeasterly along the eastern line of Lot 3, said line being also common to Lot 5, 378.18 feet to a point, said point being the northwest corner of Lot 5, point being also in the southern line of Lot 8, thence;
14. northwesterly along the southern line of Lot 8, said line being also common to Lot 3, 63.80 feet to a point, said point being the southwest corner of Lot 8, thence;
15. northeasterly along the eastern line of Lot 3, said line being also common to Lot 8, 1027.93 feet to THE POINT AND PLACE OF BEGINNING.

This is meant to describe a parcel of land comprised of Lot 5 and Lot 8, Block 136 containing approximately 34.16 acres. Distances described are those distances shown on the Tax Maps of the Borough of Lincoln Park, New Jersey.

Schedule C

Townhouse Set-Aside
West Tract Located West of The Airport

BEGINNING AT A POINT in the southerly line of Jacksonville Road said point being at the division line of Block 3, Lot 3-2, on the west and Block 3, Lot 4, said point being 1730 feet more or less from the point of intersect of the southerly right-of-way of Jacksonville Road and the westerly right-of-way of Beaver Brook Road thence;

1. along the division line of Block 3, Lot 4 and Block 3 Lot 3 southerly 1060 feet more or less to a point and corner, thence;
2. along the division line of Block 3, Lots 3 and 4 on the north and Block 3, Lot 7 on the south, westerly 340 feet more or less to a point and corner, thence;
3. along the division line of Block 3, Lot 3-1 on the west and Block 3, Lot 7 on the east, southerly a distance of 200 feet more or less to a point and corner, thence;
4. along the division line of Block 3, Lots 6 and 8 on the south and Block 3 Lot 7 on the north, easterly a distance of 80 feet more or less to a point and corner, thence;
5. along the division line of Block 3, Lot 8 on the west and Block 3, Lot 7 on the east, southerly a distance of 1150 feet more or less to a point a corner, thence;
6. still along the division line of Block 3, Lot 8 and 9 on the north and Block 3, Lot 7 on the south, westerly a distance of 890 feet more or less to a point a corner, thence;
7. along the division line of Block 3, Lot 9 and Block 3, Lot 7, the following three (3) courses; southerly a distance of 550 feet more or less to a point and corner, thence;
8. along the last mentioned division line westerly a distance of 40

feet more or less, a point and corner, thence.

9. still along the same, southerly a distance of 580 feet more or less to a point thence;
10. making a new line through lands of Block 3, Lot 7 northeasterly a distance of 1300 feet more or less to a point, thence;
11. along the division line of Block 3, Lot 11 on the south and Block 3, Lot 7 on the north a distance of 500 feet more or less to a point, thence;
12. making a new line through lands of Block 3, Lot 7 northeasterly a distance of 880 feet more or less to a point and corner thence;
13. making a new line through lands of Block 3, Lot 7 northerly a distance of 2470 feet more or less to a point and corner thence;
14. along the division line of Block 3, Lot 10 on the east and Block 3, Lot 7 on the west, northerly a distance of 680 feet more or less to a point in the southerly line of Jacksonville Road, thence;
15. along the last mentioned line of Jacksonville Road westerly 770 feet more or less to THE POINT AND PLACE OF BEGINNING.

Containing 73 acres of land more or less.

SCHEDULE D.

Garden Apartment Set-Aside West.
Beaver Brook Road

BEGINNING in the centerline of McKelvey Street, at the point of intersection of said centerline of McKelvey Street with the centerline of Beaver Brook Road, running thence (1) Northwesterly along the centerline of Beaver Brook Road to its intersection with the southerly right-of-way of the Conrail property; thence (2) Easterly along the southerly right-of-way of said Conrail property a distance of approximately 1100 feet to the westerly sideline of McKelvey Street; thence (3) In a southerly direction along the westerly sideline of McKelvey Street to the point and place of BEGINNING.

SCHEDULE E.

Garden Apartment Set Aside, Central Tract
Boonton Turnpike

BEGINNING in the centerline of East Main Street, at the point of intersection of said centerline of East Main Street with the centerline of Summerbell Lane, running thence (1) Southerly along the centerline of Summerbell Lane to the northerly line of Lot 317, Block 22, thence (2) Westerly along the northerly line of Lot 317 a distance of approximately 20 ft. to the easterly sideline of Lot 328, Block 22, thence (3) Southerly along the westerly line of Lots 317, 336 and 335 to the centerline of Boonton Turnpike, thence (4) Westerly along the centerline of Boonton Turnpike to the prolongation of the westerly line of Lot 321, Block 22, thence (5) Northerly along the westerly line of Lot 321, Block 22, to its prolongation and intersection with Lot 310, Block 22, thence (6) Northerly along the westerly line of Lot 310, Block 22 to the point of intersection with the centerline of Main Street, thence (7) Easterly along the centerline of Main Street to the point of intersection with East Main Street, thence (8) Easterly along the centerline of East Main Street to the point of intersection with the centerline of Summerbell Lane, to the point and place of BEGINNING.

SCHEDULE F.

GARDEN APARTMENT SET-ASIDE, EAST TRACT
Pine Brook Road

Beginning at a point in northerly sideline of Pine Brook Road (60 feet wide) said point being distant along the following courses from the intersection of the northerly sideline of Pine Brook Road and the easterly sideline of Skyline Drive (60 feet wide) and running; thence,

- A. S $58^{\circ}28'50''$ E ✓
✓463.83 feet along the northerly sideline of Pine Brook Road to a point;
- B. S $52^{\circ}21'10''$ E ✓
✓567.85 feet along said northerly sideline to the point of beginning and running; thence,
- 1. N $01^{\circ}18'00''$ E ✓
✓325.00 feet to a point; thence,
- 2. N $83^{\circ}45'02''$ E ✓
✓820.73 feet to a point; thence,
- 3. S $88^{\circ}20'00''$ E ✓
✓87.30 feet to a point; thence,
- 4. S $01^{\circ}40'00''$ W ✓
✓473.26 feet to a point; thence,
- 5. S $25^{\circ}15'10''$ W ✓
✓366.47 feet to a point in the northerly sideline of Pine Brook Road; thence
- 6. N $64^{\circ}44'50''$ W ✓
✓505.09 feet to a point of curvature in said northerly sideline; thence
- 7. Northwesterly ✓
Along a curve to the right having radius of 1,407.69 feet, a central angle of $12^{\circ}23'40''$ and an arc length of 304.52 feet to a point of tangency; thence,

8. N 52°21'10" W

30.67 feet still along said north
sideline to the point or place of
beginning.

CONTAINING 12.15 ACRES

IN THE MATTER OF THE APPLICATION)	
)	LINCOLN PARK PLANNING BOARD
OF)	
)	
HOVBILT, INC.)	
)	
PRELIMINARY & FINAL MAJOR SITE)	
#158 and MINOR SUBDIVISION #504)	

WHEREAS, HOVBILT, INC. hereinafter referred to as "Hovbilt" has applied to this Planning Board for Preliminary and Final Major Site Plan and Minor Subdivision approval to construct 360 condominium units with 36 moderate and 36 low income set-aside units to be located within the Townhouse Set-Aside Zone TH-S in Block 3, Lots 7 and 10 on the Tax Assessment Map of the Borough of Lincoln Park as shown on the Preliminary and Final Site Plan consisting of 41 sheets and revised to August 19, 1985 and received August 20, 1985 by the Lincoln Park Planning Department and prepared by Richard A. Moralle, P.E. of community Engineers, Inc.; and

WHEREAS, the Governing Body of the Borough of Lincoln Park has enacted Ordinance No. 44-85, PRO Sec. 28-50(D) et. seq. (Limitation on Development) establishing a Borough-wide limitation upon development within the GA-S and TH-S zones and limiting development in said zones to not more than 890 units (178 set aside units) through December 31, 1990; and

WHEREAS, there already exists approval for 56 set-aside units by virtue of the approval of the Preliminary and Final Major Site Plan, Minor Subdivision and Variance Resolution for K. Hovnanian at Morris II, Inc. dated March 21, 1985 thereby leaving a total of 122 set-aside units still to be approved for development through December 31, 1990;

F

extraordinary public expense, adverse affect on the public health, safety and welfare and will substantially impair the appropriate use and development of adjacent property.

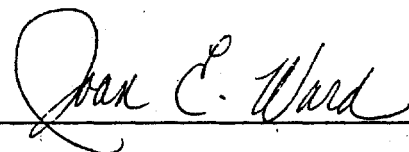
7. The Applicant has failed to provide adequate proofs to satisfy this Board that a waiver of the ten (10%) percent fill requirement will not adversely impact upon the lands in and about the Borough of Lincoln Park.

THEREFORE, BE IT RESOLVED that based upon the aforesaid Findings of Fact and Conclusions and Determination, this Board does hereby DENY the application for Preliminary and Final Major Site Plan and Minor Subdivision Approval of Hovilt, Inc.

BE IT RESOLVED that the members of this Planning Board who were present at the September 5, 1985 official meeting do hereby memorialize and confirm the decision set forth in this Resolution of memorialization as the "Official Action" done by this Planning Board on said date in this matter in accordance with the provisions of N.J.S.A. 40:55D-10(g) of the Municipal Lane Use Act.

Date: October 3, 1985

IT IS HEREBY CERTIFIED, this is a true and correct copy of a Resolution adopted by the Planning Board of the Borough of Lincoln Park upon a roll call vote at its Regular Meeting held on October 3, 1985.



Joan E. Ward, Clerk
Lincoln Park Planning Board

WHEREAS, the Applicant further requests a variance and/or waiver from the requirements of the Lincoln Park Storm Water Control Ordinance which limits the amount of fill that can be brought to the site to no more than ten (10%) percent of the volume which would be necessary to raise the elevation of the site to the elevation of the 100 year storm.

WHEREAS, the Applicant was represented by Stewart M. Hutt, Esq. and the subject development application was the subject of a public hearing held by this Planning Board on September 5, 1985, at which hearing Applicant presented testimony and exhibits in favor of the requested Preliminary and Final Major Site Plan, Minor Subdivision and Waiver/Variance approval.

NOW, THEREFORE, BE IT REMEMBERED that this Planning Board at its official meeting held on September 5, 1985 did make the following Findings of Fact, Conclusions and Determinations:

FINDINGS OF FACT

1. All persons required to be served with Notice of the Public Hearing were duly served and proof thereof has been filed with this Board.

2. The Clerk of the Planning Board properly published Notice of the Hearing ten days prior to the public hearing.

3. The Applicant, Hovbilt, presented the testimony of Richard A. Moralle, P.E. and Planner, Hal Simoff, P.E. (traffic expert) and presented for the Board's consideration a Traffic Impact Analysis Report dated October 23, 1984, prepared by Abram Simoff & Associates, Site Plans prepared by Richard A. Moralle,

P.E. of Community Engineers, consisting of 41 sheets, Storm Water Management Report prepared by Community Engineers, Inc., Preliminary Soils and Foundation Investigation, Lincoln Park Airport Tract, prepared by Joseph S. Ward, Inc. dated April 25, 1973 and Preliminary Subsurface Investigation by Melick-Tully & Associates dated August 5, 1980.

4. The following exhibits were received into evidence and considered by this Board:

- A-1 Traffic Report of Simoff & Associates dated October 23, 1984.
- A-2 Rendering of Lincoln Park Place prepared by Richard A. Moralle, P.E.
- A-3 Aerial photograph of site taken April 7, 1984 with overlay.
- A-4 Rendering - Fill Sections.
- A-5 Model replica of proposed development.
- O-1 Photographs - July, 1973 (Jacksonville Road)
- O-2 Photographs - July, 1973 (Jacksonville Road)

5. This Board finds that the Borough of Lincoln Park is about to introduce an Ordinance entitled Air Safety and Hazardous Zoning Ordinance compatible to The Air Safety and Hazardous Zoning Act promulgated by the Department of Transportation, Division of Aeronautics, N.J.A.C. 16:62-1.1 et seq. The Municipal Ordinance will prohibit, as does The Air Safety and Hazardous Zoning Act, residential development within 1175 feet of the center line of an airport runway. The subject development is 690 feet west of the center line of the Lincoln Park Airport runway thereby placing approximately 200 townhouse units within the hazard area.

6. This Board finds that approximately 38 acres of flood plain area will be disturbed and filled and that there will be

approximately 61 acres of flood plain area reserved for flood plain management. The Applicant plans to remove approximately 65,000 cubic yards of soil from the site and plans to transport on to the site approximately 195,000 cubic yards of soil in order to elevate the tract to comply with DEP Flood Plain Regulations. It is estimated that the transportation of soil necessitates approximately 12,000 truck trips to and from the site.

7. At the public hearing, the Applicant presented the testimony of Hal Simoff as to the traffic impact of the subject development on surrounding properties and the Borough of Lincoln Park. Mr. Simoff's testimony was based upon an October, 1984 traffic impact study. Almost one (1) year has elapsed since the date of the initial traffic study and the Applicant has failed to take into consideration the development in the Borough of prior and subsequent approved major developments, both residential and commercial.

8. The Applicant has expressed its intention to contribute its proportionate share of the cost for constructing the necessary water storage volume for its site at an area wide detention basin downstream from the proposed development. Storm Water Control Ordinance Section 5.1 and DRO Art 9 Section 17-121(21) places a requirement on every developer to comply with zero net runoff, i.e., "volumes and rates of storm water runoff shall be controlled so that after development, this site will generate no greater peak runoff from the site than prior to development and the drainage of adjacent area shall not be adversely affected." The DEP has indicated that it will not recommend approval of the proposed regional storm water detention basin designed by the Borough of Lincoln Park

which would accommodate the runoff from this site and other sites. Accordingly, without the existence of a regional detention basin, the Applicant will be required to provide on-site storm water storage. The Applicant acknowledges that it could not provide on-site storage in accordance with the provisions of the Storm Water Control Ordinance and DRO aforesaid due to the fact that the soils on the site have water tables less than 2 feet below the surface and that much of the site is delineated as wetlands conservation by Thonet & Associates' December, 1984 Study.

9. The Site Plan Review Ordinance, DRO Section 17-121(18) requires the Borough Engineer to review the proposal as to adequacy of utility installation design. The Applicant had proposed to secure water for the site from the Borough of Pequannock. The Borough Engineer for Pequannock appeared at the public hearing and testified that the Applicant will not receive approval from the Borough of Pequannock to hook into Pequannock's water system. The Applicant has not presented any alternate plan or design as to its proposals to provide water for the subject residential development.

10. By letter dated April 29, 1985 from the U.S. Department of the Interior Fish & Wildlife Service to New Jersey DEP Bureau of Flood Plain Management, an extensive portion of the subject site was identified as being a part of the wetlands as identified in the National Wetlands Inventory. The wetlands are recognized as an essential component of the ecosystem and it was the conclusion of the U.S. Department of the Interior that the stream encroachment permit applied for by the Applicant be denied.

11. The report of the Morris County Planning Board dated January 22, 1985 questions the appropriateness of the proposed

development and sites problems relative to safety, in connection with the existing airport, noise levels, proximity to town centers, unsuitable soils for development, location in 100 year flood plain, density of the residential development. Said report is made a part hereof as if set forth at length.

12. This Board was sufficiently concerned with the aforementioned problems relative to the site, i.e., the construction of approximately 200 residential units within the airport safety hazard area, the request of waiver from the 10% fill limitation in residential zones, the inability to supply on-site storage of storm water of a project of the proposed size and the extensive disturbance of soils on the site and its impact on the proposed development as well as the surrounding community to prompt its request for a reduction in the size of the development so as to minimize and reduce the aforesaid negative impact to acceptable levels and standards in accordance with good planning and sound development standards. The Applicant was not amenable to the reduction of the size of its proposed development.

13. Despite numerous requests the Applicant has not supplied to this Board, the following information and documentation necessary to evaluate the impact of this development on the lands in and about the Borough of Lincoln Park.

A. Diagram or plan of proposed development as it relates to the hazard area delineated in The Air Safety & Hazardous Zoning Act and Borough of Lincoln Park's Air Safety & Hazardous Zoning Ordinance to be introduced.

B. An acceptable detailed plan for the removal of the "muck" from the subject site including the portion under the proposed roadways so as to avoid future settlement of the roadway system.

CONCLUSIONS AND DETERMINATIONS

1. The Board does hereby incorporate all of its Findings of Fact as if set forth at length.

2. The location of approximately 200 residential units of the proposed development in the airport hazard area impacts adversely on the public safety and general welfare of the residents who will reside in the proposed residential units.

3. The Applicant has failed to establish that the disturbance of 38 \pm acres of flood plain area which encompasses the removal of approximately 65,000 cubic yards of soil and the replacement of 195,000 cubic yards of soil will not adversely affect the lands in and about the Borough of Lincoln Park.

4. The Applicant has failed to provide an acceptable plan for the transportation of the soil to and from the site and therefore fails to establish that the estimated 12,000 truck trips will not adversely impact on the roadways and properties in and about the Borough of Lincoln Park.

5. The Applicant has failed to provide any satisfactory proposal or design for the control of storm water runoff so as to comply with the requirements for zero net runoff as provided in the Storm Water Control Ordinance and prevent the drainage of adjacent areas from being adversely affect.

6. A variance and/or waiver from the strict application of the Lincoln Park Storm Water Control Ordinance is denied. This Board concludes that such a variance/waiver will result in construction of a project that will cause increased flood heights, additional threats to public safety,