

~~W.R. 2.2 Caterer~~ ~~Bedminster~~
Allan Deane v. Bedminster

10-7 1983

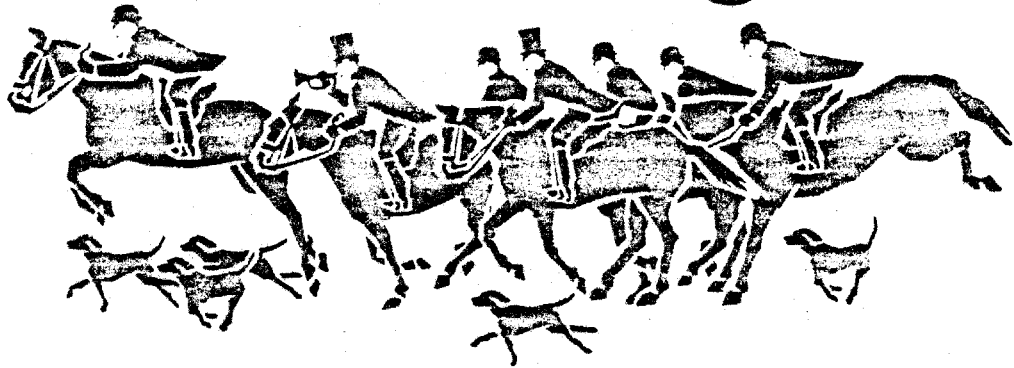
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THE HILLS



PROPOSAL OF THE HILLS DEVELOPMENT COMPANY
TO BUILD AND MAINTAIN 260 UNITS OF HOUSING
AFFORDABLE TO PERSONS OF LOW AND MODERATE INCOME

REVISED AND RESTATED NOVEMBER 7, 1983

APPLICATION FOR SETASIDE OF BOND PROCEEDS FROM NEW JERSEY MORTGAGE FINANCE AGENCY BOND ISSUE FOR END LOANS TO LOW AND MODERATE INCOME HOMEBUYERS IN THE HILLS, BEDMINSTER, NEW JERSEY, SUBMITTED BY THE HILLS DEVELOPMENT COMPANY

SUMMARY OF APPLICATION

The Hills Development Company, developers of The Hills, a 1287 unit Planned Unit Development in Bedminster, New Jersey, has made a commitment to provide 20% of the units in the PUD as low and moderate income housing. It is proposed to offer 260 units for sale, with an option to construct 88 of these units as rental housing. This commitment complies with the standards of the recent Mt. Laurel II decision, without the availability of any Federal subsidy funds.

Meeting this commitment contemplates that The Hills Development Company will seek a setaside of proceeds from a forthcoming bond issue by the New Jersey Mortgage Finance Agency so as to be able to make end-loans to the low and moderate income purchasers. The total amount required to finance the 172 condominium units, is \$6,174,400 assuming 90% financing. If the rental option is not feasible, The Hills Development Company will seek additional financing from the New Jersey Mortgage Finance Agency for 88 additional units. Preliminary discussions with the MFA have indicated that additional bond proceeds are potentially available. Since anticipated bond interest rates will not, in and of themselves, be enough to make these units affordable to low income households, The Hills Development Company proposes to:

- (a). Provide two-tier sales levels, so that units will carry different prices for low-income buyers than for moderate income buyers. A two-bedroom (loft) unit will be priced at \$29,500 for low-income buyers; and the identical unit will be priced at \$ 48,500 for moderate income buyers. A three-bedroom unit will be priced at \$33,500 for low income buyers; the moderate buyers will pay \$55,500 for the same unit.
- b). Provide, in addition, a buydown program designed to reduce the first year effective rate 1.5% below the permanent rate, and provide for a gradual, moderate, increase in payments over four years.
- c). Allocate the units so that low income persons have an opportunity to own both larger and smaller units.

These steps are described in detail in the application, along with additional concessions that are being made in order to make these units available at prices which make low and moderate income homeownership realistic. Specifically, The Hills Development Company proposes to sell these units at prices ranging from \$26,500 for a one bedroom unit to \$55,500 for a three bedroom unit, in one of the most expensive parts of the State of New Jersey.

I. BACKGROUND AND HISTORY OF THIS PROPOSAL

This application, seeking mortgage funds for low and moderate income homebuyers in The Hills, a Planned Unit Development (PUD) located in Bedminster Township, New Jersey, is the result of a long and complex history, of particular significance to the future of affordable housing development in New Jersey. It is both a major event in itself, as well as the first significant application of the momentous Mt. Laurel II decision, which mandated the provision of low and moderate income housing in suburban New Jersey. In view of the significance of that decision, before describing the history of this project directly, a brief mention is appropriate.

A. Mt. Laurel II

In January of this year, the New Jersey Supreme Court issued a decision in six exclusionary zoning cases which rapidly became known as Mt. Laurel II*. In this decision, the Court, frustrated with the limited progress on providing housing opportunities for low and moderate income households throughout New Jersey, as had been ordered by earlier decisions, for the first time, set down explicit standards, guidelines and procedures designed to turn those orders into reality. In particular, the decision provided explicit guidelines as to the definition of "low and moderate income", gave particular support to the approach of including low and moderate income units as a part of larger developments, rather than specific, separate, projects; and, most importantly, made clear that results, rather than good faith efforts, would be the sole touchstone of compliance with the Court's mandate.

Directly relevant to this project was the Court's call for use of mandatory setasides as a means of obtaining low and moderate income housing,

* One of the six cases decided by the Court was the retrial of the original Mt. Laurel suit, decided by the Supreme Court in 1975; hence Mt. Laurel II.

characterized by the Court as "basically a requirement that developers include a minimum amount of lower income housing in their projects" (slip opinion at 109). Elsewhere in the opinion, it was suggested that allocation of 20% of the units for low and moderate income households was "reasonable". (at 129). It seems clear from the decision, particularly as long as Federal housing subsidies are unavailable, or at best, in extremely short supply, that this approach, known as inclusionary housing, would be the principal means by which the goals of Mt. Laurel II would be met in New Jersey.

While there have been a number of inclusionary housing programs enacted in municipal zoning ordinances in New Jersey, in the absence of a clear legal mandate, they have been little used up to this point*. Developers are uncertain about this entire area, although limited experience elsewhere (most notably in Orange County, California and Montgomery County, Maryland) has indicated that it can be successful. These programs, however, operated under much more generous standards than those permitted by the New Jersey Supreme Court; and therefore before a concerted effort will be made in New Jersey, it will be necessary to provide a success model. in New Jersey. under the Mt. Laurel II standards. By success model, it is meant a project that effectively provides low and moderate income housing, while blending in successfully with other housing of a variety of types and cost levels in a manner consistent with the economic imperatives of development. The Hills is seeking to accomplish that in Bedminster.

* Among New Jersey municipalities, other than Bedminster, enacting such ordinances have been East Brunswick, Franklin, (Somerset), Cherry Hill, Bridgewater and South Brunswick Townships. Note that there has been some production of lower income units with Federal subsidies under the (voluntary, rather than mandatory) East Brunswick ordinance.

B. A Short History of the Bedminster Project

The PUD known today as The Hills has a history going back to 1969. It represents one of the most complex, and significant, land use cases in the history of the New Jersey judiciary. The Allan-Deane Corporation* acquired this land in 1969, at which time it proposed a planned development to the Township, which proposal was not acted upon. As a result, a suit was filed by Allan-Deane shortly thereafter.

At the same time, largely as a result of the relocation of the AT&T Long Lines facility from Manhattan to Bedminster, a move resulting in the relocation of nearly 5,000 jobs, a number of civic and civil rights organizations focused attention of this community. As a result of that effort, spearheaded by Suburban Action Institute and the New Jersey Civil Liberties Union, a suit was filed against the Town of Bedminster on behalf of a number of moderate income families and individuals, seeking relief from the exclusionary zoning of the community. At this time, with minimal exceptions, all of the land in the Township was zoned for single family houses on lots of five or more acres.

After a variety of procedural issues had been resolved, the two cases (Allan-Deane v. Bedminster and Cieswick et al v. Bedminster), were joined, and a single trial, in which the civil rights organizations and Allan-Deane presented a common case, took place in Somerset County Superior Court in 1974. In February 1975, the court held that Bedminster's zoning was "arbitrary, capricious and unreasonable", and ordered those parts of the Township shown as growth areas in the County Master Plan, including the Allan-Deane holdings, be rezoned. Since the Mt. Laurel (I) decision came down from the Supreme Court shortly

* The Hills Development Company is the successor of Allan-Deane Corporation (see Appendix 1 for description of The Hills Development Company).

thereafter, the trial judge issued a modified, but substantially similar opinion in light of that decision in October 1975. That decision was affirmed by the Appellate Division in 1977. The Supreme Court refused to grant an appeal of that decision, brought by the defendant municipality. In the fall of 1977 the Township began to draft an amended zoning ordinance, which was submitted to the court and the parties, after a number of amendments, in mid-1978.

It was clear that, after having exhausted the courts, the Township was seeking to undo the decision by adopting a nonresponsive ordinance. A new trial was held in 1979, at the end of which the trial judge held that:

in responding to this court's order to revise its zoning the municipality's conduct has verged on legislative prestidigitation. By creating an R-20 zone, on the one hand, and so restricting its development as to render it a nullity, on the other hand, the local officials have engaged in governmental "sleight of hand." They have not complied with this court's order. The plaintiffs are entitled to relief. (Unpublished opinion at 18-19)

As a result, the court ordered that rezoning take place under the supervision of a court appointed master, and that it incorporate a reasonable development density and standards for the Allan-Deane holdings, subject to their providing 20 percent of the units in areas rezoned PUD as "least cost" housing, as set forth in the then-governing Madison decision*.

* The "least cost" doctrine of Madison, a 1977 holding of the Supreme Court, was explicitly abandoned in Mt. Laurel II. Since, however, under that doctrine, the court was unwilling to impose explicit income requirements for these units, resale controls, etc., the New Jersey Department of the Public Advocate appealed that part of the 1980 order. This appeal is technically still pending; it is the position of both parties, however, that the changes in the law made in Mt. Laurel II point a clear direction for settlement of this issue, which is being carried out with a central element being this application and the units proposed to be constructed with the assistance of NJMFA financing.

George Raymond, president of the planning firm of Raymond, Parrish & Pine, was appointed as the master, and late in 1980, a new ordinance was enacted, complying with the court order, eleven years after the initial presentation to the Township. Development activities on the site, under the auspices of the recently created The Hills Development Company, began in 1982.

During the course of this extended period of litigation this project became one of the most, if not the most, visible proposed PUD in New Jersey. The project is significant, not only by virtue of its litigation history, and its significant combination of public interest and development plaintiffs, but by virtue of its highly dramatic and important location. The project is in Bedminster Township, the center of one of the greatest employment growth areas in New Jersey; i.e., the I-287 corridor through Middlesex, Somerset and Morris Counties. The site is a short distance from the intersection of I-287 and I-78, and is readily visible to drivers along I-287 immediately north of that intersection. It is within a short walk of the Village of Pluckemin (in Bedminster Township), and a short commute to such major employers as AT&T (corporate headquarters), AT&T "Long Lines", Beneficial Finance, Chubb, American Hoechst, and others.* It represents a dramatic and unique opportunity to demonstrate the feasibility of providing low and moderate income housing in conjunction with more expensive housing units, in an economically integrated framework, in a high-demand area of the state, where jobs are available, but affordable housing is virtually nonexistent.

The balance of this application is in two sections. The first will provide a detailed description of the PUD as a whole, and the low and moderate income housing proposed for NJMFA financing, including costs, pro formas,

* See Appendix 2

affordability analysis, and related materials (site plans, floor plans, and elevations are attached). The second section will describe the special provisions to be established in keeping with the goal of creating and maintaining low and moderate income housing without Federal subsidies, in particular the proposed structure of resale controls, as mandated by the court in Mt. Laurel II (see slip opinion at 113). Additional information, including information on the development corporation, is provided in a series of appendices to this application.

II. DESCRIPTION OF THE PROPOSED LOW AND MODERATE INCOME HOUSING DEVELOPMENT

The Hills Development Company proposes to construct a total of 260 low and moderate income housing units in The Hills PUD which is 20% of all units in the PUD. As currently proposed, these 260 units will be offered for sale to low and moderate income households, and 172 units, which were contained in the original proposal, are the subject of this application for end loan funds from the New Jersey Mortgage Finance Agency. The Hills Development Company retains an option to construct 88 of these units, as rental housing. The Hills Development Company is investigating the feasibility obtaining existing Section 8 certificates, and exploring other financial considerations for the rental units. Financing for the rental units has been discussed with the New Jersey Housing Finance Agency. All these units are included in the section of the PUD referred to as "the inner loop", which has been described in an Application for Site Plan Approval before the Bedminster Township Planning Board. This section will include a substantial number of market-rate units as well. For convenience, however, the name The Village Green will be used in this narrative to describe the low and moderate income sales housing units proposed for NJMFA support, as well as the option retained by The Hills Development Company to construct a portion of these 260 units as rentals.

This section of the proposal will provide a detailed presentation on the The Village Green project, preceded by an overview of The Hills PUD as a whole.

A. The Hills PUD

The Hills PUD is located on a 128.7 acre tract immediately outside the village of Pluckemin in Bedminster Township. The site is a gently sloping site, with a steep mountainous backdrop, which is being retained in its natural

wooded state. Within The Hills PUD, approval has been obtained for a total of 1,287 units. While it is expected that all units will be attached, either two-story townhouses or flats, The Hills is providing for great diversity of size and price level within the PUD, designed to attract a highly varied resident population.

The following is the proposed development profile of The Hills PUD:

THE HILLS PUD: PROFILE OF DEVELOPMENT TYPES

<u>Number</u>	<u>Name</u>	<u>Bedrooms</u>	<u>Square Footage</u>	<u>Price Range</u>
222	Knollcrest	2-3	1900 - 2200	\$190,000 - \$225,000
255	Stone Run	1-3	1250 - 1650	\$138,000 - \$167,000
355	Fieldstone	2-3	935 - 1400	\$ 95,000 - \$132,000
194	The Mayfields Market Units	1-2	682 - 954	\$ 66,000 - \$ 89,000
260	The Village Green Low & Moderate*	1-3	567 - 997	\$ 26,500 - \$ 55,500

* Includes both rental and sales units. Rental and sales units are anticipated to be physically identical, but if the rental units are constructed, they shall be differentiated by location and separate condominium association and management structures.

NOTE: All information as of 11/1/83 and subject to change at any time.

 In addition to the residential development, it is anticipated that commercial and office facilities will be located within the The Hills PUD, in a location convenient both to residents of the PUD and the residents of the surrounding area.

Construction began in late 1982 on the Stone Run and Knollcrest models. Sales to date have been successful, and it is anticipated that construction of units in the Fieldstone and The Village Green sections, as well as continued activity in the other sections, will take place beginning in the late fall of 1983 and continued through summer of 1984, subject to ability of The Hills to

obtain financing for the The Village Green units. The Hills Development Company's Planned Unit Development as a whole has attracted considerable favorable attention, and is expected to be featured in a forthcoming issue of Professional Builder magazine. It is this initial track record which makes the development so outstanding as a prototype for the successful integration of low and moderate income housing into a diverse economic environment.

B. The Village Green Neighborhood Condominium

The low and moderate income condominium units are proposed to be developed according to the following profile:

 The Village Green Neighborhood Condominium:
 LOW AND MODERATE INCOME UNITS DEVELOPMENT PROFILE

<u>Number</u>	<u>Type</u>	<u>Square Feet</u>	<u>Preliminary Price</u>
68	A 1 Bedroom	567	\$26,500
68	B 2 Bedroom (sleeping loft)	675	\$29,500 (low) \$48,500 (moderate)
80	C 2 Bedroom	769	\$52,500
44	D 3 Bedroom	997	\$33,500 (low) \$55,500 (moderate)

NOTE: All price and square footage information subject to change on basis of final approved plans. This chart includes units which may become rental units.

The Village Green Neighborhood Condominium units will be constructed in two story buildings, with three different building types ranging from 8 units per building to 16 units each. The buildings are planned to lend itself to a relatively low per square foot construction cost, and the ability to complete construction within a short period. The buildings, as can be seen from the attached plans, are attractively designed; visual quality is achieved by varying rooflines, and by providing variety to the facade through decks and exterior staircases, as well as

careful placement of windows and doors. Each unit has an exterior area for its own use, either a patio or a deck, which also serves as an entry to the unit. Although a major goal is to provide these units as inexpensively as possible, it is essential to provide units that will exist harmoniously with the balance of The Hills PUD, which includes a substantial number of units at significantly higher prices. This is particularly important in view of the relatively high net density of the PUD, or that part of the PUD being developed between the Pluckemin Village to the west, and the steep slopes to the east. There is, therefore, no room for extensive buffers and separations between the different parts of the development.

Considerable effort has been expended to develop space- and cost-efficient unit plans without sacrificing livability. One example is the two bedroom unit in which the second bedroom is a sleeping loft; this creates an attractive and livable unit at substantial cost savings over conventionally laid out units. The units themselves will not have amenities beyond those considered necessities; air conditioning will not be provided, although it will be available as an option, as will other amenity features.

While cost considerations dictate that the units themselves may lack some of the features of more expensive units, internally, it is considered essential that the residents of The Village Green have access to all of the communitywide amenities within The Hills PUD, including access to community services and recreation facilities (except for those facilities reserved for the exclusive use of others), and the like.

The condominium structure for the The Village Green units will be similar to that of the balance of The Hills; specifically, there will be a separate neighborhood condominium association for each type of ownership and

neighborhood section.¹ The residents of the The Village Green units will also be members of The Hills Village Master Association, and will pay a fee to that entity. The The Village Green Neighborhood Condominium Association(s) will be responsible for the maintenance of the exterior areas, landscaping, parking areas, garbage and snow removal, and hazard insurance within the The Village Green neighborhoods and will be supported by condominium association fees paid by the unit owners. A special program has been proposed by The Hills Development Company to provide a source of additional funds to the project, through an income recapture program.

C. Cost Analysis and Affordability Analysis

There are two key issues in this proposal: how can units be produced for these prices; and are they affordable to the target households.

1. Cost Analysis: A pro forma, or cost analysis, of The Village Green Neighborhood Condominium is presented on the following page. While it is not customarily for such information to be presented by developers, it is considered appropriate in view of the nature of this proposal, and the importance of the question; i.e., what does housing of this nature actually cost?

¹ Includes both rental and sales units. Rental and sales units are anticipated to be physically identical, but shall be differentiated by location and separate condominium association and management structures.

NOTE: All information as of 11/1/83 and subject to change at any time.

² Hereafter, all discussion refers exclusively to the The Village Green low and moderate income sales units. While The Hills Development Company retains the right to construct 88 of these 260 units as sales units, it recognizes that there needs to be certainty in the proposal, and commits itself to providing a total of 260 units, 130 of which will be affordable to persons of low income and 130 of which will be affordable to persons of moderate income.

COST ANALYSIS FOR PROPOSED VILLAGE GREEN LOW AND MODERATE INCOME SALES PROJECT (Based on the 172 Units contained in the original NJMFA application, with re-computed numbers following 11/1/83 discussion. Computations for the entire 260 units, if the entire project is built " for-sale", will be prepared and submitted to the NJMFA as part of a revised application, which will be submitted to the parties as well.

land (see note 1)		\$ 0
Site Improvements @ \$5000/DU (note 2)		860,000
Landscaping, hookups, patios, etc., @ \$3000/DU		516,000
Construction (136408 SF @ \$28/SF)		3,568,656
Architecture & engineering @ 3.4%	\$121,334	
Warranty & Service (HOW)	97,250	
Legal & Consulting	50,000	297,584
Property taxes during constuction	9,000	
Permits, fees & misc.	20,000	
	SUBTOTAL	<u>\$5,242,240</u>
Construction Financing @ 13% for 8 months		270,483
Financing fees & contingency @ 4%		249,868
Supervision & administration @ 3%		187,401
Marketing & advertising @ 3%		187,401
Closing & title @ 1%		62,467
Nonprofit corporation fee @ 0.75% (note 3)		46,850
	TOTAL DEVELOPMENT AND COST	<u>\$6,246,710</u>
Buydown (note 4)		163,566
Profit, risk & contingency @ 9%		562,204
	TOTAL PROJECT COST	6,972,480

NOTES:

(1) Some of the land value subsidy, not to exceed an amount to be determined by independent appraisal, will be subject to recapture in the event of increased homebuyer income.

(2) This includes only those site improvements required internally within the low and moderate income housing section of the PUD, and no improvements associated with the PUD as a whole, such as arterial roads and the sewage treatment plant.

(3) This will cover the costs to be incurred by the nonprofit corporation which will be responsible for screening of prospective buyers, administering resale controls, etc.

(4) The buydown will provide for a first year effective interest rate for all units at 1.5% below the permanent rate, to increase by 0.5% increments in years 2, 3, and 4.

It will be noted that the purchase price of these units are far less than the actual market cost of these units produced in an unconstrained market environment. If the full prorated cost of land and development-wide improvements, such as the "state of the art" sewerage treatment plan that was built for The Hills, were incorporated, a customary and not excessive profit and risk factor included, and other costs increased on a prorated basis, the identical housing unit would sell for roughly 40% more than the proposed selling prices for these units. Furthermore, given the nature of the housing market in this area, there is little doubt that they would be marketable units. For point of fact The Hills plans to sell similar units with slightly larger interior areas and somewhat more expensive fixtures and finishes, at prices between \$66,000 and \$89,000.

The total cost of \$6,972,480 translates into a total cost of roughly \$54.50 per square foot. The proposed pricing schedule given on page 2-3 has not be derived, however, directly from the square footage; rather, prices have been adjusted in order to increase affordability of the units relative to the applicable income ceilings for each unit.

2. Affordability Analysis: Even with these substantially below-market costs, making the units affordable to households falling within the Mt. Laurel II definition of "low and moderate income" is difficult. Since doing so lies at the core of this entire effort, this subject is worth discussing in some detail, by first defining low and moderate income, and then, defining what "affordable" should realistically mean in this context.

(a). Defining Low and Moderate Income

In Mt. Laurel II, the Court defined the target population as

follows:

"Moderate income families" are those whose incomes are no greater than 80% and not less than 50% of the median income of the area, with adjustments for smaller and larger families. "Low income families" are those whose incomes do not exceed 50% of the median income of the area, with adjustments for smaller and larger families (footnote, slip opinion, p.36).

The decision further recommends reliance on those median income figures promulgated by the U.S. Department of Housing & Urban Development for each SMSA in the county, in this case, the Newark, New Jersey SMSA*. The most recent HUD figures are dated March 31, 1983, and the counterpart figures consistent with the above language from the Mt. Laurel II decision, using the Court's terminology, by family size are as follows:

LOW AND MODERATE INCOME CEILINGS FOR NEWARK SMSA BY FAMILY SIZE**

FAMILY SIZE	LOW INCOME	MODERATE INCOME
1	\$11450	\$17650
2	13100	20150 5637
3	14700	22700 5675
4	16350	25200 6500
5	17650	26750 6697
6	18950	28350

* Somerset County has recently been placed in a different, newly created, SMSA (or its new equivalent, PMSA) by the Census Bureau. HUD will revise these figures at some time in the future. The above figures will continue to be used for this project until new figures for the PMSA are promulgated by HUD. The Hills will apply the revised figures, when available, to the pricing of the units.

**Source: Newark Area Office, HUD. Subject to change (see preceding footnote).

These figures will be used as the definition of low and moderate income applicable to The Village Green. The next section will discuss how it is possible to make these units affordable to households earning the above amounts, or less.

(b). Establishing Affordability

In order realistically to meet the standards set by the Court, a unit whose purchase is to be limited to families earning no more than the above must actually be affordable to households earning some reasonable amount less than the ceiling income, so that there is a reasonable range between the maximum income at which one is eligible to buy the unit, and the minimum income needed to qualify for the unit. If the range between the two is too small, the number of households capable of meeting those conditions may become too few, and the marketability of the units, notwithstanding their low prices, becomes questionable.

In order to be affordable to a household of a given income, the standard generally used by the NJMFA has been applied; namely, that the sum of (a) debt service; (b) property taxes; (c) hazard insurance; and (d) condominium association fees, shall not exceed 28% of gross household income. The pricing has been structured on the basis that 100% of the ceiling income will be available.

The cost of taxes, hazard insurance, and condominium association fees is not dramatically variable, so that the key adjustments in the annual cost needed to make these units affordable to low and moderate income households must be made by adjusting the level of mortgage payments. At this point it can be stated unequivocally: without NJMFA mortgage financing, there is no realistic way in order to achieve that affordability, especially with regard to the low income households.

Affordability has been achieved in the following ways:

1. Obtain NJMFA financing. The Hills Development Company regards this as essential.

2. Skew the prices of the units, so that a low-income homebuyer pays a lower amount for the same unit to be purchased by a moderate unit purchaser.

Thus, a low income homebuyer would pay \$ 29,500 for a two bedroom (loft) unit, and a moderate homebuyer would pay \$ 48,500 for the same unit. A low income homebuyer would pay \$ 33,500 for a three-bedroom unit which would be priced at \$ 55,500 for the moderate homebuyer.

3. Provide an additional three year interest rate buydown:

A three year buydown program by The Hills Development Company has been built into the project budget, in order to reduce the interest rates during the first few years of the mortgages. Assuming that the N.J.MFA financing will be available at 10.5% for the term of the mortgage, The Hills Development Company proposes to begin the mortgages at 9%, with a ½% increase annually during years 2-5.

The rate of increase in interest rate is well within the level at which it is considered sound underwriting practice to qualify buyers at the initial rate. For example, a low-income homebuyer of a two-bedroom loft unit would

experience an increase of less than \$ 10/month per year for each year the rate rises. This, in conjunction with the anticipated cost levels for the other categories included in shelter cost, will enable these units to be affordable to low and moderate income households who are the subject of Mt. Laurel II.

Insofar as unit distribution is concerned, as a result of the discussions between the parties, it is proposed to distribute the units as follows:

(assumption: all 260 units available for occupancy)

Unit size	Low	Moderate
1 Bedroom	68	0
2 Br/loft	44	24
2 Br	0	80
3 Br	18	26
Total	130	130

(c). Documenting Affordability

The following affordability analysis was based on the mortgage interest rate assumptions described in detail above, and the following assumptions regarding other costs:

- Property taxes @ 1.22% of the market value of the unit. This is the current tax rate in Bedminster Township, which has remain largely stable in recent years.
- Association fees @ \$165 per year per \$10,000 house value (this can be translated into \$40/month for the least expensive units to \$70/month for the most expensive)

Hazard insurance is included in the form of a blanket policy, which is included in the condominium neighborhood association fee. A 90% mortgage was used as the basis for the following analysis, although this is understood that this will vary widely from case to case.

The table on the following page illustrates the points made earlier in the narrative. For example, the one bedroom unit will be marketed on the assumption that it will be occupied by a two-person household earning the top of the income range. This unit will be marketed, as noted earlier, to low income households.

Comparing this to the table on page 2-8, it will be found that the market for this unit is restricted to couples earning any amount which qualifies them for a mortgage, and not in excess of \$13,100.

AFFORDABILITY ANALYSIS FOR VILLAGE GREEN CONDOMINIUMS

(low income home buyer, first year, buydown in effect)

	ONE BEDROOM	TWO BEDROOM (LOFT)	THREE BEDROOM
Hshold size	2 pers.	3 pers.	5 pers.
Unit Price	\$26,500	\$29,500	\$33,500
(10% dn.pmnt)	(2,650)	(2,950)	(3,350)
Mortgage Amount	<u>\$23,850</u>	<u>\$26,550</u>	<u>\$30,150</u>

ANNUAL COST

Mortgage Payment (9% int. rate)	\$ 2,303	\$ 2,564	\$ 2,911
Prpty tx. (est)	325	360	409
Assn. Fee(est)	<u>437</u>	<u>487</u>	<u>553</u>
TOTAL	\$ 3,065	\$ 3,411	\$ 3,873
Minimum Income Needed at 28% of Income	\$10,946	\$12,182	\$13,832

As the table on the following page indicates, the same margins are available for the moderate income units, as well, even with the higher unit costs.

AFFORDABILITY ANALYSIS FOR VILLAGE GREEN CONDOMINIUMS
(moderate income home buyer, first year, buydown in effect)

	TWO BEDROOM (LOFT)	TWO BEDROOM	THREE BEDROOM
Hshold size	3 pers.	4 pers.	5 pers.
Unit Price	\$48,500	\$52,500	\$55,500
(10% dn.pmnt)	(4,850)	(5,250)	(5,550)
Mortgage Amount	<u>\$43,650</u>	<u>\$47,250</u>	<u>\$49,950</u>

ANNUAL COST

Mortgage Payment (9% int. rate)	\$ 4,215	\$ 4,563	\$ 4,823
Prpty tx. (est)	592	641	677
Assn. Fee(est)	<u>800</u>	<u>866</u>	<u>916</u>
TOTAL	\$ 5,607	\$ 6,070	\$ 6,416
 Minimum Income Needed at 28% of Income	 \$20,025	 \$21,679	 \$22,914

Similar comparisons can be made for other units as well. Through the steps above it has been shown that these units will indeed be sold to households categorized as low and moderate income in Mt. Laurel II, with half of the units to be sold to low income households, and the remainder to moderate income households. Absent this proposal it is unlikely that there will be any housing of reasonable quality developed in Somerset County which these households could afford.

D. Construction Timetable

The Hills Development Company has already submitted its application to Bedminster Township for site plan approval for this project, including all of the low and moderate income units. The timetable set forth below assumes a reasonably, expedited approval timetable.

Site Plan Submission	8/26/83
Site Plan Approval	11/21/83
Building Permits Issued (first phase)	12/15/83
Start Site Construction (first phase)	12/19/83
Start Building Construction (first phase)	12/19/83
Complete Construction	6/15/84 to 8/15/84
Initial Marketing & Sales	3/15/84 to 6/1/84
Closings	7/1/84 to 10/1/84

It is hoped, with favorable action by the Court and the Township of Bedminster, that the total time elapsed, from initial submission to closings should be only slightly over one (1) year.

It is anticipated that other approvals, from state agencies, will be processed and completed during the period leading up to the anticipated granting of building permits. These include the approval of this application by the Mortgage Finance Agency, approval of the condominium filing by the Department of Community Affairs, and approval of this proposal as being in substantial compliance with the requirements of Mt. Laurel II.

III. SPECIAL PROVISIONS GOVERNING PROPOSED LOW AND MODERATE INCOME HOUSING AT THE HILLS

This section will discuss three elements to this project which have been developed in response to the particular circumstances of developing low and moderate income housing without public subsidy, within the context of The Hills PUD, and the dictates of the Mt. Laurel II decision. The elements presented here are first, the role of a nonprofit monitoring corporation; second, the structure of proposed sale and resale controls; and third, the structure of the proposed recapture provisions.

A. The Nonprofit Corporation

Effective compliance with the Mt. Laurel II standards requires that appropriate mechanisms be in place to ensure that both initial and subsequent purchasers of the units be by low and moderate income households. While initial screening of households could be done by the developer, or a broker under contract with the developer, it is clearly preferable that it be done by an independent entity with no financial stake in this project. Administration of resale controls, which will be in effect for an extended period, cannot be performed by the developer both for the above reason, and since the developer should not be expected to retain his involvement in the project indefinitely. In addition, under FHLMC regulations, the developer may not administer these controls.

In order to perform these functions, as well as additional functions dictated by the proposed recapture provisions (see III(c) below), The Hills Development Company proposes to enter into a contractual agreement with a nonprofit corporation capable of performing these functions. At this point, discussion has centered on the establishment of a nonprofit corporation that would be specific to this development, whose sole purpose would be to perform

these functions (along with other functions dictated by the rental units) in The Hills, with the possibilities that:

(a) in the event a state-wide entity is established, the Bedminster functions could be assigned to that entity; and

b) if agreed to by the parties, additional developments within Bedminster, or additional towns within the region, could seek to have the non-profit corporation supply similar services to them. In that event, adequate additional compensation by the developer or the community will be paid to the non-profit corporation to cover any additional costs which might be incurred.

It is proposed that a bona fide nonprofit entity will be in place, well in advance of the initial sales which is capable of carrying out the initial screening of prospective buyers, as well as monitoring the sales and marketing program developed for The Village Green Neighborhood Condominium. As shown in the table on page 2-6, The Hills Development Company proposes that a fee of 0.75 of total project development costs be set aside in the low and moderate income project budget to provide start-up funds for this purpose. These funds will be derived independently of individual unit closings and funded in advance.

B. Sale and Resale Controls

As stated above, the nonprofit corporation will have responsibility for managing both the initial screening of prospective purchasers, and the provisions governing the resale of units in the future. Those responsibilities will be carried out as follows:

(1) Initial Screening of Purchasers: The nonprofit corporation will have the responsibility of determining whether prospective purchasers are eligible for the units, on the basis of their income; setting up priority categories for prospective purchasers, if any; and referring prospective purchasers to the mortgage lender. The nonprofit corporation will not be responsible for carrying out either a credit check, or any other action relevant to determining whether a

prospective purchaser can qualify for a NJMFA mortgage, all of which will be the responsibility of the lender, under the supervision of the NJMFA.

All recipients of NJMFA mortgages, as required by the Mortgage Bond Subsidy Tax Act, shall only use the unit as their principal residence, and shall be, in effect, first-time home buyers. With regard to any purchaser who may not, for whatever reason, utilize an NJMFA mortgage, the requirement that the owner only use the unit as his or her principal residence will be enforced by the nonprofit corporation, but the first-time home purchaser requirement will not apply.

At this time, two purchaser preference standards, in addition to income, are proposed:

- preference to be given households who, with regard to each unit type, need a unit of that size and bedroom configuration; e.g., preference for a three bedroom unit will be given families with two or more children of different sex.
- preference to be given households working in close proximity to the project, and living either (a) in substandard housing or neighborhood conditions; or (b) an excessive distance from their place of work.

With regard to the latter point, it should be noted that a substantial numbers of jobs at the major employment centers in the area, such as AT&T, are relatively low paying clerical, maintenance, and similar jobs. Many of these jobs, in turn, are held by people living in urban areas of New Jersey and commuting substantial distances to their work places. In view of the history of this project, and the nature of the area, this is considered an appropriate priority category. While additional categories may be developed, consideration is not at present being given to a priority category to residents of the immediate community or area.

The nonprofit corporation will have responsibility for establishing waiting lists, as well as such other procedures as may be necessary to provide for an orderly flow of prospective buyers to the lender, which may include lotteries.

(2) Resale Controls: As the Supreme Court noted in Mt. Laurel II:

The problem of keeping lower income units available for lower income people over time can be a difficult one. Because a mandatory setaside program usually requires a developer to sell or rent units at below their full value so that the unit can be affordable to lower income people, the owner or the developer, or the initial tenant or purchaser of the unit, may be induced to re-rent or re-sell the unit at its full value (at 112-113)

The court continues by stating that this problem must (their emphasis) be addressed. Since this clearly applies to The Hills (we have noted that there is an approximately 40% difference between the proposed pricing and full value), it is necessary to establish a structure for controlling both price and resale maintenance of resale of the units.

Any legal uncertainty regarding such mechanisms can be considered to have been resolved by the Supreme Court's unequivocal position; furthermore, in recent years, both FNMA and FHLMC* have adopted policies allowing them to purchase mortgages subject to resale controls. Furthermore, given the premium market character of Bedminster, and the attractiveness of the pricing of the The Village Green units, it is hoped that the restrictions and price controls will have a minimal effect on the marketing of these units.

The general policies to govern the imposition of resale controls in this project will be as set down here. A specific and more detailed procedural statement will be prepared, and provided to the NJMFA, in keeping with these policies.

(a). Resale controls will be established in order to ensure that all units, upon their resale, will be both affordable to and purchased by households of low and moderate income

(b). The initial sales price shall be increased on the basis of an appropriate inflation index to the time of resale.

(c). Adjustments to the sales price for property improvements, or major fixtures or appliances, may be made, with the determination of

the amount of the adjustment in the hands of the nonprofit corporation. In addition, a seller may recoup the reasonable costs of the sale, including attorney's fees and broker's commissions, if such are necessary.

(d). That nonprofit corporation will have the exclusive right to refer potential purchasers to units to be sold, at the price established above, from a waiting list maintained by the nonprofit corporation, for a fixed period of 90 days after it has been notified of the availability of a unit.

(e). If a unit has not been sold (in that no contract of sale has been executed), by the end of that period, the seller may sell it on the open market. However, price controls will remain in effect, whether or not the new purchaser is a low or moderate income buyer.

The above provisions will be framed in the form of deed covenants, restrictions and reservations and will be fully disclosed to all potential buyers. It is the judgement of The Hills that they are reasonable and most importantly, will ensure that the units continue to provide a source of low and moderate income housing. It is anticipated that these restrictions will govern these units for a period of no more than 30 years.

(3) Hills Development Company intends to develop the The Village Green low and moderate income property through a subsidiary. The property will be conveyed to the low and moderate purchasers through a deed, which will generally be set forth in the restrictions noted in the proposal herein.

*It is extremely unlikely that (e) will ever take place; still, if for some reason the corporation is incapable of performing its responsibilities, some alternative must be made available.

In addition to the covenants and restrictions otherwise discussed here, the purchaser, and each subsequent purchaser will pay, as additional consideration, such funds as required by the income regulation and re-sale recapture provision discussed more fully below.

The Hills Development Company intends to assign various of its rights to manage various aspects of the development, including the income-regulation provision, the recapture provisions and other restrictions contained in this deed and discussed herein, to the nonprofit corporation*. As consideration for this, the nonprofit corporation will pay 75% of the recapture proceeds to the Hills Development Company, retaining 25% for administrative purposes and subsequent subsidies.

C. Provisions for Resale Recapture and Income Regulation

As has been briefly noted above, it is the intention of The Hills Development Company to provide, through deed covenants, restrictions and reservations, for the potential recapture of some or all of the subsidies provided to the low and moderate income homebuyers. Recapture of subsidies shall only be sought from those purchasers whose incomes rise above the ceiling income, as it may be adjusted, for their income category and household size. The purpose of providing for recapture is twofold: (1) to provide The Hills Development Company with a limited return on its land subsidy over time, in a manner which will not affect the initial or continued affordability of the low and moderate income housing units; and (2) to create a cash flow that can be used to benefit

* The Hills Development Company will retain the right to terminate the contract with the Non-Profit corporation for cause.

the owners of the The Village Green low and moderate income condominiums. The specific provisions by which this recapture will take place are as follows:

(1). A graduated schedule of recapture payments, as in the form of a second mortgage, which will be given to each low or moderate income homebuyer prior to the signing of an Agreement for Purchase and Sale. This schedule will be based on an estimate of the differential between the cost of the unit, as sold to the purchaser, and its value on the open market. The figure will be "capped", both as to the length of time the unit owner would have to pay and the total amount of the unit owner's obligation. There will be a lower level of recapture payments for low income persons as compared with moderate income persons.

(2). The nonprofit corporation will annually verify the household income of all homeowners households to determine their obligation, if any, to make recapture payments as a result of any increase in household income. No household will be required to make payments which, when added to his or her other housing costs (as previously defined on page 2-11) will exceed 28% of gross income. Similarly, as noted above, no would be obligated to make any payments unless their household income rose above the ceiling income, as adjusted over time, for that household size and income category.

(3). The nonprofit corporation will be responsible for collecting these funds and will be entitled to retain 25%, passing the balance to The Hills. The nonprofit corporation will use those funds for the benefit of The Village Green low and moderate income units, and their residents. The nonprofit corporation will establish formal procedures for use of these funds, which may allow for use of limited amounts for administrative purposes.

As a result of conversations with the New Jersey Mortgage Finance

Agency, it is recognized that it may become necessary to terminate all restrictions on sale, occupancy and use of units within The Village Green Neighborhood Condominium in the event of a foreclosure. In order to prevent wrongful enrichment of persons who have occupied the units and defaulted on their mortgage obligations, The Hills Development Company has provided for acceleration of the recapture obligation and return of funds to the non-profit corporation in such a case.

Additionally, a recapture program provides a source of funds to the project, and by extension, to the residents in the future. Since considerable experience has shown that a major problem associated with condominiums is the cost of repairs and replacement of major systems, ten, fifteen or twenty years after initial construction, which costs must be financed through additional levies on the owners, this approach could be a significant protection to the owners against unanticipated increases in the future.

The Hills Development Company believes that this recapture provision is a sensible approach, from a public policy standpoint, of balancing the interest of the low and moderate income homebuyer, and the interest of the developer. A draft of the proposed restrictions is attached.

Finally, it must be stressed that without below-market interest rate financing for the end-loans, which is being requested from the New Jersey Mortgage Finance Agency, this project simply cannot succeed as low and moderate income housing, at least in the sense that the term is used in the Mt. Laurel II decision. With such financing, the project can succeed, and can become a prototype for a creative and innovative public-private partnership in this area.

The units will include 1 bedroom, 2 bedroom, and 3 bedroom flats, with decks and patios, in attractively designed two story buildings. In keeping with the standards for low and moderate income housing set forth in Mt. Laurel II, units will be sold exclusively to households whose incomes are within low and moderate income levels. Provisions will be established to ensure that these condominium units continue to be purchased by low and moderate income households through controls on the resale of these units.

This application provides a complete picture of the proposed development, as follows:

(1) Background and history of the development, including a narrative setting forth the mixed legal and developmental circumstances leading to this project and this application;

(2) Description of the project, including an overview of The Hills PUD, factual information on the proposed low and moderate income housing units, including cost information; and an analysis of the means by which the units will be made affordable to low and moderate income households;

(3) Description of the special provisions governing the project, including sale and resale controls designed to insure continued low and moderate income occupancy of the project.

Three appendices have been added, providing background information on the developer, The Hills Development Company; maps and drawings including site plans and floor plans; and the policies adopted by FNMA and FHLMC regarding developments of the nature proposed in this application.

APPENDIX I:

THE HILLS DEVELOPMENT COMPANY

APPENDIX 1: The Hills Development Company

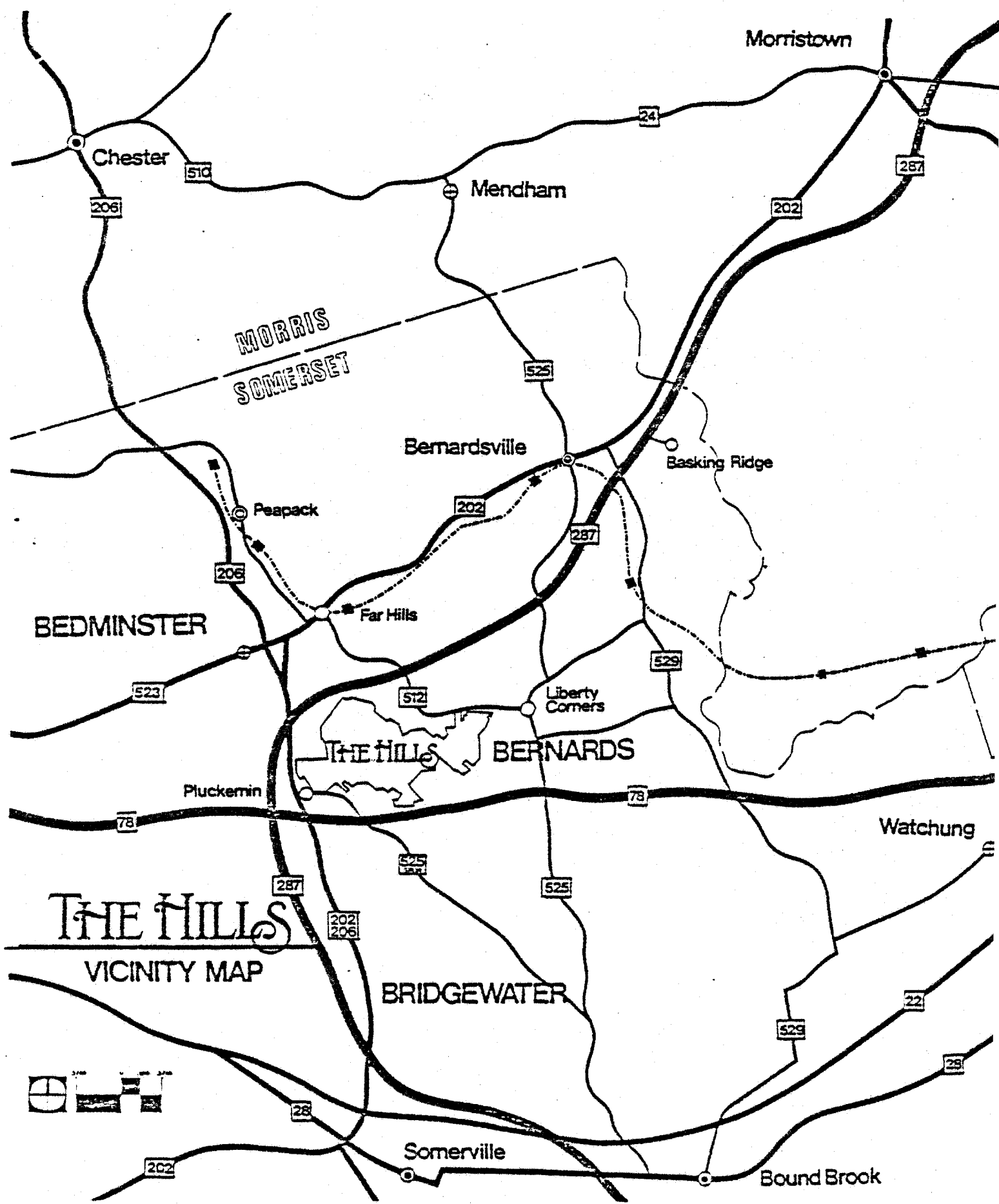
The following will provide a narrative description of the development entity undertaking The Hills PUD.

The Hills Development Company is a New Jersey joint venture general partnership, with two partners owning 100% of the assets of the entity. The two partners are The Allan-Deane Corporation, a wholly-owned subsidiary of Manville Corporation, and Ligone, Inc., a Netherlands Antilles Corporation. The reorganization petition filed in 1982 by the parent corporation of one of the partners, The Manville Corporation, has had no effect on the operations of The Hills Development Company and Hills is not a part of that reorganization. Assets of The Hills have not been frozen, debts continue to be paid, the Company has been consistently managed, and there is no diminution in the construction effort at The Hills. Ligone Inc., is a privately held real estate investment firm.

The Hills Development Company is managed by RecreActions, Inc., a firm specializing in large scale development projects, and an entity totally distinct from The Hills Development Company, or from either joint venture partner. The corporate headquarters of RecreActions, Inc., is in Laguna Beach, California, and the firm has carried out a number of large scale project, including the Ken-Caryl Ranch outside Denver, Colorado; Elkhorn at Sun Valley, Idaho and a number of projects in Southern California. RecreActions personnel are directly responsible for operation of the development activities at The Hills, and report to a policy committee made up of representatives of the joint venture partners.

APPENDIX II:

PROJECT MAPS AND DRAWINGS



Morristown

Chester

Mendham

MORRIS
SOMERSET

Bernardsville

Basking Ridge

Peapack

BEDMINSTER

Far Hills

Liberty
Corners

THE HILLS

BERNARDS

Pluckemin

Watchung

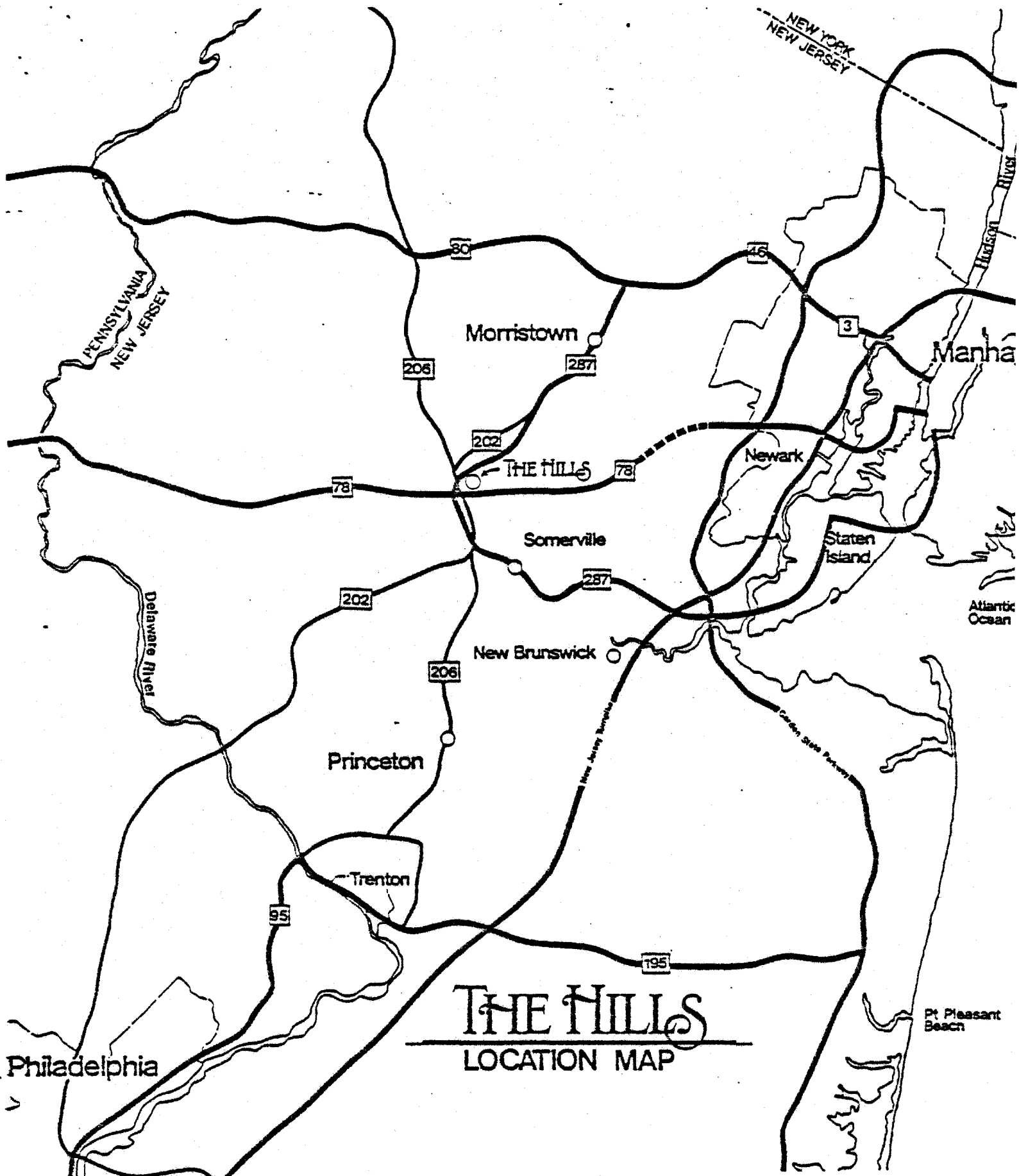
THE HILLS

VICINITY MAP

BRIDGEWATER

Somerville

Bound Brook



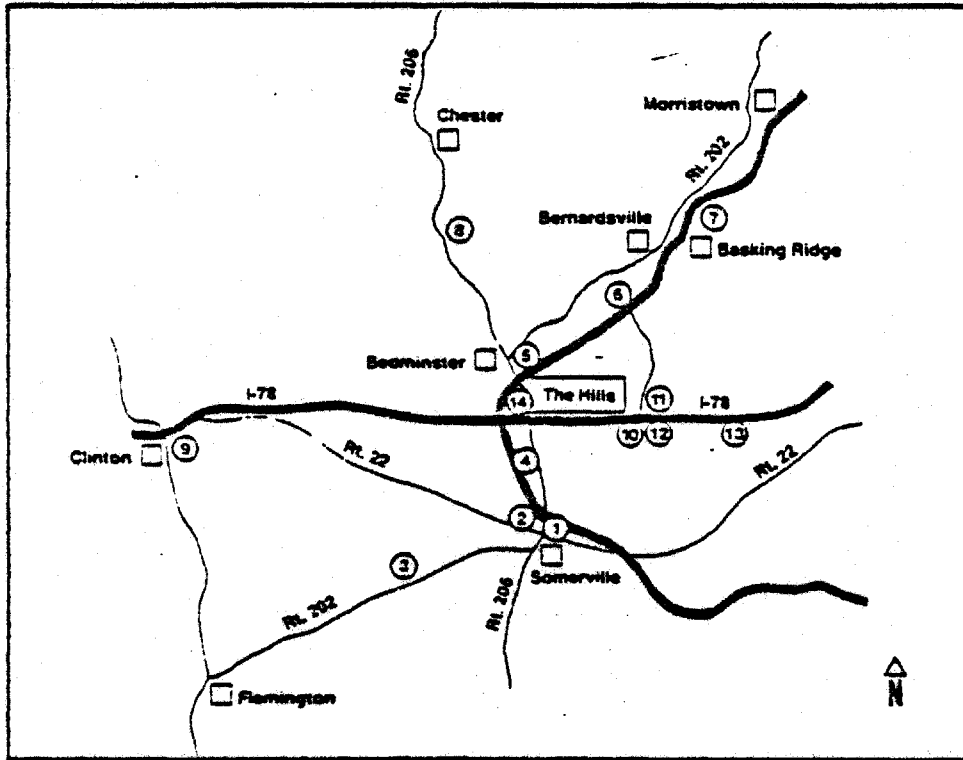
THE HILLS

LOCATION MAP

Perhaps the area's greatest asset is its remarkable location: equidistant and less than an hour's drive from both New York City and Philadelphia. When the few remaining miles of I-78 are completed, a

straight line course to Manhattan — v its many cultural and commercial advantages — will be assured. Also vi I-78, Newark Airport is less than a ha hour away.

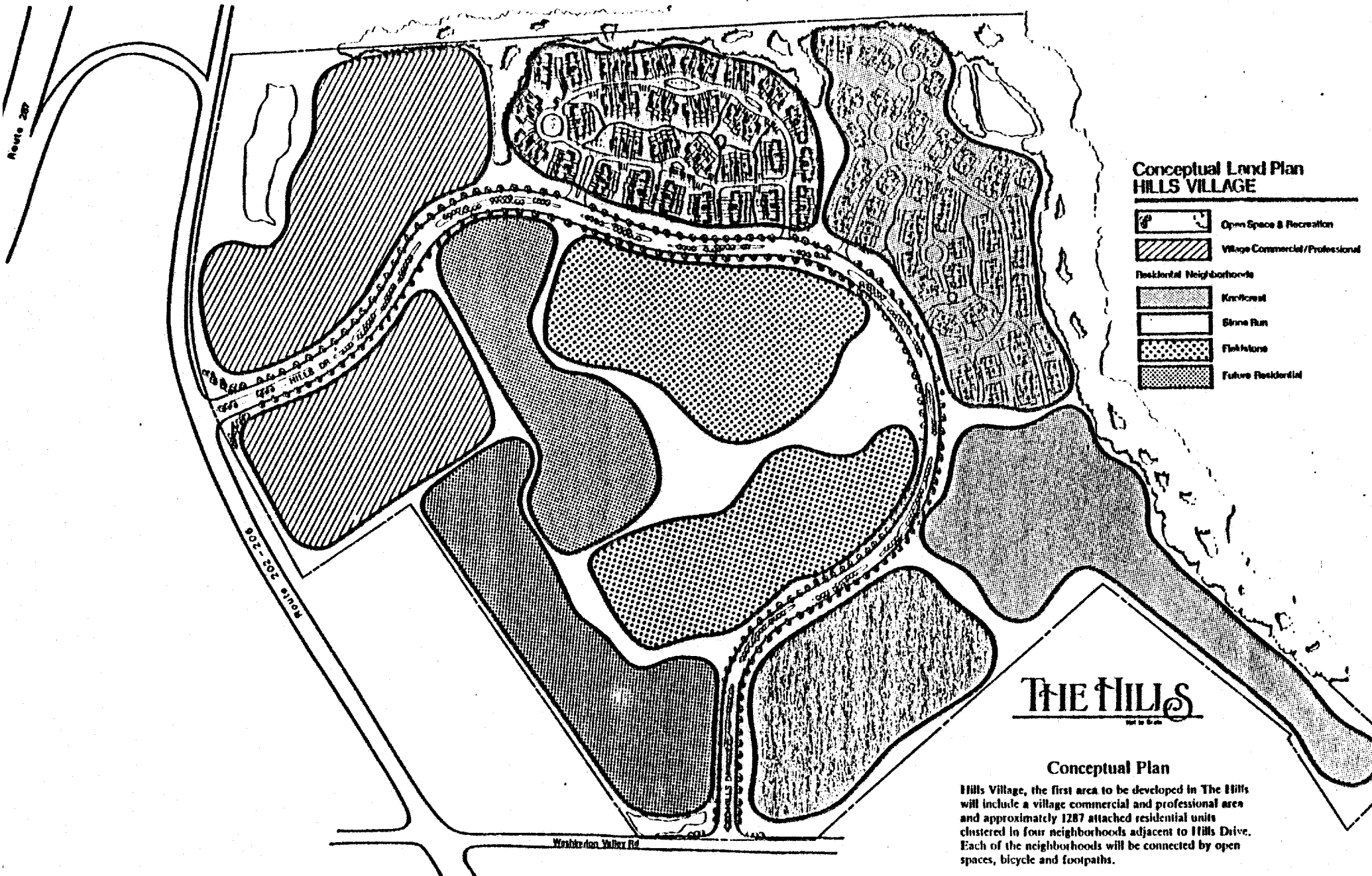
Corporate Neighbors



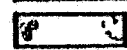
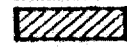
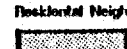
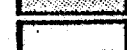


1. Bridgewater Commons
2. Ethicon, Inc.
3. Ortho Pharmaceutical Corp.
Ortho Diagnostics, Inc.
4. American Hoechst Corp.
5. AT&T Long Lines
6. Mt. Airy Office Park
7. AT&T
8. Beneficial Management
9. Exxon
10. AT&T Long Lines
11. Office Complex
12. Chubb Insurance
13. AT&T
14. City Federal

Major corporations have been drawn by the exceptional quality of life in the area, along with the easy accessibility. They have acquired tracts of land for new corporate headquarters and, at the same time, have maintained the open space quality of the area.

In many cases, the corporations have adapted their facilities to the character of the mansions and estates of the great landowners. With their resources, they are able to maintain the estates in their original glory and provide a luxurious atmosphere for their employees. And all are dedicated to preserving that quality. With this embracing of the community and its values has come rich returns: remarkable economic strength and stability, record high employment and an optimism for a prosperous future.



**Conceptual Land Plan
HILLS VILLAGE**

-  Open Space & Recreation
-  Village Commercial/Professional
- Residential Neighborhoods**
-  Knoxcrest
-  Stone Run
-  Fishstone
-  Future Residential



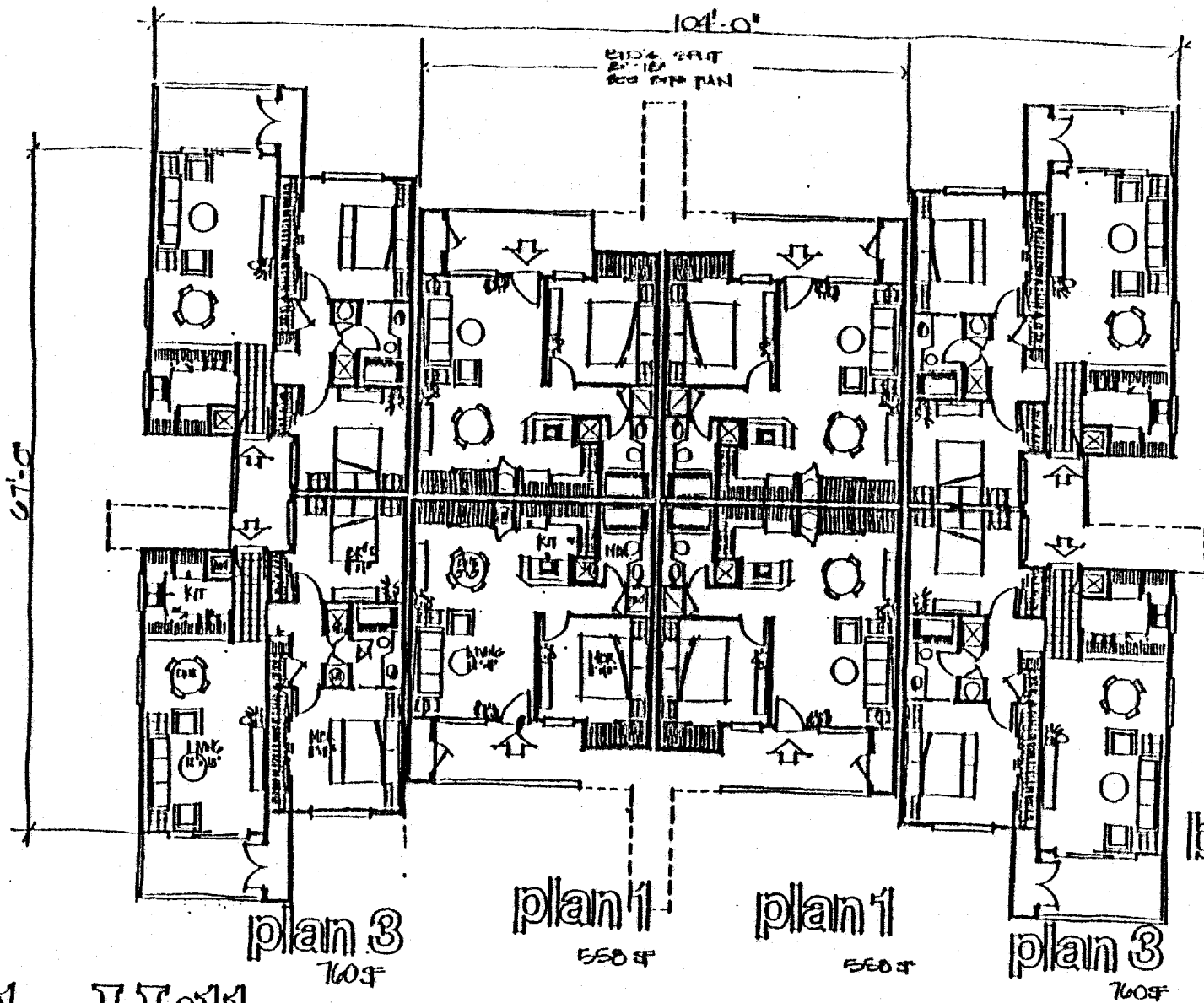
Conceptual Plan

Hills Village, the first area to be developed in The Hills will include a village commercial and professional area and approximately 1287 attached residential units clustered in four neighborhoods adjacent to Hills Drive. Each of the neighborhoods will be connected by open spaces, bicycle and footpaths.



theHills-P.U.D. BEDMINSTER TOWNSHIP, NEW JERSEY
THE HILLS DEVELOPMENT CO.

 **corbin-yamatui and partners**
 architecture • planning

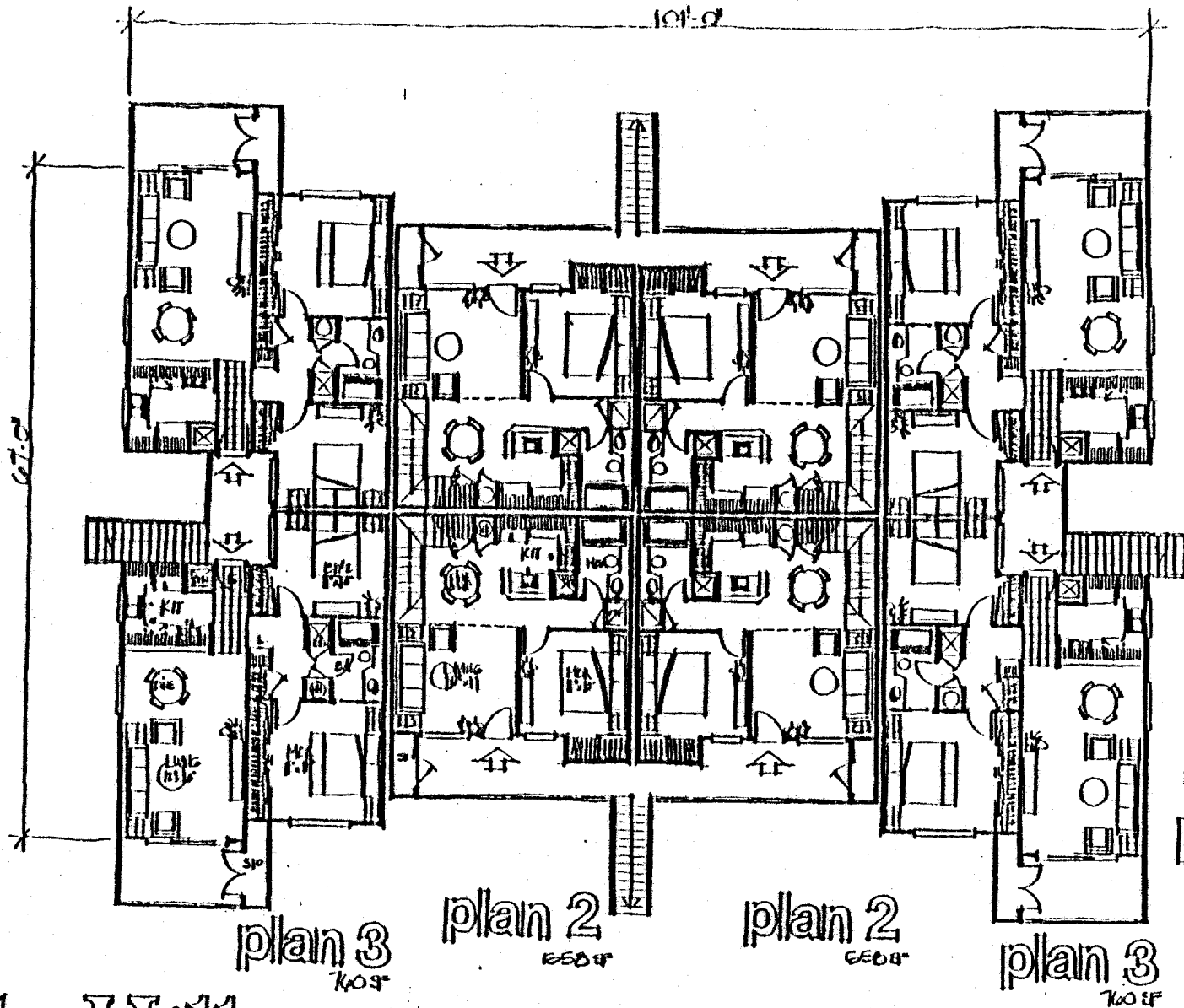


lower level
 bldg type a

the Hills - P.U.D. MAYFIELD/AFFORDABLE (AREA 5,6,7)
 THE HILLS DEVELOPMENT CO.

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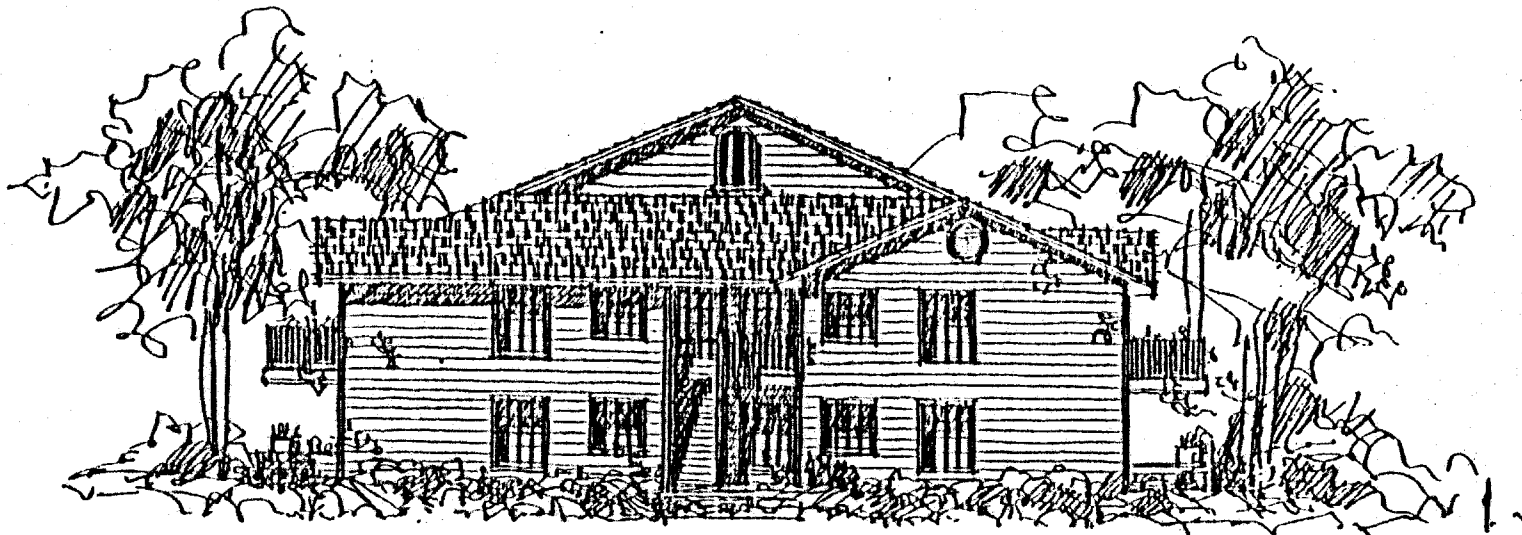


upper level
bldg type a

the Hills-P.U.D. MAYFIELD/AFFORDABLE (ANA 5,6,7)
THE HILLS DEVELOPMENT CO.

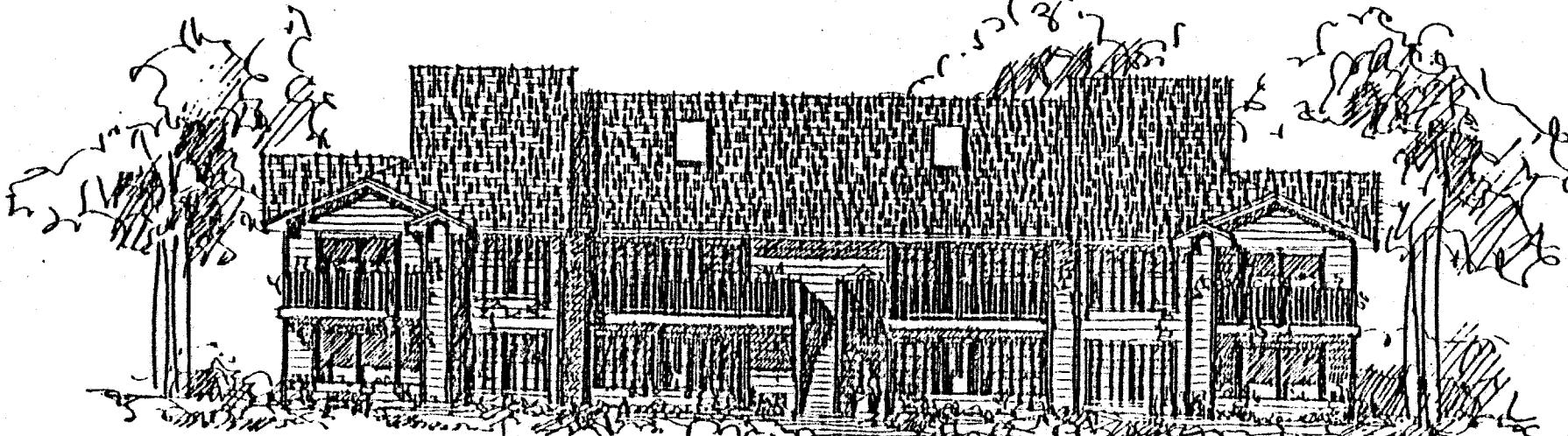
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3/3

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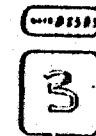
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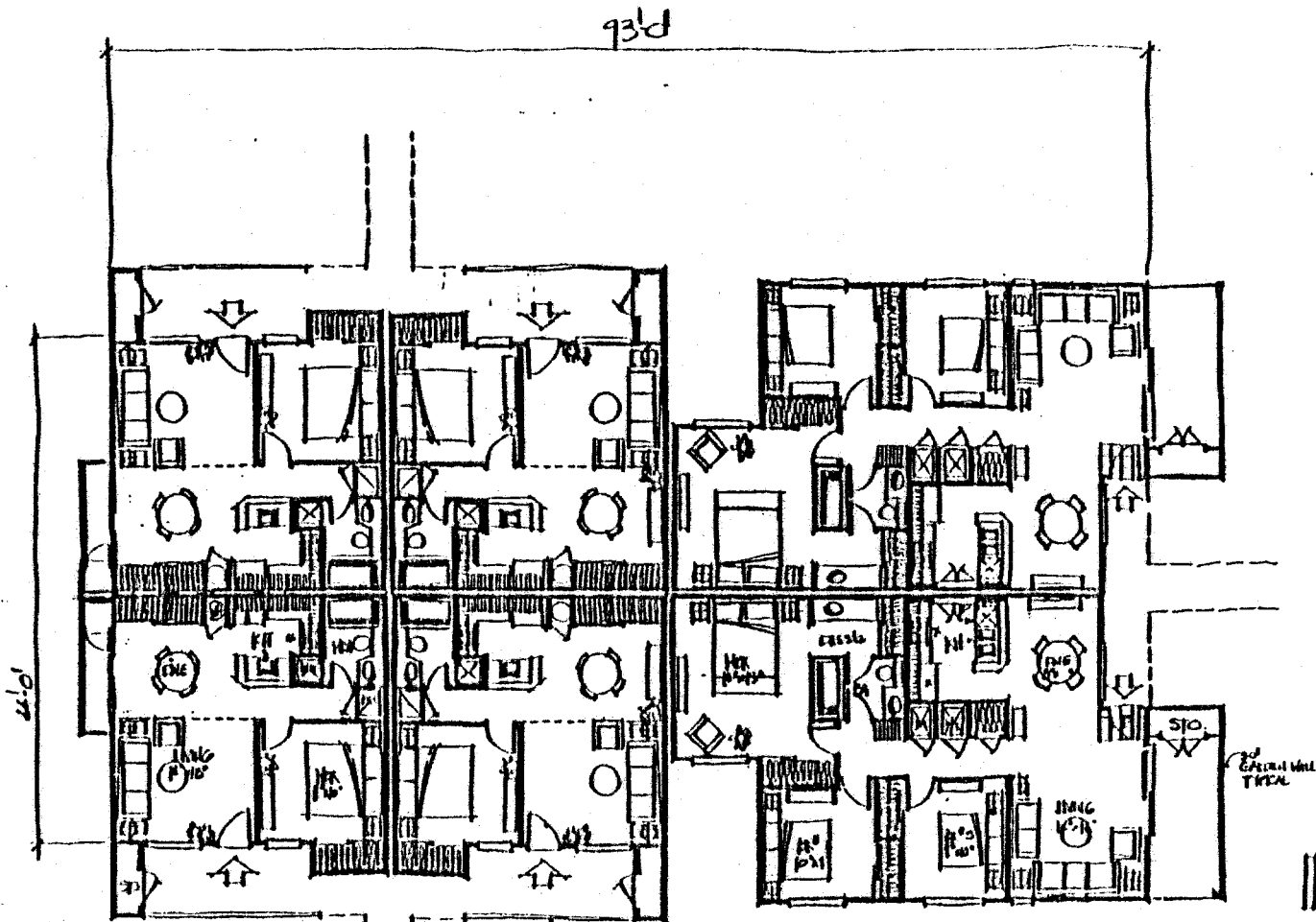
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BLDG. TYPE A

the Hills-P.U.D., MAYFIELD/AFFORDABLE (ANA 5,6,7)
 THE HILLS DEVELOPMENT CO

corbin-yamahiji and partners, inc.





lower level
bldg type b

plan 1
558 SF

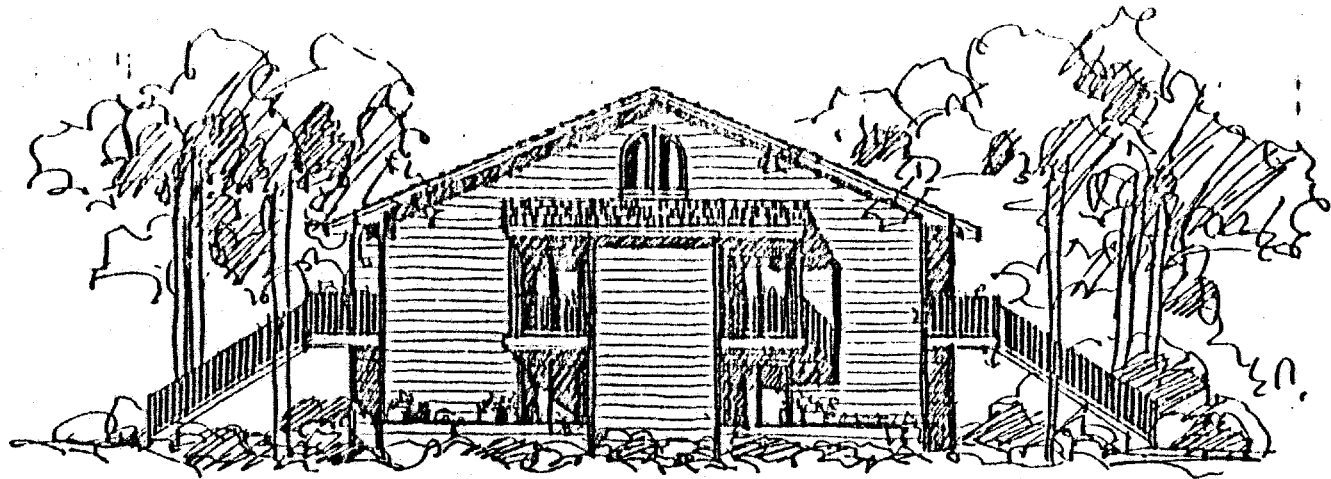
plan 1

plan 4
710 SF

the Hills-P.U.D., MAYFIELD/AFFORDABLE (ANA 5,6,7)
THE HILLS DEVELOPMENT CO.,

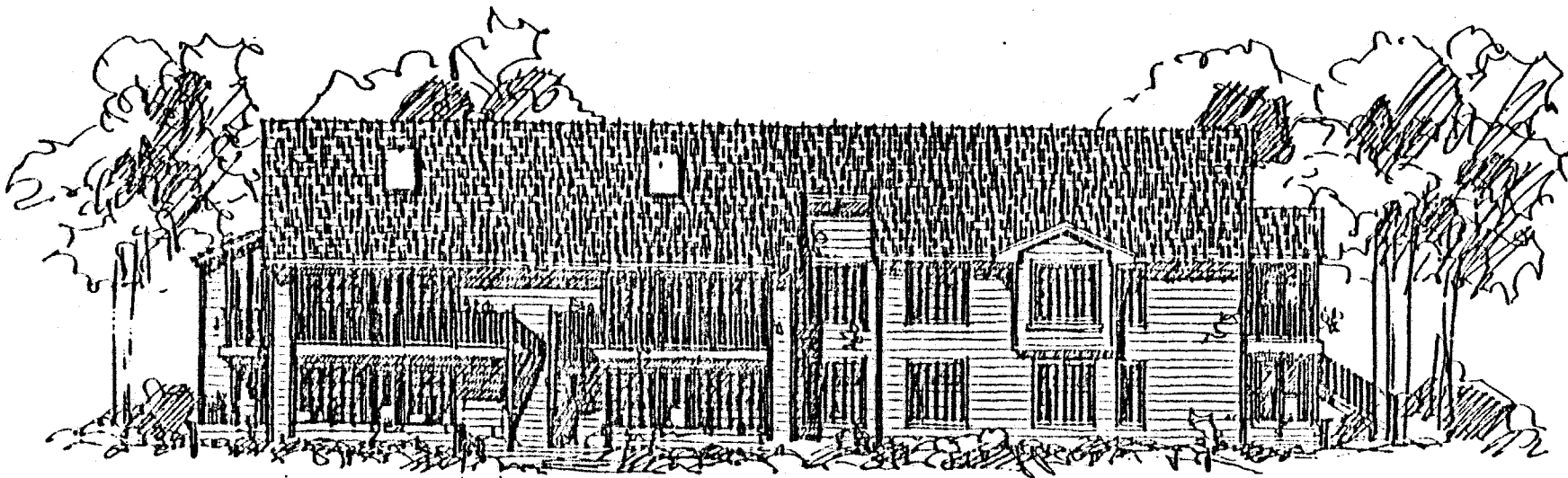
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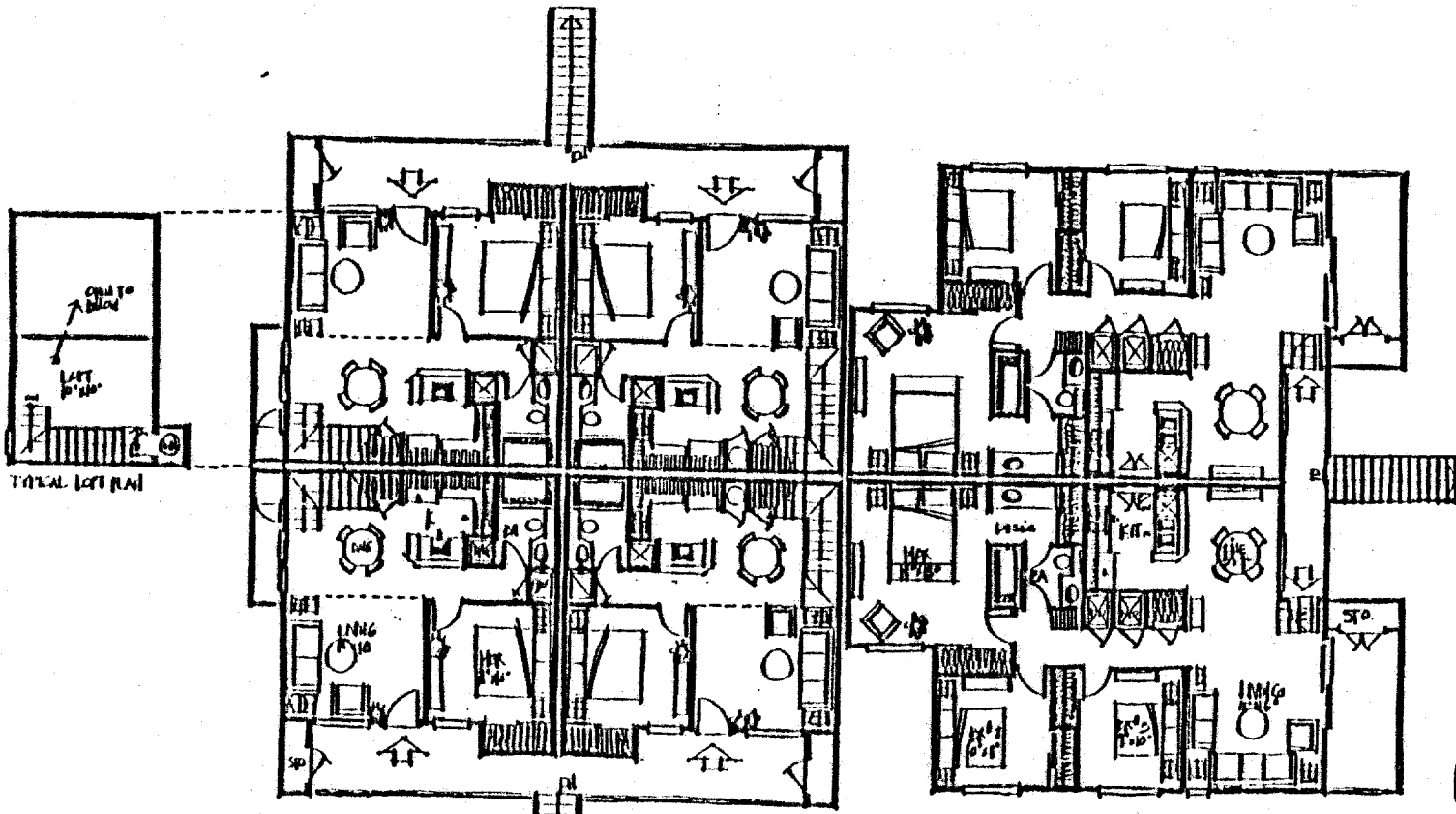
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4/4 BLDG. TYPE B

The Hills-P.U.D. MAYFIELD/AFFORDABLE (ANA 5,6,7)
THE HILLS DEVELOPMENT CO.

corbin-yamahiji and partners, inc.





Upper level
bldg type b

plan 2

plan 2
650 SF

plan 4
790 SF

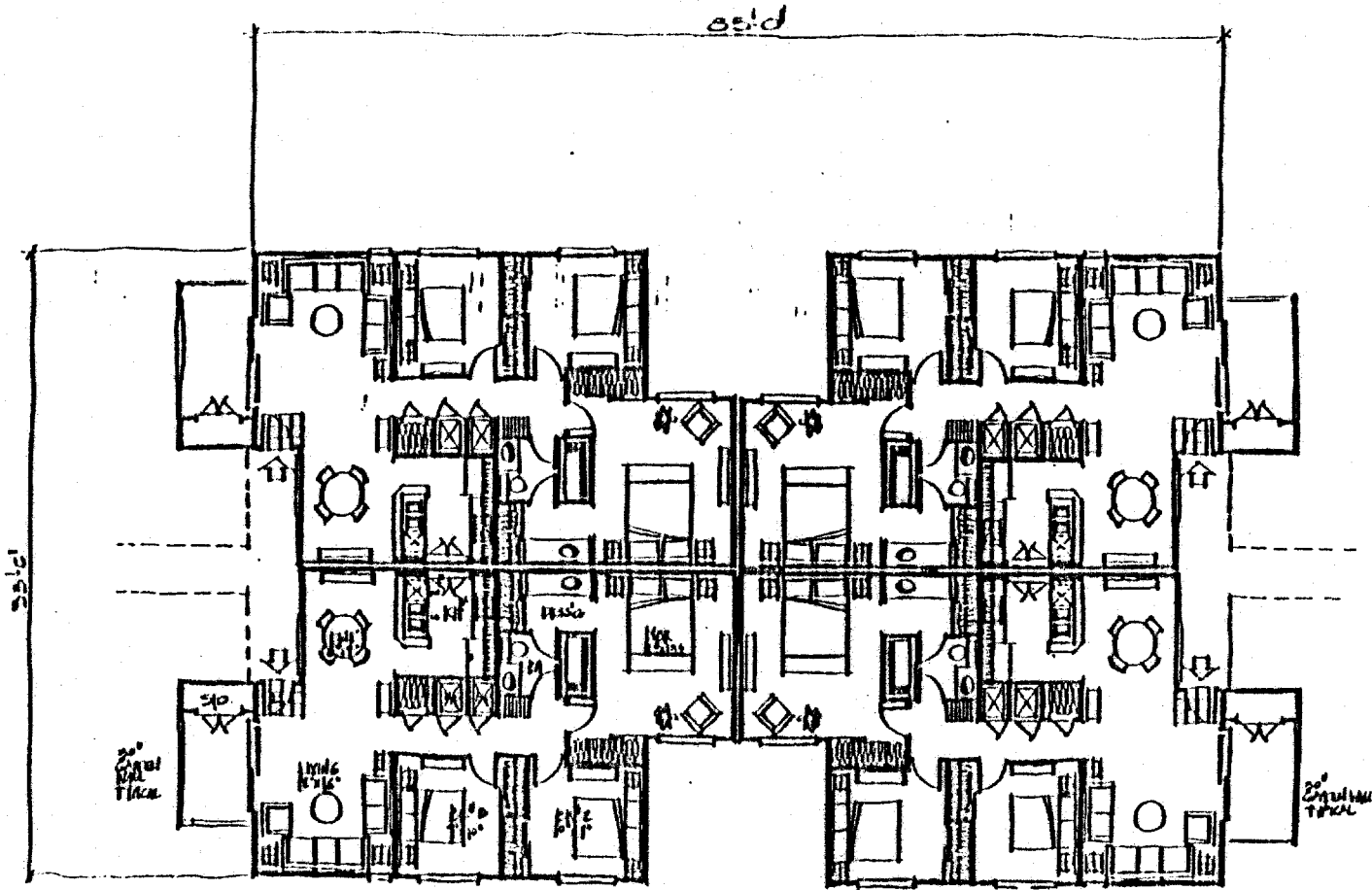
the Hills-P.U.D., MAYFIELD/AFFORDABLE (ANA 5,6,7)
THE HILLS DEVELOPMENT CO.

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0255

5

036



plan 4

plan 4
910 SF

lower level
bldg type c

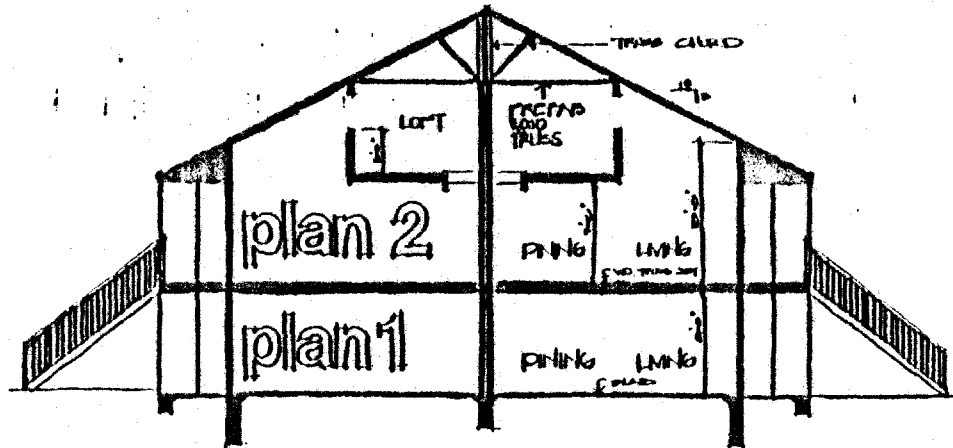
the hills - P.U.D., MAYFIELD/AFFORDABLE (ANA 5,6,7)
THE HILLS DEVELOPMENT CO.,

corbin-yamahiro and partners, inc.
architecture · planning

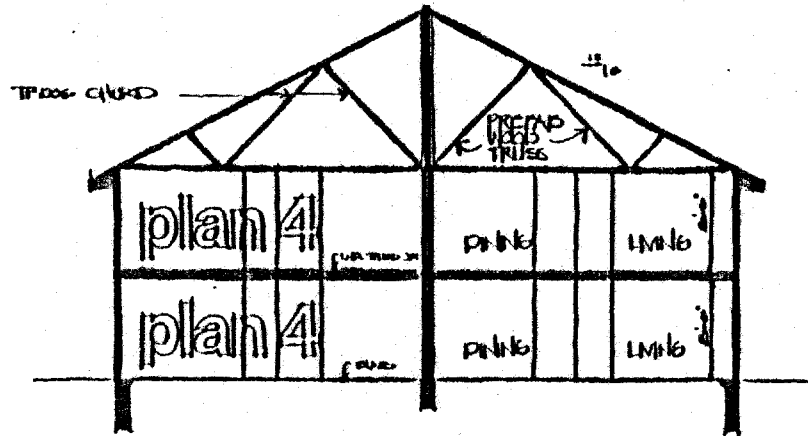
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bldg type b



bldg type c

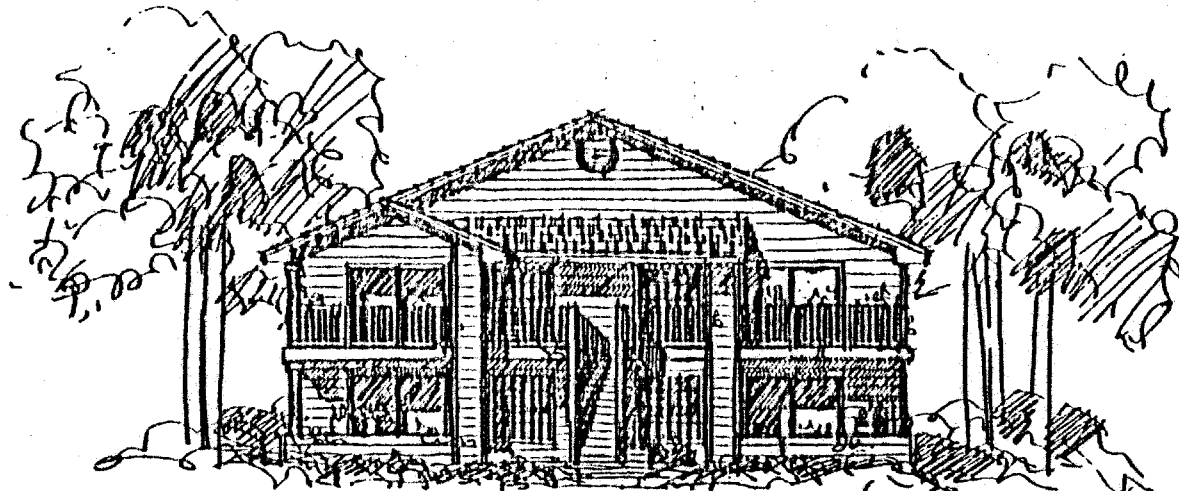
the Hills-P.U.D. MAYFIELD/AFFORDABLE (ANA 5,6,7)
 THE HILLS DEVELOPMENT CO.

corbin-yamahiro and partners, inc.
 architecture - planning

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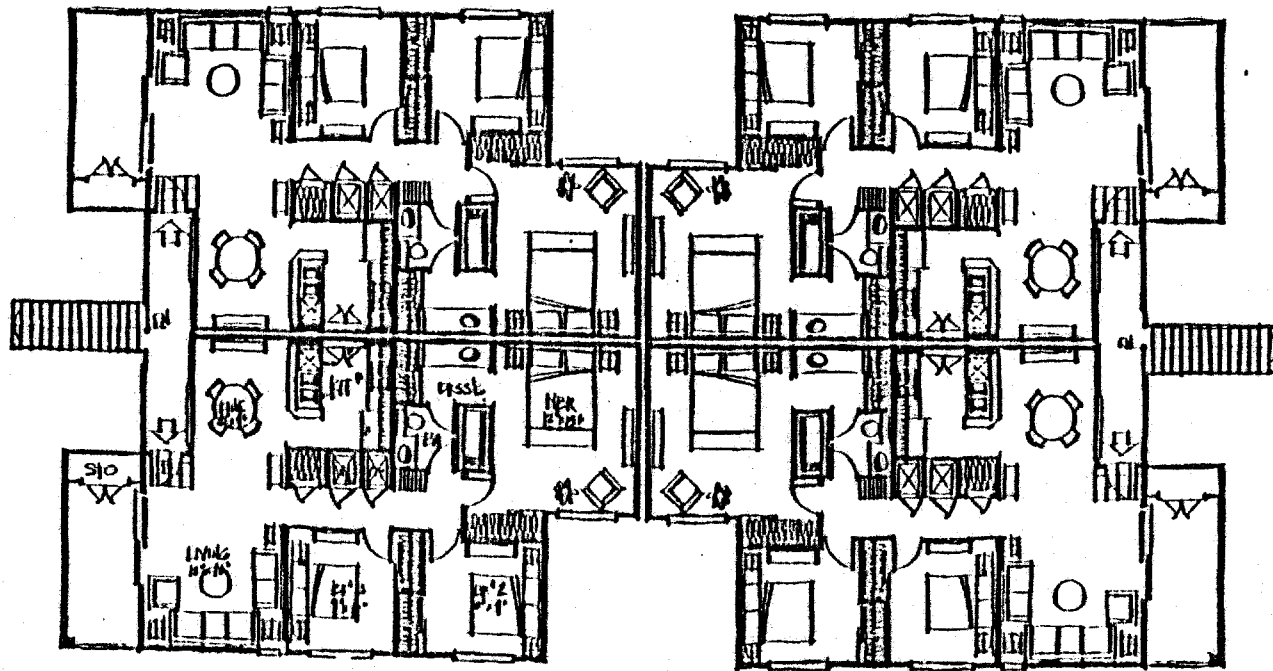
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4/4 BLDG. TYPE C

the Hills-P.U.D. MAYFIELD/AFFORDABLE (AREA 5,6,7)
THE HILLS DEVELOPMENT CO.

corbin-yarnall and partners, inc.





upper level
 bldg type c

plan 4

plan 4
 990 SF

the Hills-P.U.D., MAYFIELD/AFFORDABLE (ANA 5,6,7)
 THE HILLS DEVELOPMENT CO.

corbin-yamahai and partners, inc.
 architecture · planning



APPENDIX III:

FNMA AND FHLMC POLICY STATEMENTS ON INCLUSIONARY HOUSING

Mortgages Subject to Inclusionary Zoning Restrictions

To provide affordable housing for low and moderate income persons, some state and local governments have introduced the concept of "inclusionary zoning". We will purchase 1st mortgages secured by properties subject to this type of zoning restriction as long as the property is owner-occupied. The deed restrictions must be subordinate to our mortgage and we must have the 1st claim to any hazard insurance settlement or condemnation award. In addition, the restrictions cannot impair our legal rights to remedy a default under the mortgage terms, nor should they require us to send notice of default or foreclosure to any 3rd party. The source of the deed restrictions must be included in the public land records so that it is readily identifiable in a routine title search.

Any resale controls that affect the restricted units must be for a fixed time period, up to 30 years. They must be administered by an authorized governmental unit that has established procedures for screening and processing applicants. The zoning authority or local jurisdiction may retain the "right of 1st refusal" to purchase a restricted unit that is being resold. This right must be exercised within 90 days after the property is listed for sale. However, the deed restrictions cannot obligate us to separately notify the zoning authority or local jurisdictions about a pending foreclosure sale of the restricted unit.

When we acquire a restricted unit through foreclosure or acceptance of a deed in lieu of foreclosure, future sales of the unit must not be subject to any resale restrictions.

As Section 3.201a(8), new provisions regarding "inclusionary zoning" are added to loan eligibility requirements:

Page 122. (8) *Inclusionary Zoning.* FHLMC considers "inclusionary zoning" to cover any subdivision or project where deed restrictions are placed on specified number or percentage of the units as a condition of securing zoning approval, density approval, building permits or conversion approval. Such deed restrictions may limit the rights of a mortgage lender or subject the unit to sale or resale controls. FHLMC considers properties subject to such restrictions to be "restricted units;" noncontrolled properties are considered to be "nonrestricted units."

FHLMC will purchase loans secured by units within a subdivision or project covered by inclusionary zoning if the requirements set forth in (i) and (ii) below are met. By submitting such loans for purchase, the Seiler warrants that the requirements have been met.

(i) *For loans secured by nonrestricted units:*

(a) FHLMC purchase requirements, including all applicable condominium/PUD warranties, must be fully met.

(b) If the unit is in a condominium or PUD project, the FHLMC 70 percent presale requirements, as described in Sections 3.207 and 3.208 of the *Sellers' Guide*, will apply individually to the nonrestricted and the restricted units in that project. FHLMC will not purchase loans secured by either nonrestricted or restricted units until the presale requirement has been met for both categories.

(c) In the market data analysis section of the appraisal form, the appraiser must show analysis of three comparable sales, two of which are outside the subdivision or project if it is in the initial-sale stage. The three comparable sales must be sales of nonrestricted units.

(d) If the unit is in a condominium or PUD project, the homeowners association assessment must be based on the size of the unit or on the ratio of one to the total number of units in the entire project, but may not be based on the sale price of the unit. Exterior maintenance must be the responsibility of the homeowners association and the charges for such maintenance included in the monthly assessment.

(e) The mortgagee must have first claim to any hazard insurance payment or condemnation award.

(ii) *For loans secured by restricted units:*

(a) The requirements set forth in (i)(a) through (e) above must be met.

(b) Any "right of first refusal" must run to the enabling authority or jurisdiction with a time period not to exceed 90 days. In the event of foreclosure or deed in lieu of foreclosure, any resale restrictions will cease to be effective as to the mortgagee and subsequent purchasers of the property.

(c) If the subdivision or project contains both restricted and nonrestricted units, the number or percentage of restricted units within the subdivision or project cannot exceed 30 percent of the total number of units.

(d) The restricted units must have effective resale controls for a fixed period of time. The controls must be administered by a duly authorized authority (or an agent thereof) of state, local or municipal government that has established mechanisms to provide applicant screening and processing on an ongoing basis. The controls may not be administered by the developer.

(e) Hazard insurance coverage in the amount of replacement cost is required.

(f) The mortgagee shall not be required to send notice of default or foreclosure to any third party.

(g) Agreements or requirements, i.e., enacted ordinance, statute, published policy or imposed restrictions, must show in the public land records for the project in a manner so as to be discoverable by a routine title search performed by a title searcher of normal competence.

SECTION III

DESCRIPTION OF RENTAL HOUSING COMPONENT



WASHINGTON VALLEY ROAD

THE IRIS DRIVE

PLAN FOR DEVELOPMENT OF LOW AND MODERATE INCOME RENTAL HOUSING
IN THE HILLS PUD, BEDMINSTER, NEW JERSEY

The Hills Development Company (HDC) proposes to construct 88 of the total number of 260 low and moderate income housing units in The Hills PUD as rental housing. These units are to be located in Area 7 of the Mayfields section of the PUD, as shown in the site plan map on the following page. As shown in Table 1, these units will be divided equally between low and moderate income households, with the proposed distribution as shown in the table.

TABLE 1

NUMBER OF UNITS	UNIT TYPE	SQUARE FOOTAGE	DISTRIBUTION OF UNITS	
			LOW INCOME	MODERATE INCOME
24	one bedroom	567	12	12
24	two bedroom/loft	675	16	8
32	two bedroom	769	12	19*
8	three bedroom	997	4	4

*one two bedroom unit will provide rent-free to the superintendent

The proposed rent schedule for the units, which is shown in Table II, was derived from an analysis of the maximum rents that could be paid by low and moderate income households, respectively, by household size, and the anticipated mix of households by size for each unit type. Specifically, it was assumed that one bedroom units would be occupied in roughly equal proportions by one and two member households; the two bedroom loft units by three member households; the two bedroom units by three and four member households; and the three bedroom units by four and five member households. The average rent for each unit type projected is 90% of the ceiling rent for each category; individual rents will vary, of course, on the basis of the income of each household.

This proposed rent schedule is based on the first year's operation and the existing figures based on the Newark Standard Metropolitan Statistical Area (SMSA). It is possible that these figures will be adjusted, depending on the income levels of the persons renting in these Units and/or due to the adoption of different income figures by the U.S. Department of Census/U.S. Department of Housing & Urban Development. The Hills Development Company has proposed a rental surcharge system which would operate in the event of a rise of a household's income beyond a threshold to be established.*

Table II

PROJECTED RENT LEVELS AND PROJECT INCOME FOR PROPOSED MAYFIELDS RENTAL HOUSING

<u>LOW INCOME</u>		<u>MODERATE INCOME</u>		<u>TOTAL RENT ROLL</u>	
<u>NUMBER</u>	<u>RENT</u>	<u>NUMBER</u>	<u>RENT</u>	<u>LOW INCOME</u>	<u>MODERATE INCOME</u>
12	\$230	12	\$380	\$33,120	\$54,720
16	\$270	8	\$450	\$51,840	\$43,200
12	\$285	19	\$475	\$41,040	\$108,300
<u>4</u>	<u>\$300</u>	<u>4</u>	<u>\$500</u>	<u>\$14,400</u>	<u>\$24,000</u>
44		43		\$140,400	\$230,220
				\$370,620	

It should be readily apparent that it is not possible, through conventional means, to develop a rental housing project today which can provide rents such as those above on a break-even basis. In order to achieve these rents, The Hills Development Company will have to utilize a number of approaches, all or most of which must take place if rents affordable to low and moderate income households, particularly low income households, are to be achieved.

* The figure of 125% over ceiling income has been proposed for the threshold.

(1) Financing: It is the intention of HDC to seek below-market mortgage financing, through the tax-exempt bond based mortgage program of the New Jersey Housing Finance Agency (NJHFA), or other governmental entities. Meetings have been held with the staff of the Housing Finance Agency to explore that possibility, and an application has been submitted to the U.S. Department of Agriculture, Farmers Home Administration, as well. Pending satisfactory resolution of the long-term financing of this project, HDC expects to use conventional bridge financing (up to five years) on a balloon basis from an institutional lender, with whom discussions have been held. The illustrative pro forma contained as Exhibit A has been prepared on the assumption that HDC will use this conventional financing. NJHFA financing would provide a lower interest rate.

(2) Reducing Land and Improvement Costs: HDC will significantly reduce the share of land and site improvement costs associated with units actually included in the rental project.

(3) Rent Skewing: As noted above, the project rents will be skewed, or adjusted, in order to ensure that approximately half of the units will be affordable by low income households.

(4) Tax Abatements: It is the intention of HDC to seek tax abatement from the Township of Bedminster, as provided by statute. The attached operating budget has been prepared on the basis on a payment in lieu of taxes to the Township of 3% of the gross shelter expense of the project.*

(5) Syndication Proceeds: At the present time HDC contemplates selling the project to investors as a syndication. HDC intends to utilize 80% of the proceeds obtained from that sale in order to provide rent reduction in the project.

* HDC is eager to explore other means by which the Township may be able to further facilitate making this project affordable to low income households, including potential use of Community Development Block Grant funds.

Table III presents the preliminary development cost budget. Table IV presents a sample first year operating cost budget for the proposed Mayfields rental units.

Table III

DEVELOPMENT COST ANALYSIS FOR PROPOSED MAYFIELDS LOW AND MODERATE INCOME RENTAL HOUSING ELEMENT		
Land @ \$2000/DU	\$	176,000.00
Site Improvements @ \$5000/DU		440,000.00
Landscaping and finishing @ \$2000/DU		176,000.00
Construction @ \$32/SF		1,746,976.00
Arch. & Engineering @ 3.5%	61,200	
Arch. & Supervision	6,120	
Consulting & Legal	50,000	
Insurance during construction	10,000	
Title & recording	10,000	
Permits	5,000	
Prop. taxes during construction	4,400	
Marketing expense @ \$250/DU		<u>22,000.00</u>
SUBTOTAL	\$	2,707,696
Construction financing @ 12% for 9 months		141,682
Financing fees @ 3%		94,454
Supervision & overhead @ 2.5%		78,712
Nonprofit corporation fee @1%		31,485
Contingency @3%		<u>94,455</u>
TOTAL DEVELOPMENT COST	\$	3,148,484
Less 10% Equity		<u>(314,848)</u>
TOTAL MORTGAGE REQUIRED	\$	2,833,636

It is essential that these units not only be designed and constructed in a manner that is compatible with the balance of The Hills PUD, but also that an operating and maintenance budget be established which provides reasonable assurance that the units will be well maintained over an extended period. The project budget, therefore, provides for two full-time employees (the superintendent and a maintenance worker), as well as a rent-free apartment for the superintendent, so that he/she will be on call

after normal business hours. Ample allowance for repairs, and for accumulation of reserves, has also been made.

Table IV

ESTIMATED ANNUAL OPERATING COST ANALYSIS FOR THE FIRST YEAR OF OPERATION FOR THE PROPOSED MAYFIELDS LOW AND MODERATE INCOME RENTAL HOUSING ELEMENT (note 1)

Debt Service on \$2,833,636 @ 11.5% (note 2) \$325,868.00		
Management Fee	\$20,000	
Consulting (note 3)	2,000	23,500.00
Audit	1,500	
Payroll (note 4)		\$ 31,050.00
Insurance	6,000	
Materials and Supplies	20,000	\$ 32,500.00
Exterminator	1,500	
Maintenance contingency	5,000	
Sewer use fee	\$26,400	
Trash collection	5,280	\$ 31,680.00
Reserves @ .004 mortgage amount		
Payment in lieu of taxes @ 3%		
gross shelter expense		\$ <u>14,101.00</u>
GROSS SHELTER EXPENSE		\$ 470,034.00
Return on equity @2.5%		<u>7,871.00</u>
Vacancy & collection loss @ 3%		\$ 477,905.00
		\$ <u>14,337.00</u>
TOTAL EXPENSE		\$ 492,242.00
Less anticipated syndication proceeds (note 5)		<u>(124,680.00)</u>
TOTAL EXPENSE TO BE COVERED BY RENT ROLL		\$ 367,562.00

NOTES:

- (1) All figures are based on 1983 dollars. Allocations to specific line items are projections. Specific allocations and total dollar amounts are subject to change.
- (2) Based on balloon mortgage @ ½% above prime interest rate
- (3) Includes legal retainer and a budget for advertising the availability of the units.

- (4) Payroll includes superintendent @ \$15,000.00 and maintenance worker @ \$12,000.00 and 15% fringe benefits. An apartment is provided rent-free for the superintendent.
- (5) Anticipated syndication proceeds are 22% of the mortgage amount or ($\$2,833,686 \times .22$) = \$623,400. 20% of that amount has been budgeted for the first year of occupation.

Finally, it should be noted that, in order to obtain the syndication proceeds, which will provide for a substantial part of the rent reduction needed to make the units affordable to lower income households, it will be necessary to establish provisions whereby this project may be sold by the owners (the limited partnership made up of the investors who have purchased the equity) at some point in the future. If and when the units are sold, the Corporation will have the right of first refusal to purchase the project. If the Corporation does not purchase the units, the units will be offered at prices affordable to persons of moderate income, as then defined, to the residents of those units. Thereafter, any unsold units will be offered on the open market to persons of moderate incomes.

EXHIBIT A
PRO FORMA RENTAL AFFORDABILITY ANALYSIS
FOR PROPOSED MAYFIELDS LOW AND MODERATE INCOME RENTAL UNITS

UNIT TYPE HOUSEHOLD SIZE	<u>ONE BEDROOM</u>		<u>TWO BEDROOM</u>		<u>THREE BEDROOM</u>	
	1	2	3	4	4	5
<u>LOW INCOME HOUSEHOLDS</u>						
INCOME CEILING*	\$11450	\$13100	\$14700	\$16350	\$16350	\$17650
	X .3	X .3	X .3	X .3	X .3	X .3
MAX SHELTER AMT.	<u>3425</u>	<u>3930</u>	<u>4410</u>	<u>4905</u>	<u>4905</u>	<u>5295</u>
(UTILITY ALLOWANCE)	(600)	(600)	(840)	(840)	(1080)	(1080)
MAXIMUM NET RENT	<u>\$2835</u>	<u>\$3330</u>	<u>\$3570</u>	<u>\$4065</u>	<u>\$3825</u>	<u>\$4215</u>
90% MAX NET RENT	\$2552	\$2997	\$3213	\$3659	\$3443	\$3794
MONTHLY AMOUNT	213	250	268	305	287	316
<u>MODERATE INCOME HOUSEHOLDS</u>						
INCOME CEILING*	\$17650	\$20150	\$22700	\$25200	\$25200	\$26750
	X .3	X .3	X .3	X .3	X .3	X .3
MAX. SHELTER AMT.	<u>5295</u>	<u>6045</u>	<u>6810</u>	<u>7560</u>	<u>7560</u>	<u>8025</u>
(UTILITY ALLOWANCE)	(600)	(600)	(840)	(840)	(1080)	(1080)
MAXIMUM NET RENT	<u>\$4695</u>	<u>\$5445</u>	<u>\$5970</u>	<u>\$6720</u>	<u>\$6480</u>	<u>\$6945</u>
90% MAX NET RENT	\$4226	\$4901	\$5373	\$6048	\$5832	\$6251
MONTHLY AMOUNT	352	408	448	504	486	521

*These income ceilings are those currently in effect for the Newark SMSA. If and when the U.S. Department of Housing and Urban Development adjusts these ceilings to reflect the relocation of Somerset County to the newly created Hunterdon-Somerset-Middlesex PMSA, they will be changed accordingly.

SECTION IV

**STATEMENT OF POLICIES, PROCEDURES AND ORGANIZATION
OF THE BEDMINSTER HILLS HOUSING CORPORATION**

STATEMENT OF POLICY, PROCEDURE AND ORGANIZATION OF THE BEDMINSTER HILLS HOUSING CORPORATION

I. Purpose of the Document

In order to accomplish the provision and retention of housing affordable to persons of low and moderate income within The Hills Planned Unit Development in Bedminster, a mechanism is needed to formulate and implement policy, to direct the means by which tenants are selected, rents are set, and costs are controlled. This document represents the position of The Hills Development Company, and covers the following major areas:

- A. Organization of the policy-making body which will directly control the operation of the low and moderate income housing system. The working title for the entity is The Bedminster Hills Housing Corporation.
- B. Purposes and responsibilities of The Bedminster Hills Housing Corporation.
- C. Procedures to be used by The Bedminster Hills Housing Corporation in solving specified problems, such as determination of rents, administration of resale controls, and selection of tenants and homebuyers.

II. Organization of The Bedminster Hills Housing Corporation

A. Purposes and Structure

The Bedminster Hills Housing Corporation (the "Corporation") will be organized as a nonprofit corporation under Title 15A of the New Jersey Statutes. It will be a policy-making body, representing the interests of The Hills Development Company, The Township of Bedminster, the Public Advocate, and other interested parties. The purpose set forth in the Articles of Incorporation will be to ensure that the 260 units of low and moderate housing to be constructed in a portion of The Hills PUD ("the Project") are, and will remain, affordable to persons of low and moderate income, and to provide a means whereby the tenants and potential homebuyers can be screened and selected, the rents and purchase prices controlled, and all other matters related to the Project can be resolved.

B. Governance of the Corporation.

The Corporation will be governed by a five-member Board of Trustees. The Township of Bedminster, the Public Advocate, and the New Jersey Mortgage Finance Agency will each appoint one member of the Board. The Hills Development Company will appoint two members to the Board, one of whom shall serve as its initial chairperson. The Members of the Board will serve for two year terms, but can be replaced by their appointing authority. Further, the Board can be expanded by an affirmative vote of 3/4 of the Board, which increases will be filled by the Board.

C. Powers of the Board.

The Board will have the powers of a Nonprofit Corporation organized under the New Jersey statutes. It will be able to hire staff, adopt a budget, spend money, appoint committees, delegate responsibility, and generally carry out the purposes of the Corporation. The By-laws will provide mechanisms for such delegation of responsibilities, including the requirements for formal action by the Board and composition of any trustee committees. The Articles of Incorporation and the By-laws recognize that the Project is an integral part of The Hills PUD, and that no action will be taken which adversely affects the construction or marketing of the remainder of the PUD.

D. Officers

The Corporation will have the right to appoint officers, and compensate them for their services. These officers will direct the work of the day-to-day management of the Project, and will report to, and can be replaced by, the Board of Trustees. This right will be subject to the approval of The Hills Development Company.

E. Duration, Functions, Status

The Corporation will be organized as a perpetual entity, but appropriate provisions within the Articles of Incorporation will provide for its dissolution in the event circumstances obviate the need for such an organization. Further, the Corporation will enter into an Agreement with The Hills Development Company which provide the Corporation with

authority to regulate various aspects of the Project, including eligibility, rents, purchase prices of units, and other matters. The Corporation will be a nonprofit entity, and as such, will apply for recognition as a tax-exempt organization under the U.S. Internal Revenue Code. Regardless of whether or not that tax-exempt status is granted, the organization will be operated as a nonprofit entity under New Jersey law.

III. Purposes and Functions of the Corporation

A. General

The Corporation will serve as the policy-making body regulating the operation of the Project. It will have the responsibilities for:

1. Supervision of the procedures for tenant selection and the qualification by homebuyers for the rental and sales sections of the Project.
2. Administration of the controls on rents and prices for the units within the Project.
3. Determination of the level of subsidy required by the rental section of the Project and administration of any internal subsidy program to assist particular renters or homebuyers.
4. Administration of the subsidy re-capture mechanism which operates as a result of any improvement in tenant incomes; and administration of the recapture provisions which operate within the units sold to persons of low and moderate income.
5. To carry out any other responsibilities and functions which can assist in the operation, maintenance and retention of affordable housing within the Project.

B. Specific Issues

Specific guidelines on major areas of concern have been developed. These include:

1. Tenant and Homebuyer Selection
2. Regulation of Rents

3. Recapture of subsidy and resale controls

4. Potential Conversion of Rental Units to Fee Ownership.

Generally, these specific guidelines parallel the language set forth in the Application for Setaside of Bond Proceeds which The Hills Development Company has filed with the New Jersey Mortgage Finance Agency on September 21, 1983 ("the Application"). This Application covers the 172 units which The Hills Development Company proposes to offer for sale to persons of low and moderate income. The language also parallels that of the Rental Component Description, affecting 88 units of rental housing, support for which is the subject of negotiations with the New Jersey Housing Finance Agency ("The Rental Component").

The guidelines are as follows:

1. Tenant and Homebuyer selection

A. Units within the Project will only be available to households composed of persons of low and moderate income, as defined in the Application and the Rental Component.

B. The Corporation will establish procedures whereby persons seeking to live within the Project will file applications, which will be ranked according to family size and composition*, priority category** and other criteria which are set by the Board. This ranking system will result in a priority list which the Corporation will use to refer applicants to units. The Corporation will have the right to revise that waiting list as necessary.

* The Corporation will be guided by the principle that appropriate units should be allocated to appropriate households. For example, preference for three bedroom units would be given to families with two or more children of different sex; and more accessible units would be allocated to handicapped people.

** The only category already established is set forth in the Application-- employment in the vicinity, coupled with either (a) living in substandard living conditions or (b) living an excessive distance from the place of employment.

C. The Corporation will use the services of a management agent (in the case of rental units) or the lender (in the case of sales units) to conduct credit checks and other financial investigations, and will not undertake these tasks directly.

D. The Corporation will direct one applicant per unit available to the management agent or lender, and use the waiting list to fill any openings. The Corporation will establish an appeals system so that individuals whose application is denied, or who object to their place on the waiting list can receive a final determination of their status. The decision of the Corporation will be final.

2. Regulation of Rental Housing Costs

A. Leases in the rental units will be for a one year period. The rent will not include utilities, although for purposes of computing rent, the Corporation will include a calculated utility allowance. Households in the rental section will pay 30% of their gross income for rent, including the utility allowance.*

B. The Corporation will determine the necessity for an annual rental adjustment. If such an adjustment is required, it will not exceed the greater of 7% or the rise in the rental component of the Consumer Price Index.

C. There will be provisions whereby the Corporation will attempt to adjust an individual's rent downward, if the household income declines, although there may be a minimum rent established, the non-payment of which would be grounds for eviction.

*The utility allowance will be based on consumption patterns under reasonable usage conditions for a comparable unit and will be adjusted annually. This allowance is not charged to the tenant, but is simply used to set the rent level. Utilities will be individually metered, and each household will be responsible for paying its own utility costs. A household with a low consumption pattern will pay total costs less than 30% of their income; a household with higher utility consumption patterns may pay total costs higher than 30% of their income.

D. The Corporation will also establish provisions for a surcharge of a household's rent in the event that the household income rises above the limits set for their income category. However, a rise in family income will not result in eviction.

3. Recapture of subsidy and resale controls

Resale Controls

In the case of units sold to low and moderate income buyers, the Corporation will establish procedures to ensure that the units remain available to low and moderate buyers. The Corporation will have a right of first refusal to buy any unit which a resident of the project wishes to sell, and the Corporation will have an exclusive right to refer low/moderate buyers to units for a 90 day period. The price set for that unit will be based on the initial sales price of the unit, plus the Corporation's determination of the value of any improvements made to the unit as well as the increase in the value of the unit due to rises in the Consumer Price Index (the "computed value"). It is anticipated that the Corporation's procedures will ensure that the units, when sold, will be purchased by another low or moderate income homebuyer. If, for any reason, the unit is not sold to a qualified low or moderate income person within the period set by the Corporation, a homeowner can sell the unit on the open market. However, price controls will remain on the unit, so that the unit will remain affordable, even if not immediately purchased by a low or moderate income homebuyer.

Recapture of Subsidy.

A. If there is a rental component to the project, The Hills Development Company anticipates syndicating and selling the rental units to a limited partnership. If this is done, The Hills Development Company will contribute 80% of the proceeds to the

Corporation. If syndication does not take place, The Hills Development Company will, over a six year period, contribute to the Corporation an amount comparable to that which would otherwise have been realized by the Corporation by the syndication process.

B. The Hills Development Company will not include a cost for land on that portion of the project on which units will be constructed for sale to persons of low and moderate income. However, if a household's income rises beyond a threshold to be set by the Corporation*, the unit owner will be liable to pay additional consideration to the Corporation, which will pay 75% of the collected amount to The Hills Development Company as payment for the land costs. The Corporation will retain up to 25% of the recaptured amount for its operations.

C. In addition, the Corporation will have the right to receive additional consideration if a rental household's income rises.

D. These recapture funds will be used to keep prices, rents, and homeowner's associations costs within the low and moderate income range and as payment to The Hills Development Company as reimbursement for its previously-contributed subsidies.

4. Potential Conversion to Fee Ownership.

A. In order to obtain the syndication proceeds, it will be necessary to establish a mechanism whereby the owner of the rental portion of the project can sell it. Thus, The Hills Development Company reserves the right to convert the Rental units to fee ownership. If this is done, it will be done no sooner than 10 years after the units are first built. The

* An administratively reasonable threshold will be selected by Board of Directors of the Corporation. It will not be in excess of the 125% of ceiling income used by HUD.

Corporation will not do anything which would jeopardize the possibility of converting these units from rentals to fee ownership if The Hills Development Company exercises its right.

B. It is understood that The Hills Development Company will provide an opportunity for the Corporation or the tenants to purchase the project; that if the units are converted to condominiums that the tenants will be given an opportunity to purchase the units; and that all units not sold to tenants will be sold at prices affordable to moderate income households, as then defined, under conditions similar to those established for the previously-described fee ownership units.

C. The Board of Trustees will establish a budget for the use of any subsidy monies which are contributed by The Hills Development Company , which will be generally directed towards defraying the costs of debt service, establishing reserves for repair or replacement of facilities, and operational expenses of the Corporation. The Corporation will return any unused funds to The Hills Development Company.

In addition to these specific guidelines which The Hills Development Company has developed, the Corporation's Board of Trustees will also establish such other guidelines and policies as are necessary to carry out the function of assuring affordable housing within The Hills Village Planned Unit Development, as outlined in the Application and the Rental Component.

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A proposed schedule of payments to the Homeowner's Assistance Fund

We require a clear system of computed payments to the Homeowner's Assistance Fund, which (a) bears a relationship to the value of the subsidy provided by The Hills Development Company; (b) is within the affordability range of the respective homeowner; (c) reflects the homeowner's ability to pay; and (d) provides for a recapture of subsidies in the event that a unit is sold on the open market following foreclosure by a lender.

The following system is proposed:

For all purchasers of condominium units within The Village Green Neighborhood Condominium, the Declaration of Restrictions would reference an obligation to pay the differential between the value of the housing unit on the open market, as against the price which the low and moderate income buyer paid for the unit. This differential would be recaptured only in the event of a foreclosure (and a release of all price controls) during the period when the price controls would otherwise be in effect. This would be accomplished by having the purchaser appoint the non-profit corporation as his attorney in fact, to collect, for the benefit of the Corporation, any excess funds which may be generated in a market sale of his unit in the event of a foreclosure

In terms of the "contributions" to the Homeowner's Assistance Fund, the system would work as follows:

For low income buyers, Hills would "waive" 75% of the total market differential, so long as the condominium unit owner lived up to the Restrictions and there was no foreclosure. This would mean that contributions based on 25% of the differential between market prices and the prices they paid for the units, carried as a use fee with an interest rate of 10% and a 30 year term. As indicated in the Proposal, this use fee does not have to be paid unless (a) the purchaser's income rises above the ceiling income in effect at the time the condominium unit was purchased, or (b) if the purchaser's payments for principal, interest, property taxes and homeowner's association assessments, plus a payment into the Homeowner's Assistance Fund, would exceed 28% of household income. Partial payments, to bring a unit owner up to 28% of income, can be required.

B. For moderate homebuyers, the use fee would be based on a factor of 50% of the differential between the market price for the unit less the actual purchase price, with the same rules as set forth above.

Recapture schedule

The following recapture schedule is proposed for units to be sold within The Village Green Neighborhood Condominium:

Low income			
Unit size	Market Price ¹	Sales Price	Differential
1 Bedrm	\$51,000	\$26,500	\$ 24,500
2 Br (loft)	58,700	29,500	29,200
3 Br.	79,800	33,500	46,300

¹Based on the RCI market study. If more precision is required, appraisals can be ordered.

A. The Declaration of Restrictions will state that the condominium unit owners are obligated to pay the total amount, and each prospective purchaser will be given a schedule of payments into the fund, based on which unit they purchase and their income status at time of purchase.

B. Based on my calculations, the payment schedule would indicate that the unit owners would have to repay the following:

For low income condominium unit buyers:

1 Bedroom unit owner would have an obligation to repay, within 30 years, the sum of \$6,175, which, carried with a 10% interest rate, amounts to a total of \$21,078 over the term, or \$703/year, or \$58.55/month.

The two-bedroom (loft) owner would have an obligation to repay \$7,300, which would equal \$ 23,105 over the term, or \$770/ year or \$64.18/month.

The three bedroom unit owner would have an obligation to repay \$11,575, or \$ 36,630 over the period of the term, which is \$ 1,221/year or \$ 101.75/month.

As to the moderate income homebuyer, the numbers would work as follows:

Unit Size	Market Price	Sales Price	Differential
2Br(loft)	\$58,700	\$48,500	\$10,200
2 Br	70,000	52,500	17,500
3Br	79,800	55,500	24,300

For the purchaser of a two-bedroom (loft) unit, the use fee would be \$ 5,100, which would total \$ 16,119 over the term, or \$537/year or \$44.76/month.

The two bedroom owner would have an obligation of \$ 8,750, or \$ 27,490 during the term, or \$ 916/year, \$ 76.36/month.

The three bedroom owner would have an obligation of \$12,150, or \$38,400 for the term, or \$1,280/year, \$106.63/month.

An alternative formulation, prepared by Alan Mallach, which uses a system based on an across-the-board 20% of unit price and a present-value system based on an imputed rate factor of 6% per year, compounded (which works out to nearly 21% interest), was previously sent to the parties. It does not adequately address the problem of foreclosure, and I believe this works better.

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**THE VILLAGE GREEN NEIGHBORHOOD CONDOMINIUM DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS DECLARATION made this day of , 19 , by The Hills Development Company, a joint venture general partnership formed under the laws of the State of New Jersey, having its principal office at 3 Burnt Mill Road, in the Township of Bedminster, County of Somerset, State of New Jersey, and its successors or assigns, hereinafter referred to as "Declarant". This Declaration runs with each condominium unit and affects the ownership and use of all condominium units within The Village Green Neighborhood Condominium.

RECITALS

WHEREAS, Declarant desires to make a certain number of condominium units available to persons of low and moderate income , within a section of The Hills Planned Unit Development entitled The Village Green Neighborhood Condominium, at prices substantially below their fair market cost; and

WHEREAS, Declarant desires to provide these condominium units so that each housing unit will be "affordable" to persons of low and moderate income, as that term has been defined by the New Jersey Supreme Court; and

WHEREAS, it is necessary to provide a means whereby the condominium units constructed in The Village Green Neighborhood Condominium will continue to be "affordable" to persons of low and moderate income; and

WHEREAS, these conditions and restrictions, all of which are hereinafter included in the term "Declaration of Restrictions" are intended to secure the above objective.

DECLARATION

NOW, THEREFORE, Grantor does hereby make, declare and publish

its intentions and desires to submit and does hereby submit the real property described in Exhibit A hereto annexed, to be conveyed, leased, occupied and used subject to the restrictions, conditions, easements, charges, assessments, obligations, and liens (generally herein referred to as "Conditions and Restrictions" or alternatively as "Restrictions") hereinafter set forth and the covenants, restrictions, conditions, easements, charges, assessments, obligations, liens and other obligations set forth in The Village Green Master Deed, dated _____ and recorded in the Office of the Somerset County Clerk in Book _____ at Page _____, as same may now or hereafter lawfully amended, and The Hills Village Master Declaration of Covenants, Conditions and Restrictions, dated February 4, 1983, and recorded in the Office of the Somerset County Clerk in Book 1473 at Page 696, as amended, annexed, or enlarged.

ARTICLE I
DEFINITIONS

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Section 1.01. Applicability. These Covenants, Conditions and Restrictions shall be applicable to the property known as The Village Green Neighborhood Condominium. The terms and conditions set forth within these Covenants, Conditions and Restrictions apply to any and all present and future owners of units within The Village Green Neighborhood Condominium, and ownership of any condominium unit within The Village Green Neighborhood Condominium shall be conclusively deemed to mean that each and every owner and each and every or occupant of such condominium units within The Village Green Neighborhood Condominium have accepted and ratified this Declaration and all sections thereof.

Section 1.02. Terms and Definitions. The following words and terms, when used in this Declaration unless the context clearly shall indicate otherwise, shall have the following meanings.

"Assign" shall mean a transfer of one's interest or other right in

a condominium unit within The Village Green Neighborhood Condominium to another.

"An Assign" means a person to whom a right has been transferred. That person is considered a successor in interest.

"Assessments" shall mean any levies, charges, or penalties imposed by the Grantor or its assigns.

" Ceiling Income" refers to the maximum income which an individual or household can receive and still remain within a defined income category, such as " low" or " moderate" income. Ceiling income is determined for each buyer at the time of the purchase of a Village Green Neighborhood Condominium unit.

"Consumer Price Index" refers to the index prepared by the United States Department of Labor, for "All Items", and is applicable to all urban consumers within the New York, Northeastern New Jersey Metropolitan Region; or such successor index prepared by a successor entity of the Federal government which measures the relative movement of prices for all items within the New York-Northeastern New Jersey Metropolitan Region.

"Computed Value" refers to the consideration paid for a condominium unit within The Village Green Neighborhood Condominium as initially determined by the Grantor, its successor or assigns; and as re-computed, by The Grantor, its successor or assigns, at any time the condominium unit is sold or conveyed. The computation system is set forth in this Declaration below.

"CONDOMINIUM UNIT" shall mean and refer to a single family attached residential dwelling, now or hereafter to be erected, and located within the boundaries of The Village Green Neighborhood Condominium.

"Exclusive Right" refers to a right which may be exercised only by one party for a period of time.

"Homeowners Assistance Fund" refers to a fund, created by the Grantor, its successors or assigns into which condominium unit owners within The Village Green Neighborhood Condominium shall make such payments as are required by this Declaration of Covenants, Conditions and Restrictions. This Declaration sets forth two levels of payments:

- a. Total Differential Obligation, which is the difference between the Market Value of the condominium unit and the Computed Value of the condominium unit; and
- b. Waived Differential Obligation. For persons whose ceiling income is within the low income grouping, the Waived Low Income Differential Obligation is 25% of the Total Differential Obligation. For persons whose ceiling income is within the moderate income grouping, the Waived Moderate Income Differential Obligation is 50% of the Total Differential Obligation.

"Household" refers to all the occupants of a dwelling unit within The Village Green Neighborhood Condominium.

"Household Income" refers to all income, from all sources, such as compensation for services, business income, interest, rents, dividends, and gains from the sale of property, and includes pensions and governmental transfer payments and benefits, which is acquired by any member of the household. Excluded from income are gifts, inheritances and bequests, but not excluded is any income earned from such gifts, inheritances or bequests.

"Improvements" refer to additions to the condominium unit, including materials, supplies, appliances, or fixtures which become a permanent part of a condominium unit within The Village Green Neighborhood

Condominium, and which have received prior written approval by Grantor , its successors or assigns and The Village Green Neighborhood Condominium Association Inc. Unless such written approval has been obtained, such improvements will not be computed into the resale value of the unit.

"Institutional Lender" means a public corporation, registered or qualified to do business within the State of New Jersey, which is in the business of loaning money for a profit, and which is regulated by the New Jersey Department of Banking and Insurance or by a Federal governmental agency.

"Lease" refers to an agreement, written or oral, between an owner of a condominium unit within The Village Green Neighborhood Condominium and another party, for the use and occupancy for any period of time by the other party of a condominium unit, in exchange for any consideration. The term " lease" shall also mean " rent", or any other exchange of use and occupancy of the dwelling unit to another.

"Low Income" means that sum of money representing an income for any calendar year no greater than fifty (50%) percent of the median income, within Somerset County, New Jersey as computed by the United States Department of Commerce, Bureau of the Census, and published by the United States Department of Commerce/United States Department of Housing and Urban Development, and as adjusted by the Federal Government from time to time. Current low income ceilings for the Newark Standard Metropolitan Statistical Area, which are based on a median income of \$ 31,500 for a family of four in Somerset County, are contained in an illustrative table which follows. These figures will be changed to reflect the Primary Metropolitan Statistical Area numbers for Somerset County, when available.

LOW INCOME

OF PERSONS PER HOUSEHOLD

1	2	3	4	5	6
\$11450	\$13100	\$14700	\$16350	\$17650	\$18950

"Market Value" means the price that a condominium unit, within the Village Green Neighborhood Condominium, would sell in a absence of any resale, use and occupancy, or other restrictions unique to The Village Green Neighborhood Condominium, such price being achieved by an arms length transaction between a ready, willing and able buyer and a ready, willing and able seller.

"Moderate Income" refers to that sum of money representing an income for any calendar year not to exceed between fifty (50%) and eighty (80%) percent of the median income within Somerset County, New Jersey as computed by the United States Department of Commerce, Bureau of the Census, and published by the United States Department of Commerce/United States Department of Housing and Urban Development, and as adjusted by the Federal Government from time to time. Current moderate income ceilings for the Newark Standard Metropolitan Statistical Area, which are based on a median income of \$ 31,500 for a family of four in Somerset County, are contained in an illustrative table which follows. These figures will be changed to reflect the Primary Metropolitan Statistical Area number for Somerset County, when available.

MODERATE INCOME

OF PERSONS PER HOUSEHOLD

1	2	3	4	5	6
\$17650	\$20150	\$22700	\$25200	\$26750	\$28350

"Qualified Buyer" refers to:

- a. a buyer who has been determined to meet the income restrictions imposed on purchasers of condominium units within The Village Green Neighborhood Condominium and;
- b. is capable of obtaining a mortgage to purchase a unit within The Village Green Neighborhood Condominium.

Such buyers may be screened by the Grantor, its successors or assigned, and certified as meeting the income requirements, and selected to be purchasers of condominium units within The Village Green Neighborhood Condominium in accord with rules and regulations which may hereafter be adopted by the Grantor, its successors and assigns.

"Referral of Buyer" refers to a process whereby qualified buyers are given an opportunity to inspect and purchase a condominium unit offered for sale or resale within The Village Green Neighborhood Condominium.

ARTICLE II

GENERAL RESTRICTIONS

Section 2.01. Income Limitations. The Village Green Neighborhood Condominium has been designed to meet the needs of persons of low and moderate income.

Units within The Village Green Neighborhood Condominium may only be purchased by individuals whose household income does not exceed ceiling limitations. However, once a condominium unit is purchased, household income may rise above these limitations. Increases in income will not affect ownership rights; however they may result in payment of additional consideration to the Homeowners Assistance Fund.

Section 2.02. THE HOMEOWNER'S ASSISTANCE FUND.

1. Condominium units sold with The Village Green Neighborhood

Condominium have been priced below their market value. The difference between the Market Value and the Computed Value is the Total Differential Obligation.

2. Each condominium unit owner is required to repay the Total Differential Obligation to the Homeowner's Assistance Fund ("the Fund").

3. The Grantor, its successors or assigns, will, except for conditions caused by foreclosure of a mortgage on the condominium unit or wilful violation of these restrictions, waive a certain portion of the unit owner's obligations.

For households with Ceiling Incomes meeting the Low Income limitations, the Grantor, its successors and assigns will waive seventy-five (75%) percent of the Total Differential Obligation except as provided for below.

For households with Ceiling Incomes meeting the Moderate Income limitations the Grantor, its successors or assigns will waive fifty (50%) percent of the Total Differential Obligation except as provided for below.

4. This Waived Differential Obligation will be carried at ten (10%) percent interest, payable over thirty(30) years.

5. The Grantor, its successors or assigns further waives any obligation on the part of a condominium unit owner to make any payments into this fund in any year in which:

a. The condominium unit owner's household income does not exceed 110% of the Ceiling Income, or

b. The sum total of a condominium unit owner's payments for principal and interest, property taxes, and The Village Green Neighborhood Condominium Association and The Hills Village Master Association Assessments, when added together with a payment into the fund, would exceed 28% of the household's income. However, a condominium unit may be obligated to make partial payments, up to the limit of 28% of gross total household income.

c. While unit owners are free to prepay the obligation in full at any time, no unit owner is required to pay more than 1/30th of his total obligation to the fund in any one year, nor is any unit owner required to pay more than 28% of gross total household income for housing (excluding utilities) except for violation of the Restrictions, as set forth below.

d. In the event of a violation of a Restriction, the Grantor, its successors or assigns, reserves the right to require a condominium unit owner, to make the maximum payment into the Fund, regardless of whether conditions (a), (b) or (c), above, exist.

e. In order to establish the liability of the condominium unit owner to make such payments, and to determine the size of the payment, the condominium unit owner must supply to the Grantor or its assigns, no later than April 15 of each year, a copy of the tax return filed for the previous taxable year with the U.S. Internal Revenue Service, as well as a copy of the tax return filed with the State of New Jersey; and such other financial information as the Grantor may reasonably require. In the event that a unit owner applies for an extension of the filing date for his Federal income taxes, a copy of the extension and the estimated tax return must be filed with the Grantor within ten (10) days of the request for extension. A copy of the final income tax form, when prepared, is to be filed with the Grantor, its successors or assigns when filed with the IRS.

f. No later than September 30 of each year in which income certification is completed by the Grantor, its successors or assigns, the unit owner will be informed of his obligation to make a payment into the Fund. Such payment shall be divided into 12 monthly installments, which shall become due on the first of each month of the year following.

Section 2.03. RE-SALE CONTROLS Units within The Village Green

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Neighborhood Condominium are governed by resale controls, as follows:

A. Exclusive Rights of the Grantor, its successors or assigns to market the condominium unit. Should any condominium unit owner seek to sell the condominium unit, such owner must make an Offer to Sell the condominium unit to the Grantor, its successors or assigns.

The Grantor, its successors or assigns then may:

- i. purchase the condominium unit directly and pay the computed value;
- ii. Find a qualified buyer for the condominium unit within ninety (90) days from the date the condominium unit owner makes an Offer to Sell to the Grantor, its successors or assigns. Thereafter, the qualified buyer has an additional ninety (90) days to close title and to accept delivery of the deed to the condominium unit.

In the event that the Grantor, its successors or assigns fails , within ninety(90) days, to nominate a qualified buyer for the condominium unit, or to exercise is option to purchase the condominium unit, then, on the ninety-first (91st) day, the condominium unit owner is free to seek a purchaser who may or may not be a low or moderate income homebuyer. If, for any reason, the qualified buyer referred to the condominium unit owner fails to close title within ninty (90) days, then the Grantor, its successors or assigns is obligated to fulfil the obligation and purchase the condominium unit at the Computed Value within ten(10) days after the ninety (90) day period lapses.

In the event that a condominium unit is sold on the open market, the new purchaser is subject to resale controls whether or not the purchaser

qualifies as a low or moderate income householder. All liens, and all monies due to the Grantor, its successors or assigns as a result of resale controls must be paid prior to the transfer of the condominium unit to a subsequent purchaser.

Further, all condominium units sold within The Village Green Neighborhood Condominium must be sold with the approval of the Grantor, its successors or assigns, so that compliance with all of the terms and conditions of this Declaration may be ascertained.

B. Determination of price:

The re-sale price for the condominium unit shall be computed as follows:

- i. The purchase price which the condominium unit owner paid for the condominium unit; plus
- ii. A value representing the appreciation of housing costs. Such value shall be computed as follows: the purchase price of the condominium unit times a factor representing 50% of the increase in the Consumer Price Index ("the Index"). The Index will be measured January 1 of the year preceeding the year in which the sale is to take effect, less the value of the Index as determined on January 1 of the year in which the condominium unit was purchased by the condominium unit owner. If there has been a decrease in the Index during the intervening period, no deduction is required. In addition, the Computed Price will include
- iii. The value, as determined by the Grantor, or its

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assigns (whose judgement is final) of the value of any improvement installed at the expense of the condominium unit owner with the prior approval of the Grantor, or its assigns, under a valuation formula to be established by the Grantor, its successors or assigns, plus

- iv. The costs of the sales transaction, including attorney's and broker's fees, if any.

D. Duration of controls:

The resale controls endure for a period of thirty (30) years after the date of the closing of title for each condominium unit, with such thirty (30) year period being renewed in the event of a sale or transfer of the condominium unit to any subsequent owner up to and including the thirtieth(30) year of continuous ownership by any condominium unit owner. The condominium unit may be given or transferred to another party through inheritance or devise without a renewal of the resale control restriction.

Section 2.04. Restrictions On Rental Or Lease The Village Green Neighborhood Condominium is restricted to low and moderate income homebuyers, and the condominium units may not be leased or rented to any other party without the prior written approval of the Grantor, its successors or assigns .

Section 2.05. Principal Place Of Residence The Village Green Neighborhood Condominium units are to be used as the principal place of residence for the homeowner, and it is a violation of these Restrictions for the

condominium unit not to be so used.

Section 2.06 Compliance with Other Declarations. Purchasers of condominium units within The Village Green Neighborhood Condominium are bound by the terms and conditions of the Master Deed of The Village Green Neighborhood Condominium and Declaration of Covenants, Conditions and Restrictions of The Hills Village Master Association, Inc., in addition to this Declaration.

ARTICLE III

MISCELLANEOUS

Section 3.01. Term. This Declaration, including all of the covenants, conditions and restrictions hereof, shall run with and bind the land for a period of years, as follows:

For the first purchasers of condominium units within The Village Green Neighborhood Condominium, these restrictions run for a period of thirty (30) years. If any condominium unit which is encumbered by this Declaration is sold, at any time, prior to the expiration of the thirty years, then the thirty (30) year period begins anew. In order for the restrictions to lapse, a condominium unit must be continuously in the sole possession and use of a single household of record. Any sale or transfer of a condominium unit, at any time during the period during which the restrictions are in effect, begins a new thirty (30) year cycle.

Section 3.02. Amendment. Except as otherwise provided herein, this Declaration may be amended only as hereinafter indicated. The Grantor may amend this Declaration at any time during the term set forth above. An amendment shall be effected by recordation of a Supplemental Declaration of Covenants, Conditions and Restrictions setting forth the amendment in the same office

where this Declaration is recorded. Such amendment may be for any lawful purpose, except that it can be no more restrictive nor impose more exacting obligations on condominium unit owners within the Village Green Neighborhood Condominium at the time of the promulgation of the amendment. Such amendments may be requested by any title insurance company, mortgage lender, prospective mortgage lender, governmental authority or governmental agency, and do not require the consent of the condominium unit owners within The Village Green Neighborhood Association, Inc..

Section 3.03. Notice and Period of Cure. Any notice relating to a breach of any Restriction set forth in this Declaration shall be in writing and shall provide a ninety(90) day period in which no action by the Grantor or its assigns shall be taken.

In the event any condominium unit owner receives a notice as hereinabove provided, there shall be allowed ninety(90)days from the date of receipt of such notice in which to cure the defect or default for which such notice was served.

Upon the expiration of such ninety(90)day period and in the event the party receiving notice of a defect or default has failed in the judgment of the Grantor or its assigns to have adequately cured such defect or default, the Grantor or its assigns shall have the right to impose a charge, up to the maximum annual payment due under the Homeowner's Assistance Fund, as described above, which shall be and become a lien against the Unit of the party receiving notice pursuant hereto. In the event of continued wilful disregard or default of the Restrictions set forth herein, the Grantor or its assigns may treat such continuing disregard or default as an Offer to Sell the Unit, and exercise its rights to foreclose on the full amount of differential between the market value and the computed value of the condominium unit, such differential being treated

as liquidated damages by the parties.

Section 3.04. Mortgage Protection. Notwithstanding any other provision of the Restrictions, in the event of foreclosure, every lien created under this Declaration shall be subordinate to any first Mortgage of record, or first Deed of Trust of record, or executory land sales contract of record upon a Unit made in good faith and for value, and subordinate as well to any Assessments imposed by The Hills Village Master Association, Inc. and/or The Village Green Neighborhood Condominium Association, Inc.. However, by acceptance of this Declaration, every condominium unit owner hereby grants to the Grantor, its successors or assigns a power of attorney in fact, to collect, from the Mortgagee, any amount up to the full value of the liquidated damages described above, which may be realized in any foreclosure action, over and above any amount realized and retained by the Mortgagee in satisfaction of its obligation and the reasonable costs of sale of the condominium unit. Nothing herein contained shall extinguish, toll, or otherwise affect the personal obligation of an Owner to pay all Assessments. Such protection to Mortgagors as afforded by this Section shall not apply to any Second or subsequent mortgages.

Section 3.05. Interpretation. The provisions of this Declaration shall be liberally construed to effectuate their purposes of creating a system for enhancing the ability of The Village Green Neighborhood Condominium to provide housing opport condominium unities for persons of low and moderate income, and for promoting and effectuating the fundamental concepts of The Village Green Neighborhood Condominium, as set forth in the RECITALS and DECLARATION of this Neighborhood Declaration. This Declaration shall be construed and governed under the laws of the State of New Jersey and the Township of Bedminster, New Jersey.

Section 3.06. Enforcement and Nonwaiver.

A. Remedies Cumulative. Each remedy provided by the Restrictions is cumulative and not exclusive.

B. Nonwaiver. The failure to enforce any of the Restrictions at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of said Restrictions.

C. Notices. All notices required or permitted hereunder shall be in writing and shall be effective upon personal delivery to the party to be notified or any officer of such party, or three (3) days after being postmarked in the United States mail, certified return receipt requested postage fully prepaid addressed to the Person at the address given by such Person to The Village Green Neighborhood Condominium Association, Inc. for the purpose of service of notices, or given to the Neighborhood Association.

Section 3.07. Construction.

A. Restrictions Severable. Notwithstanding any of the provisions of the foregoing, each of the provisions of the Restrictions shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

B. Singular Includes Plural. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.

C. Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any of the paragraphs, Sections or Articles hereof.

IN WITNESS WHEREOF, this instrument has been executed the date and year
first written above:

Attest:

Grantor

The Hills Development Company
A Joint Venture General
Partnership

Secretary

By: _____
John H. Kerwin, Present

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CONDOMINIUM DEED

THIS DEED is made on _____, 19 __, between The Hills Development Company, a joint venture general partnership organized and existing under the laws of the State of New Jersey, whose address is 3 Burnt Mill Road, Pluckemin, New Jersey referred to in this document as "Hills", and _____ whose address is _____ referred to in this document as "Grantee".

(The word "Grantee" shall mean all Grantees listed above.)

In return for the payment to Hills by the Grantee of (\$ _____) Dollars, Hills grants and conveys (transfers ownership) to the Grantee a certain condominium unit located in the Township of Bedminster, County of Somerset, and State of New Jersey, specifically described as follows:

Unit _____ in Building _____ in Lot _____ in Block _____ situated in The Village Green Neighborhood Condominium, together with an undivided three thousand eight hundred forty-six thousandths (.3846%) percent interest in the Common Elements of said Condominium (referred to in this Deed as the "Condominium Unit") as provided in The Village Green Neighborhood Condominium Master Deed. The conveyance evidenced by this Deed is made under the provisions of and is subject to the New Jersey Condominium Act (N.J.S.A. 46:8B-1 et seq.) and the Planned Real Estate Development Full Disclosure Act (N.J.S.A. 22A-21 et seq.), as amended, and any applicable regulations adopted under either law. The conveyance evidenced by this Deed is also made in accordance with and subject to the covenants, restrictions,

Prepared By:

Michael D. Masanoff, Esquire

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conditions, easements, charges, assessments, obligations, liens and other provisions set forth in The Village Green Neighborhood Condominium Master Deed dated _____ and recorded in the office of the Somerset County Clerk in Book _____ at Page _____, as the same may now or hereafter be lawfully amended, The Hills Village Master Declaration of Covenants, Conditions and Restrictions dated February 4, 1983 and recorded in the office of the Somerset County Clerk in Book 1473 at Page 696, as the same may now or hereafter be lawfully amended, annexed or enlarged, and by the The Village Green Neighborhood Condominium Declaration of Covenants, Conditions and Restrictions (the "Declaration") dated _____ and recorded in the office of the Somerset County Clerk in Book _____ at page _____ (hereinafter collectively referred to as the "Documents").

The Condominium Unit is now designated as Unit _____ in Building _____ in Lot _____ in Block _____ on the municipal tax map of the Township of Bedminster (or as Account No. _____).

(check if applicable)

_____ No property tax identification number for the land is available at the time of this conveyance.

The Condominium Unit is subject to all governmental statutes, ordinances and regulations, possible added assessments for the year of sale as set or levied under N.J.S.A. 54:4-63.1, et seq. and all facts that an accurate survey may disclose.

This Deed entitles the Grantee to have and to hold for its proper use and benefit forever the Condominium Unit subject to the terms and conditions of this Deed.

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Hills covenants that it has done nothing which encumbers or adversely affects title to the Condominium Unit or the common elements of the Condominium.

By the acceptance of this Deed, the Grantee consents to any future amendments or revisions of any documents which affect the rights of Grantee in the Condominium Unit or to which the conveyance evidenced by this Deed may be subject (collectively referred to in this Deed as the "Documents") which may be reasonably required by any institutional lender, governmental agency, title insurance company or Hills for the finance, sale or insurance of any Condominium Unit within The Village Green Neighborhood Condominium.

If an amendment is required as provided above, then the Grantee expressly agrees that Hills is authorized, on behalf of the Grantee, to sign and record any document necessary to make the amendment effective. This authority is called a power of attorney and Hills, in exercising this authority, is referred to as the Grantee's attorney-in-fact. By this Deed, the Grantee designates Hills as having this authority. This power of attorney will be binding upon anyone who claims an interest in the Condominium Unit by or through the Grantee, such as a mortgagee, other lienholders, a purchaser, a tenant or someone with an interest acquired through a will or by operation of law. If an amendment is required for one of the reasons expressed, only the signature of the attorney-in-fact is required in order for the amendment to be effective.

Hills may not exercise its authority as attorney-in-fact without a separate written consent of the Grantee if the amendment would substantially change the floor plan of the Condominium Unit, increase the financial obligations of the Grantee or reserve any additional special privileges for Hills.

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The Grantee declares and acknowledges that this power of attorney is coupled with an interest in the subject matter. The Grantee understands that Hills has caused the Documents to be adopted and recorded, and that they are binding on the owners of all Units in the Condominium for the mutual benefit of the owners of all Units including Hills. Hills, as the creator of the Condominium, the initial seller of all Units and the present owner of Units, has an interest in each of the Units and in the amendment of the Documents as provided in this Deed and The Village Green Neighborhood Condominium Master Deed. For this reason, this power of attorney may not be revoked by the Grantee.

The power of attorney will be effective until the end of the Period of Hills' Control as provided in The Village Green Neighborhood Condominium Master Deed. This power of attorney shall not be affected by the death or disability of any principal.

The full and fair market value, as said term is defined in The Village Green Neighborhood Condominium Declaration of Covenants, Conditions and Restrictions, of the Condominium Unit conveyed hereby is \$ _____ . The Grantee recognizes that the Condominium Unit hereby conveyed to the Grantee is for less than such full and fair market value. In consideration thereof, the Grantee covenants and promises for Grantee, its successors and assigns, to faithfully adhere to the covenants, conditions and restrictions of The Village Green Neighborhood Condominium Declaration of Covenants, Conditions and Restrictions. The Grantee agrees that were it not for this promise and covenant by the Grantee, the Condominium Unit would not be conveyed to Grantee. The Grantee further agrees that a breach by Grantee, its successors and assigns, of this promise and covenant shall subject the Grantee to such liquidated damages as set forth in the Declaration.

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STATE OF NEW JERSEY, COUNTY OF

SS.:

I CERTIFY that on _____, 1983,
personally came before me and this person acknowledged under oath, to my
satisfaction, that:

- (a) this person is the _____ secretary of
_____ the entity named in this Deed;
- (b) this person is the attesting witness to the signing of this Deed by the
proper officer who is _____ the _____ President of
the entity;
- (c) this Deed was signed and delivered by the entity as its duly authorized and
voluntary act;
- (d) this person signed this proof to attest to the truth of these facts; and
- (e) the full and actual consideration paid or to be paid for the transfer of title
is \$ _____

(Such consideration is defined in N.J.S.A. 46:15.5.)

Signed and sworn to before me on _____
_____, 1983.

Record and return to:

Michael D. Masanoff, Esquire
Brener, Wallack & Hill
2-4 Chambers Street
Princeton, New Jersey 08540

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AGREEMENT OF PURCHASE AND SALE

AT

THE VILLAGE GREEN NEIGHBORHOOD CONDOMINIUM

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AGREEMENT OF PURCHASE AND SALE

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AT

THE VILLAGE GREEN NEIGHBORHOOD CONDOMINIUM

THIS AGREEMENT is made this _____ day of _____ 19 __, by and between The Hills Development Company, a joint venture general partnership organized and existing under the laws of the State of New Jersey and having an office located at 3 Burnt Mill Road, Pluckemin, New Jersey 07978, called the "SELLER," and _____, residing at _____, called the "BUYER".

I. PURCHASE AND SALE

BUYER agrees to purchase from SELLER Condominium Unit No. _____ in Building _____ in Lot _____ in Block _____ similar to VILLAGE GREEN Model _____, from now on referred to as the "Condominium Unit". The sale shall vest an automatic undivided three thousand eight hundred forty-six thousandth (.3846%) percent interest in the common elements of The Village Green Neighborhood Condominium. This purchase shall also give BUYER an automatic proportionate undivided membership interest in The Hills Village Master Association, Inc. which shall administer and manage The Hills Village and own its Common Properties and an undivided membership interest in The Village Green Neighborhood Condominium Association, Inc. which shall administer and manage The Village Green Neighborhood Condominium and the Common Elements.

II. PURCHASE PRICE

The purchase price for the Condominium Unit shall be paid by BUYER as follows:

- II.1. DEPOSIT AT SIGNING OF THIS AGREEMENT \$ _____
- II.2. \$ _____ of which has been previously received by Seller pursuant to a Non-Binding Reservation Agreement
- II.3. ADDITIONAL DEPOSIT ON OR BEFORE _____ \$ _____
- II.4. BALANCE OF DEPOSIT ON OR BEFORE _____ \$ _____
(Total Deposit must equal or exceed _____ (____%) percent of Total Purchase Price)
- II.5. PROCEEDS FROM MORTGAGE LOAN \$ _____
- II.6. BALANCE, IF ANY, IN CASH, CERTIFIED OR CASHIER'S CHECK UPON CLOSING OF TITLE (PLUS OPTION AND CLOSING COSTS) \$ _____
- II.7. PURCHASE PRICE OF CONDOMINIUM UNIT \$ _____

III. CLOSING DATE:

The Condominium Unit is scheduled to be completed within thirty (30) days of . Closing shall take place within fourteen (14) days of SELLER notifying BUYER that construction of the Condominium Unit is completed. Closing shall take place between 10:00 a.m. and 3:00 p.m. at the sales office of SELLER, located at 3 Burnt Mill Road, Pluckemin, New Jersey, or at such other time and place as the SELLER may designate.

IV. DEPOSITS:

All deposits shall be placed in an interest bearing escrow account at Security Savings and Loan Association, Lamington Road Office, Bedminster, New Jersey, and shall remain in that account for at least seven (7) days from the date of this Agreement or until the closing of the title or termination of this Agreement. Interest shall accrue on all deposits at the prevailing passbook rate and shall belong to the BUYER. Deposits, and any interest which may be earned, shall only be released to the appropriate party upon either (a) closing of title or (b) termination of this Agreement. The escrow account shall be entitled The Hills Village, Special Escrow Account for Deposits, Brener, Wallack & Hill, Attorneys at Law.

V. SELECTIONS AND OPTIONS

All selections and options shall be made, obtained and/or purchased through the SELLER or its designated sub-contractors or suppliers. Selections and Options shall be made by the BUYER within seven (7) days from notice by SELLER and BUYER'S selection shall be made from samples and lists supplied by SELLER. In the event BUYER fails to make and deliver to SELLER its written Selections or Options within the time period, all selections and choices will be made by Seller.

VI. MORTGAGE CONTINGENCY

(Strike out and initial paragraph A or B, whichever is inapplicable)

A. The BUYER hereby appoints the SELLER as his agent to arrange for a mortgage loan as shown on Line II.5, above, bearing interest and terms as stated on the attached Mortgage Rider and agrees to accept a mortgage loan commitment if offered on those terms, or on less satisfactory terms to which BUYER may agree. The BUYER further agrees to sign an application for a mortgage loan and to furnish complete information regarding BUYER'S finances and employment to the mortgage lending institution. Any subsequent change in the BUYER'S credit status shall be at the risk of the BUYER and failure of the lender to make such mortgage loan because of subsequent changes in the BUYER'S credit status shall not be deemed failure by the SELLER to obtain a mortgage loan for the BUYER. SELLER does not guarantee to provide this mortgage loan.

B. BUYER shall apply for a mortgage for the amount shown on Line II.5, above, with interest at the rate prevailing at the time of closing of title and agrees to accept a mortgage loan commitment if offered on those terms, or on less satisfactory terms to which the BUYER may agree. BUYER shall inform SELLER of his progress in obtaining this mortgage loan commitment.

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C. If a mortgage loan commitment is not obtained within forty-five (45) days from the date of this Agreement, either party shall have the right to cancel this Agreement upon serving notice of such failure to obtain a mortgage loan commitment within this forty-five (45) day period. Thereafter, SELLER shall return all deposit monies to BUYER with interest at the prevailing passbook rate at Security Savings and Loan Association and without penalty and neither party shall have any further right, claim or obligation to the other. If such notice is not sent within the forty-five(45) day period the conditions of this Article shall be deemed to have been waived. Upon the BUYER'S securing a mortgage committment , the provisions of this paragraph shall be deemed to have been satisfied.

VII. CLOSING CHARGES

A. Title Insurance. BUYER shall pay the costs of obtaining title insurance including title search, title examination, owner's fee title insurance policy, and mortgagee title insurance policy, if applicable, and BUYER hereby elects and authorizes SELLER to obtain title insurance on BUYER'S behalf from:

(Please initial on line of choice)

_____ First American Title Insurance Company
General Land Abstract Company, 389 Main Street,
Metuchen, N.J. 08840,(201)548-9555

_____ Ticor Title Insurance
Tri-County Lawyer's Service, Inc., 15 W. Main Street,
Somerville, N.J. 08876 (201) 526-2565

If BUYER fails to initial any choice listed above, then BUYER shall be solely responsible for obtaining and paying all costs of such title insurance prior to Closing of Title.

B. SELLER shall furnish a letter survey of the Condominium Unit if it is required by the BUYER, the BUYER'S agent, or the BUYER'S mortgagee. BUYER shall pay the reasonable costs of such survey.

VIII. ADJUSTMENTS

On the date of Delivery and Closing of Title any taxes, liens, fuel, water, sewer, municipal charges and assessments shall be adjusted as of the day of delivery of the deed.

Seller shall be responsible for the payment of any roll-back taxes assessed under the Farmland Assessment Act. This adjustment shall survive Delivery and Closing of Title.

BUYER agrees to pay to The Hills Village Master Association and The Village Green Neighborhood Condominium Association a sum equal to one full month of the estimated assessment for these associations as a prepayment of such assessment, plus an amount equal to the prorated portion of such assessments for the month of the closing of title.

IX. INSPECTION

Within seventy-two hours prior to closing of title, BUYER shall perform a pre-closing inspection of the dwelling with SELLER or SELLER'S representative, during normal business hours, at which time a list of items requiring completion, adjustment or repair will be compiled and signed by both BUYER and SELLER. SELLER agrees to complete the items on this list within a reasonable time thereafter, weather permitting, and under no circumstances shall any escrows be held for any incomplete items, except as agreed to by SELLER.

Except as stated above, BUYER shall not enter the Condominium Unit prior to the closing of title or in any way interfere with the construction of any improvements of SELLER.

X. DELIVERY AND CLOSING OF TITLE

At closing, SELLER shall deliver to BUYER good and marketable fee simple title to the Condominium Unit being purchased, evidenced by a bargain and sale deed with covenants against grantor's acts, in sufficient and recordable form to convey the Condominium Unit. The Deed shall be subject only to those items listed in paragraph B below. SELLER shall also deliver to BUYER, a letter survey, if applicable, a certificate of occupancy, an affidavit of consideration, an affidavit of title in customary form and sufficient funds to pay the New Jersey Transfer Tax. SELLER shall deliver to BUYER a release from the lien of any existing mortgage on the Condominium Unit, signed and ready to record, together with sufficient funds to pay the recording fees of such release. BUYER shall record such release and return to SELLER the recorded release at no expense to SELLER.

B. Title shall be free from all liens and encumbrances and shall be subject to:

1. Any fact which an accurate survey would show, provided it does not make the title unmarketable.
2. Zoning regulations and building restrictions and all other laws, ordinances, regulations or restrictions or other lawful action of any duly constituted public authority in effect at the time of closing of title.
3. Covenants, conditions, restrictions and easements of record, provided they do not make the title unmarketable or prevent the lawful use of the premises as a single family residence. An easement is the right of someone to make use of the property of another.
4. Assessments for municipal improvements incurred after the Closing of Title.
5. The following known covenants, conditions, restrictions and encumbrances:

The Hills Village Master Declaration of Covenants, Conditions and Restrictions and any easements granted or to be granted pursuant to that Declaration;

The Village Green Neighborhood Condominium Master Deed and any easements granted or to be granted pursuant to the Master Deed.

The Village Green Neighborhood Condominium Declaration of Covenants, Conditions and Restrictions.

C. If title is not insurable as determined at the regular rates of Ticor Title Insurance Company for a reason not mentioned in this agreement, written notice of the defect shall be given to SELLER by BUYER prior to closing or that defect shall be deemed to be waived. If BUYER provides SELLER with timely notice of any defect, SELLER shall have a reasonable time thereafter, not exceeding ninety (90) days, to clear up any defects or attempt to remove the reason disabling the closing. If SELLER is unable to convey title in accordance with this Agreement, SELLER shall return to BUYER any monies paid, with interest at the prevailing passbook rate at Security Savings and Loan Association, together with the costs paid by BUYER for the title searches and surveys. Thereupon, this Agreement shall wholly terminate and neither party shall have any further claim against the other by reason of this Agreement, and the lien, if any, of BUYER against the Condominium Unit shall be automatically extinguished. Any item contained in this Agreement or in any other schedule or exhibit attached to this Agreement shall not be considered a defect in title for the purposes of this Agreement.

XI. NOTICES

All notices required or permitted under this Agreement shall be in writing and shall be effective upon personal delivery to the party to be notified or any officer of such party, or three (3) days after being postmarked in the United States mail, certified, return receipt requested, postage fully prepaid and addressed to the respective parties at the addresses listed in this Agreement, or to such other address as either party may from time to time designate in writing. Copies of all notices shall be delivered to The Hills Village Realty, Inc., 3 Burnt Mill Road, Pluckemin, New Jersey 07978, or Brener, Wallack & Hill, 2-4 Chambers Street, Princeton, New Jersey, 08540, Attention: Michael D. Masanoff, Esquire.

XII. REPRESENTATIONS

BUYER hereby acknowledges that he has received a copy of The Hills Village Master Declaration of Covenants, Conditions and Restrictions (herein called "Master Declaration"), The Village Green Neighborhood Condominium Master Deed (herein called "Master Deed") and The Village Green Neighborhood Condominium Declaration of Covenants, Conditions and Restrictions (herein called "Neighborhood Declaration") prior to execution of this Agreement. BUYER understands and agrees that as owner of the Condominium Unit he is subject to and entitled to, all other obligations, rights and benefits and other provisions of the Master Declaration, Master Deed and Neighborhood Declaration which are filed and of record in Somerset County, State of New Jersey. BUYER further understands, acknowledges and agrees that the obligations, rights, benefits and other provisions as contained in the Master Declaration, Master Deed and Neighborhood Declaration are not only personal but are connected with the Condominium Unit and are a part of the Condominium Unit so that subsequent purchasers of the Condominium Unit will also be bound by those rights, benefits and other provisions connected with the Condominium Unit.

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XIII. WARRANTIES

A. The SELLER is a member of the State approved home owners warranty program. A specimen copy of the warranty offered under this program is available for BUYER'S inspection at SELLER'S sales office. SELLER'S sole responsibility shall be limited to the terms and conditions of that document and such additional representations as set forth below. These additional representations include:

- i. For a period of one (1) year from the date of possession or settlement, the SELLER warrants that all outbuildings, driveways, walkways, patios, retaining walls and fences shall be free from defects due to materials and workmanship. In addition, all off site improvements are warranted to be free from defects for a period of one year from the date of construction.
- ii. The SELLER warrants that all drainage is proper and adequate, and that all lots, parcels, units or interests are fit for their intended use.
- iii. For a period of two (2) years from the date of completion of each of the common elements, the SELLER warrants that they shall be free from defects due to material and workmanship.
- iv. The SELLER warrants that each of the common elements is fit for its intended use, and agrees to correct any defect in construction, material or workmanship within a reasonable time after notification of the defect.
- v. The SELLER expressly warrants that any lot, parcel, unit, interest or common elements will substantially conform to the model, description or plans which induced BUYER to enter into this Agreement of Sale, unless specifically noted otherwise in this Agreement.

SELLER makes no further warranties, express, general, limited or implied, except as contained in the home warranty agreement referred to above, together with the approved standards included in that document.

SELLER makes no warranties whatsoever regarding consumer products for which a written manufacturer's warranty is available. In addition, BUYER acknowledges that he has been advised by SELLER prior to the execution of this Agreement that written manufacturer's warranties for all consumer products included in the Condominium Unit described in this Agreement, for which there exists a written manufacturer's warranty, are available for BUYER'S inspection at SELLER'S sales office and that BUYER has been given an opportunity to inspect same prior to the execution of this Agreement. This clause shall survive closing of title.

B. SELLER reserves the right to substitute materials of like kind and quality for any materials used in the models when constructing BUYER'S Condominium Unit.

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XIV. MISCELLANEOUS

A. The titles to the paragraphs are for reference only and neither broaden nor confine the scope, content or intent of the paragraphs. This Agreement shall be construed in accordance with the laws of the State of New Jersey.

B. This Agreement or any part of it shall not be recorded by BUYER without the prior written consent of SELLER attached to such Agreement prepared for recording. Any recording in violation of this provision shall be null and void and if BUYER records this Agreement, or any part of it, he shall be liable for attorneys' fees and costs incurred in clearing the recorded instrument from the records.

C. The invalidity of any clause contained in this Agreement shall not render any other provision invalid and the balance of the Agreement not held invalid shall be binding upon all parties to this Agreement.

D. Failure to enforce any of the provisions of this Agreement by any of the parties shall not be construed as a waiver of such provisions.

E. This Agreement may not be modified, amended or altered in any manner except in writing signed by the parties or their respective legal representatives, successors or assigns.

F. Upon execution of this Agreement, any non-binding reservation agreement between the parties with respect to the Condominium Unit shall automatically terminate and all sums paid by reason of that agreement shall be automatically applied to the purchase price of the Condominium Unit.

G. If SELLER is prevented or delayed from completing or performing any of its respective obligations referred to in this Agreement by reason of any cause beyond its reasonable control or by reason of any rule, order or regulation of any governmental agency then, provided SELLER shall in each instance exercise reasonable diligence to effect performance as soon as possible, the time of such performance by SELLER shall be extended by a time equal to the amount of such delay. If any delay referred to in this Agreement continues for a period of six (6) months, BUYER shall have the right to cancel this Agreement without penalty and in that event SELLER shall return all monies paid, with interest at the prevailing passbook rate at Security Savings and Loan Association and neither party shall have any further right, claim or obligation to the other.

H. Except as otherwise provided in this Agreement, time is of the essence as to the payment of all sums and the performance of all covenants and conditions. Time is of the essence means that any period of time set out in this Agreement is a deadline which, if not met, will result in a breach of this Agreement.

I. This Agreement may be executed in any number of copies, each of which shall be considered an original.

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XV. DEFAULT OF BUYER

Should BUYER fail to make payment of any monies required in this Agreement, default in any of the conditions or covenants of this Agreement, or fail for any reason to close title in accordance with the terms of this Agreement, the sum or sums paid or to be paid on account not to exceed ten (10%) percent of the purchase price plus the amount of any options installed, may be retained by SELLER as liquidated damages for the charges and expenses which SELLER has sustained, and this Agreement shall become null and void. The SELLER agrees to return to BUYER all other monies paid by BUYER in excess of the agreed-upon liquidated damages. Liquidated damages means the amount BUYER agrees is a reasonable estimation of the damages owed to SELLER if BUYER breaches this Agreement.

XVI. COMMISSIONS

BUYER represents that no broker other than The Hills Village Realty, Inc. and _____ has shown BUYER the property or called the property to BUYER'S attention. BUYER will indemnify and hold SELLER harmless against any claim or liability which SELLER is legally obligated to discharge to any other broker and which is imposed on SELLER wholly or partly because of BUYER'S relations or contact with such other broker or his representative, together with all reasonable legal expenses and costs of SELLER incurred in connection with such claim or liability. SELLER agrees to pay broker's commissions in accordance with a separate agreement with the above broker(s).

XVII. ASSIGNMENT

This Agreement is not assignable by the BUYER without the prior written consent of SELLER. Any assignment in violation of this provision shall be void.

XVIII. COUNTERSIGNATURE OF SELLER'S AUTHORIZED REPRESENTATIVE

This Agreement is subject to the review and countersignature of Seller's Authorized Representative within three (3) days from the date of this Agreement and thereupon this Agreement shall become a contract between SELLER and BUYER and all covenants and conditions in this Agreement shall be binding on the parties to this Agreement.

BUYER ACKNOWLEDGES THAT HE HAS RECEIVED A COPY OF THE PUBLIC OFFERING STATEMENT.

NOTICE TO THE BUYER: YOU HAVE THE RIGHT TO CANCEL THIS CONTRACT OR AGREEMENT BY SENDING OR DELIVERING WRITTEN NOTICE OF CANCELLATION TO THE DEVELOPER BY MIDNIGHT OF THE SEVENTH CALENDAR DAY FOLLOWING THE DAY ON WHICH IT WAS EXECUTED. SUCH CANCELLATION IS WITHOUT PENALTY, AND ALL MONIES PAID BY YOU SHALL BE PROMPTLY REFUNDED.

UPON CANCELLATION BUYER ACKNOWLEDGES THAT HE HAS AN OBLIGATION TO RETURN THE PUBLIC OFFERING STATEMENT.

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IN WITNESS WHEREOF, the parties have entered into this Agreement the date first written above.

REVIEWED AND APPROVED:

SELLER:
THE HILLS DEVELOPMENT COMPANY

BUYER:

By _____
Seller's Authorized
Representative

BUYER:

By _____
Sales Person

MAYFIELDS-110583

CERTIFICATE OF INCORPORATION

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OF

THE BEDMINSTER HILLS HOUSING CORPORATION

The undersigned, being over the age of eighteen years, in order to form a corporation pursuant to the provisions of the New Jersey Nonprofit Corporation Act, does hereby certify:

ARTICLE I. The name of the corporation is THE BEDMINSTER HILLS HOUSING CORPORATION: but, for brevity, it is hereafter in these Articles referred to as the "Corporation".

ARTICLE II. The Corporation is organized exclusively as a charitable organization within the meaning of Section 501 (c)(3) of the Internal Revenue Code, but the failure to so qualify as such within the meaning of Section 501 (c) (3) of the Internal Revenue Code shall not cause the Corporation to fail in its purpose, which is to promote the social welfare of and assist individuals of low and moderate income by assisting in the purchase, at below fair market value, of real estate interests in residences and land (herein known as " Condominium Units"), in a certain portion of that certain property known as "The Hills Village" which is located in the Township of Bedminster in the County of Somerset in the State of New Jersey and described in The Hills Village Master Declaration of Covenants, Conditions and Restrictions, as amended and supplemented, recorded in the Somerset County Clerk's Office, Somerville, New Jersey, which certain portion of The Hills Village is known as "The Village Green" and more particularly described in The Village Green Neighborhood Condominium Master Deed about to be recorded as provided in said Master Declaration of Covenants, Conditions and Restrictions, and, for this purpose, to:

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- A. Provide a means whereby potential buyers of Condominium Units located within The Village Green can be screened and selected, based upon their low and moderate income, as eligible buyers of Condominium Units.
- B. Determine and administer a means for setting and controlling the initial and resale prices of Condominium Units within The Village Green.
- C. Establish and administer an assistance fund for owners of Condominium Units within The Village Green.
- D. Establish and promulgate such rules, regulations, forms and procedures as are required to carry out the above activities.
- E. Perform such additional activities as are within the means of the Corporation to further low and moderate income housing needs in The Hills Village.
- F. Do any other thing permitted by law which will insure or promote the effective provision and maintenance of low and moderate income housing within The Hills Village.

ARTICLE III. The Corporation shall have Members the qualifications for which and the related rights and limitations of different classes of which shall be as set forth in the By-Laws of the Corporation.

ARTICLE IV. The method of appointing Trustees to the Board of Trustees of the Corporation shall be as set forth in the By-Laws of the Corporation.

ARTICLE V. The address of the initial registered office of the Corporation is 2-4 Chambers Street, Princeton, New Jersey, 08540 and the name

of the initial registered agent of the Corporation at such address is Michael D. Masanoff, Esquire.

ARTICLE VI. The Corporation shall idemnify every corporate agent as defined in, and to the full extent permitted by Section 15A:3-4 of the New Jersey Nonprofit Corporation Act, and to the full extent otherwise permitted by law.

ARTICLE VII. The number of Trustees on the Board of Trustees constituting the initial board is five (5) and the names and addresses, which is either the residence address or other address where the person regularly receives mail and which is not the address of the Corporation, of the persons who are to serve as Trustees on the initial Board of Trustees of the Corporation are as follows:

<u>NAME</u>	<u>ADDRESS</u>
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The Trustees on the initial Board of Trustees shall serve for a term of two (2) years or until their successors are elected and qualified, provided that in the event a vacancy shall occur, the vacancy shall be filled as provided in the By-Laws of the Corporation.

On or before the expiration of the term of each Trustee on the Board of Trustees, his successor shall be appointed for a term of two (2) years.

ARTICLE VIII. The name and address of the incorporator is: John H. Kerwin, 3 Burnt Mill Road, Pluckemin, New Jersey, 07978.

ARTICLE IX. No Member of the Corporation or Trustee on the Board of Trustees or Officer of the Corporation shall as such receive or become entitled to receive at any time any part of the net earnings or other net income of the Corporation, nor shall any part of the net earnings of the Corporation inure to the benefit of any person, except as reasonable compensation for services rendered and reimbursements for expenses incurred in conducting its affairs and carrying out its purposes, nor shall the Corporation carry on propaganda or otherwise attempt to influence legislation, nor shall the Corporation participate or intervene in any political campaign on behalf of any candidate for public office.

ARTICLE X. (A) The Corporation shall distribute its income for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942 of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent Federal tax laws.

(B) The Corporation shall not engage in any act of self dealing as defined in Section 4941 (d) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent Federal tax laws.

(C) The Corporation shall not retain any excess business holdings as defined in Section 4943 (c) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent Federal tax laws.

(D) The Corporation shall not make any investment in such manner as to subject it to tax under Section 4944 of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent Federal tax laws.

(E) The Corporation shall not make any taxable expenditures as defined in Section 4945 (d) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent Federal tax laws.

ARTICLE XI. The corporate existence of the Corporation shall be unlimited.

ARTICLE XII. Upon dissolution, after payments of all debts, no part of the remaining assets may be distributed to any Member of the Corporation or Trustee on the Board of Trustees or Officer of the Corporation but shall be distributed as the By-Laws may direct and in accordance with law, provided, however, that the distribution shall be to one or more organizations exempt under the provisions of Section 501 (c)(3) of the United States Internal Revenue Code or to the government of the United States of America , or a political subdivision thereof.

ARTICLE XIII. An amendment of this Certificate of Incorporation shall require a unanimous vote of the Members of the Corporation.

ARTICLE XIV. The effective date of this Certificate of Incorporation is to be the date of filing in the office of the Secretary of State.

IN WITNESS WHEREOF, the undersigned has executed this Certificate
of Incorporation the _____ day of _____, 1983.

John H. Kerwin
Incorporator

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MAYFIELDS/110583

THE BEDMINSTER HILLS HOUSING CORPORATION

BY-LAWS

ARTICLE I

Location of Office

Section 1. Principal Office. The principal office of the Corporation shall be located at 2-4 Chambers Street, in the Borough of Princeton, County of Mercer, State of New Jersey, until such future time as by action of the Board of Trustees of the Corporation, the principal office of the Corporation shall be transferred.

ARTICLE II

Fiscal Year

Section 1. Fiscal Year. The fiscal year of the Corporation shall be determined by the Board of Trustees.

ARTICLE III

Members

Section 1. Qualifications. There shall be four (4) classes of Members of the Corporation, the qualifications for which shall be as follows:

Class A. The holder of Class A membership shall be The Hills Development Company, a joint venture general partnership organized and existing under the laws of the State of New Jersey, having an address at 3 Burnt Mill Road, Pluckemin, New Jersey.

Class B. The holder of Class B membership shall be the Township of Bedminster, a municipal corporation organized and existing under the laws of the State of New Jersey, having an address at _____.

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Class C. The holder of Class C membership shall be the New Jersey Mortgage Finance Agency, a corporation organized pursuant to an act of Legislature of the State of New Jersey, having an address at _____.

Class D. The holder of Class D membership shall be the Public Advocate of the State of New Jersey, an appointed official of the State of New Jersey, having an office at _____.

Section 2. Rights and Limitations The relative rights and limitations of the different Classes of Members of the Corporation shall be as follows:

Class A. The holder of Class A membership shall be entitled to appoint two (2) Trustees to the Board of Trustees of the Corporation. Class A membership shall not be transferable nor assignable.

Class B. The holder of Class B membership shall be entitled to appoint one (1) Trustee to the Board of Trustees of the Corporation. Class B membership shall not be transferable nor assignable.

Class C. The holder of Class C membership shall be entitled to appoint one (1) Trustee to the Board of Trustees of the Corporation. Class C membership shall not be transferable nor assignable.

Class D. The holder of Class D membership shall be entitled to appoint one (1) Trustee to of the Board of Trustees of the Corporation. Class D membership shall not be transferable nor assignable.

Section 3. Equal Rights. Except as provided above, each Class shall have equal rights and limitations.

Section 4. Retirement Upon prior written notification to members of the other Classes and the Corporation, any holder of membership in a Class of the Corporation shall have the right to retire as a member of such Class. Thereupon, such Class of membership shall be struck from the records of the Corporation, and any Trustee(s) on the Board of Trustees appointed by such retiring member of the Corporation shall be deemed disabled and a vacancy shall be created thereby.

ARTICLE IV

Board of Trustees

Section 1. Board of Trustees. The affairs of the Corporation shall be managed by a Board of Trustees initially composed of five (5) members.

Section 2. Selection of Trustees. The Trustees on the Board of Trustees shall be appointed by such holders of membership in the Class of the Corporation entitled to appoint such respective Trustees on the Board of Trustees at the regular meeting held in alternate years or at any special meeting called for such purpose of appointing Trustees on the Board of Trustees. At such a meeting, such respective holders of membership in a Class of the Corporation shall designate and appoint to the Board of Trustees of the Corporation, such number of Trustees to the Board of Trustees as such of holders of membership in a Class of the Corporation are entitled to appoint pursuant to these By-Laws.

All appointments shall be in the form of a written certification from such holders of membership in a Class of the Corporation and shall be signed by the duly authorized representative of such holder of membership in the Corporation or his proxy. Such certification shall state the valid and binding authority and power of the person executing such certification to appoint a person, as a Trustee, to the Board of Trustees of the Corporation. Appointments

shall be effective upon their tendering to the President of the Corporation.

The President shall announce any change in the constituency of the Board of Trustees to the incumbent Board of Trustees and cause the Secretary of the Corporation to enter the names of such appointed members of the Board of Trustees in the records of the Corporation. The term of office for each such member of the Board of Trustees shall be for two (2) years or until his successor is selected and qualified.

Section B. Removal. Any member of the Board of Trustees shall be removed from office only upon the withdrawal of the appointment of such Trustee to the Board of Trustees, in writing, by the Member of the Corporation entitled to appoint such Trustee to the Board of Trustees. Removal shall be effective upon the tendering to the President of the Corporation of the written withdrawal of such appointment.

Section 4. Vacancy. In the event of a vacancy on the Board of Trustees for any reason, such vacancy shall be filled solely by the appointment of a Trustee to the Board of Trustees by the holder of membership in such Class as shall have previously appointed the member of the Board of Trustees whose resignation, death, removal or other disabilities causes such vacancy.

In the event of the retirement of a Class of membership in the Corporation, any resulting vacancy shall be left vacant and not filled by the remaining members of the Board of Trustees until the next regular meeting of the holders of membership Class in the Corporation, at which time such vacancy shall be filled by the unanimous vote of the holders of membership of the Corporation.

Section 5. Meetings. Annual meetings of the Board of Trustees shall immediately follow the annual meetings of the holders of membership in

the Classes of the Corporation, at the same place to elect officers and take such other action as shall come before the meeting. The Board of Trustees may provide for additional regular meetings of the Board of Trustees. Except as otherwise provided in the Certificate of Incorporation and these By-Laws, any action may be taken at any legally convened meeting of the Board of Trustees upon the affirmative vote of a quorum of the Board of Trustees present at such meeting in person or by proxy.

Section 7. Special Meetings. Special meetings of the Board of Trustees for any purpose at any time shall be held upon the call of the President or the Executive Director or any two (2) of the members of the Board of Trustees.

Section 8. Notice. Notice of a meeting need not be given to members of the Board of Trustees who signs a waiver of notice whether before or after the meeting, or who attends the meeting without protesting, prior to the conclusion of the meeting, the lack of notice to such Trustees on the Board of Trustees of such meeting. Neither the business to be transacted at, nor the purpose of, any meeting of the Board of Trustees need be specified in the notice or waiver of notice of such meeting. Notice of any adjourned meeting shall be given of the time and place fixed at any adjourned meeting for the such meeting to be held.

Section 9. Unanimous Consent. The Board of Trustees may act without a meeting if, prior or subsequent to such action, each Trustee on the Board of Trustees shall consent in writing to such action. Such written consent or consents shall be filed with the minutes of the meeting.

Section 10. Meeting by Telephone. The Trustees on the Board of Trustees may participate in a meeting of the Board of Trustees by means of a

telephone conference call or any other means of communication by which all persons participating in the meeting are able to hear each other.

Section 11. Quorum A majority of the Trustees on the Board of Trustees in person or by proxy or by means of a telephone conference call, shall constitute a quorum thereof for the transaction of business. The act of the majority of such Trustees on the Board of Trustees at a meeting at which a quorum is present shall be the act thereof. If any meeting cannot be held because a quorum is not present, the Trustees on the Board of Trustees present, either in person or by proxy, may adjourn the meeting to a time not less than two (2) nor more than thirty (30) days from the time set for the original meeting.

Section 12. Committees. The Board of Trustees may, by resolution adopted by a majority of the Trustees on the Board of Trustees setting forth the life and term of committees, appoint one (1) or more committees of one (1) or more committee members, each of which committees shall consist of at least one (1) Trustee on the Board of Trustees and may have as committee members persons who are not Trustees on the Board of Trustees and, to the extent provided in the resolution, shall have and may exercise the authority of the Board of Trustees, except that no such committee shall:

- (a). make, alter or repeal any provision of the Certificate of Incorporation or any By-Law of the Corporation;
- (b). remove any committee member, with or without cause;
- (c). elect or appoint any officer or remove any officer;
- (d). make any grants or distribution of funds;
- (e). amend or repeal any resolution previously adopted by the Board of Trustees;

(f). establish a subcommittee

The Board of Trustees, by resolution adopted by a majority of the Trustees on the Board of Trustees, may

(g). create and fill any vacancy in any committee;

(h). appoint one (1) or more persons to serve as an alternate committee member to act, in the absence or disability of any committee member in the place of such person or disabled committee member with all the powers of such absent or disabled committee member, except that no alternate committee member who is not a Trustee on the Board of Trustees may act in the place of such absent or disabled committee member who is a Trustee on the Board of Trustees;

(i). abolish any such committee at the pleasure of the Board of Trustees;

(j). establish a subcommittee of such committee

(k). remove any such member of any such committee at any time, with or without cause;

A majority of each such committee shall constitute a quorum for the transaction of business and the act of a majority of the members of such committee present at a meeting at which a quorum is present shall be the act of such committee but shall not be the act of the Corporation unless ratified by the Board of Trustees. Each such committee shall appoint from among the members of such committee a chairman or co-chairman unless the resolution of the Board of Trustees establishing such committee designates the chairman or co-chairman, in which case, in the event of a vacancy in the chairmanship, the Board of Trustees shall fill the vacancy.

Actions taken at a meeting of any such committee shall be kept in a record of the proceedings of such committee which shall be reported to the Board of Trustees at the meeting of the members of the Board of Trustees next following such committee meeting.

ARTICLE IV

Meetings

Section 1. Annual Meeting. There shall be an annual meeting of the holders of Class membership in the Corporation on the second Wednesday in July of each year at 10:00 a.m. at the principal office of the Corporation upon not less than ten (10) nor more than sixty (60) days written notice of the time place and purposes of the meeting, or at such other reasonable place or time as may be designated in the notice of meeting, to appoint and remove members of the Board of Trustees in alternate years and to take such other action as shall come before the meeting.

All notices of meetings shall be addressed to each Member of the Corporation as his address appears on the books of the Corporation.

The President, or the Executive Director, of the Corporation, or in the absence of both, the Vice President, shall call meetings of the members of the Corporation to order and act as chairman of such meetings. In the absence of said officers, any member of the Corporation or his proxy may call the meeting to order, and a chairman of the meeting shall be elected. The Secretary of the Corporation, or in his absence an Assistant Secretary, if any, shall be secretary of such meetings. In the absence of said officers, any member of the Corporation or his proxy may act as secretary of such meetings.

Except as provided otherwise in the Certificate of Incorporation and these By-Laws, any action may be taken at any legally convened meeting of the members of the Corporation upon the unanimous vote of such members of the Corporation present at such meeting in person or by proxy.

Section 2. Special Meetings. Special meetings of the holders of membership in Classes of the Corporation for any purpose at any time shall be held upon the call of the President, or the Executive Director, or any two (2) of the Trustees of the Board of Trustees.

Section 3. Waivers of Notice. Notice of a meeting need not be given to any member of the Corporation who signs a waiver of notice whether before or after the meeting, or who attends the meeting without protesting, prior to the conclusion of the meeting, the lack of notice to such member of the Corporation of such meeting. Neither the business to be transacted at, nor the purpose of, any meeting of the members of the Corporation need be specified in the notice or waiver of notice of such meeting. Notice of any adjourned meeting shall be given of the time and place fixed at any adjourned meeting for the such meeting to be held.

Section 4. Action Without Meeting. The members of the Corporation may act without a meeting if, prior or subsequent to such action, each such member of the Corporation shall consent in writing to such action. Such written consent or consents shall be filed with the minutes of the meeting.

Section 5. Meeting by Telephone. The members of the Corporation may participate in a meeting of the members of the Corporation by means of a telephone conference call or any other means of communication by which all persons participating in the meeting are able to hear each other.

Section 6. Quorum. A majority of the members of the Corporation in person or by proxy or by means of a telephone conference call, shall constitute a quorum thereof for the transaction of business. The act of the majority of such members of the Corporation at a meeting at which a quorum is present shall

be the act thereof. If any meeting cannot be held because a quorum is not present, the members of the Corporation present, either in person or by proxy, may adjourn the meeting to a time not less than two (2) days nor more than thirty (30) days from the time set for the original meeting.

ARTICLE V

Expenses and Surplus

Section 1. Expenses. The expenses of the Corporation shall be those expenses authorized by the Board of Trustees and incurred by the Corporation through the exercise of its powers and authority and the performance of its duties.

Section 2. Compensation. Neither Trustees on the Board of Trustees nor Officers of the Corporation shall receive any excessive fee, salary or remuneration of any kind for their services as Trustees on the Board of Trustees or Officers of the Corporation, provided that such Trustees on the Board of Trustees or Officers of the Corporation may be reimbursed for reasonable expenses incurred with approval of the Board of Trustees upon presentation of vouchers. The fees, salaries or remuneration of the President and Executive Director shall be set by the Board of Trustees.

ARTICLE VI

Powers and Duties of the Board of Trustees

Section 1. Powers. The Board of Trustees shall have the power:

- (a) To call special meetings of the members of the Corporation whenever it deems it necessary;
- (b) To appoint and remove at its pleasure all officers, agents, and employees of the Corporation, prescribe their duties, and require

from them such security or fidelity bond or other indemnity as it may deem expedient or prudent. Nothing in these By-Laws shall be construed to prohibit the employment of any officer or member of the Board of Trustees of the Corporation in any capacity whatsoever;

- (c) To exercise for the Corporation all powers, duties and authority vested in or delegated to this Corporation; and
- (d) To authorize contracts with persons, firms or corporations to carry out any of the functions, powers, duties and responsibilities delegated to it for the benefit of the Corporation.

Section 2. Duties. It shall be the duty of the Board of Trustees:

- (a) To cause to be kept a complete record of all its acts and corporate affairs and to present a report thereof to the holders of membership in a Class of the Corporation at the annual meeting or at any special meeting when so requested in writing by any member of the Corporation;
- (b) To supervise all officers, agents and employees of the Corporation, and to see that their duties and functions are properly discharged.

ARTICLE VII

Restrictions

Section 1. General. No member of the Corporation nor Trustee on the Board of Trustees nor Officer of the Corporation shall as such receive or become entitled to receive at any time any part of the net earnings or other net income of the Corporation, nor shall any part of the net earnings of the

Corporation inure to the benefit of any person, except as reasonable compensation for services rendered and reimbursements for expenses incurred in conducting its affairs and carrying out its purposes, nor shall the Corporation carry on propaganda or otherwise attempt to influence legislation, nor shall the Corporation participate or intervene in any political campaign on behalf of any candidate for public office.

Section 2. Distributions. The Corporation shall distribute its income for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942 of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent Federal tax laws.

Section 3. Self-Dealing. The Corporation shall not engage in any act of self dealing as defined in Section 4941 (d) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent Federal tax laws.

Section 4. Excess Holdings. The Corporation shall not retain any excess business holdings as defined in Section 4943 (c) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent Federal tax laws.

Section 5. Investments. The Corporation shall not make any investment in such manner as to subject it to tax under Section 4944 of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent Federal tax laws.

Section 6. Expenditures. The Corporation shall not make any taxable expenditures as defined in Section 4945 (d) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent Federal tax laws.

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-ARTICLE VIII

POWERS

Section 1. Specific. In order to further the purpose of the Corporation, the Board of Trustees, acting through the Officers of the Corporation, may

(A) Formulate and administer a procedure whereby low and moderate income individuals can be screened and selected as eligible buyers of affordable housing in The Village Green, as the term "The Village Green" is defined in the Certificate of Incorporation of the Corporation; and

(B) Certify such eligible buyers to the seller of such affordable condominium units; and

(C) Institute and maintain a separate interest bearing account wherein funds may be held in escrow, to be known as the "Housing Assistance Fund"; and

(D) Maintain the affordability of housing within The Village Green by controlling the resale of housing within The Village Green to low and moderate income buyers and, in its discretion, by purchasing such condominium units for future resale or rental to low and moderate income buyers; provided, that such condominium unit may not be sold by the Corporation for more than the price of purchase by the Corporation plus an amount equivalent to the reasonable expenses of Corporation with respect to such sale; and

(E) Accept the assignment of any present or future funds for deposit into the Housing Assistance Fund; and

(F) Formulate rules, regulations and procedures in furtherance of the foregoing.

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ARTICLE IX

Officers

Section 1. Officers. At its annual meeting, the Board of Trustees shall elect the following officers of the Corporation: a President, Executive Director, Vice President, Secretary and Treasurer. The Board of Trustees may elect such number of Assistant Secretaries and Assistant Treasurers and such other officers as it shall deem necessary. Officers may, but need not, be Trustees on the Board of Trustees. Any two or more offices may be held by the same person provided that no officer shall execute, acknowledge, or verify any instrument in more than one capacity. The Board of Trustees, by resolution adopted by a majority of the Trustees on the Board of Trustees, may remove any officers, with or without cause. The duties and authority of the officers shall be determined from time to time by the Board of Trustees. Subject to any such determination, the officers shall have the following duties and authority:

(A) The President shall be chief executive officer of the Corporation, shall have general charge and supervision over and responsibility for the affairs of the Corporation and shall preside at all meetings of the Board of Trustees and shall administer the enforcement of all resolutions, orders and policies of the Board of Trustees and shall enter into and execute in the name of the Corporation, contracts or other instruments not in the regular course of business which are authorized either generally or specifically by the Board of Trustees. Unless otherwise directed by the Board of Trustees, all other officers shall be subject to the authority and supervision of the President. The President shall have the general powers and duties of management usually vested in the office of president of a corporation and shall set such reasonable duties, fees,

salaries or compensation for the other officers of the Corporation as he shall determine within any limitations set by the Board of Trustees. The President may delegate from time to time to any other officer, any or all of such duties or authority.

The Executive Director shall have the duty and authority to administer and perform, through the means of the structure of the Corporation or by contact with others, the duties and functions of the Corporation, in furtherance of the purpose of the Corporation, as more particularly set in Article VIII hereof.

(B) The Executive Director shall have such other duties and possess such other authority as may be delegated to the Executive Director by the President and shall perform all the duties of the President in the absence of the President for any cause.

(C) The Vice President shall have such duties and possess such authority as may be delegated to the Vice President by the President and shall perform all the duties of the Executive Director in the absence of such officers for any cause.

(D) The Secretary shall be ex officio Secretary and Clerk of the Board of Trustees and shall cause notices of all meetings to be served as prescribed in these By-Laws. At all meetings of the Board of Trustees, the Secretary shall record the votes and keep the minutes of all proceedings in a book to be kept for that purpose. The Secretary shall have charge of the seal of the Corporation, keep the records of the Corporation and a roster of the names and addresses of all the Members of the Corporation and shall perform such other duties and possess such powers as are usually incident to the office of secretary or as shall be assigned by the President or the Board.

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(E) The Assistant Secretary, if any, shall have such duties and possess such authority as may be delegated to the Assistant Secretary by the Secretary and shall perform the duties of the Secretary in the absence of the Secretary for any cause.

(F) The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Corporation and shall disburse such funds as directed by resolution adopted by a majority of the members of the Board of Trustees, provided, however, that such resolution shall not be necessary for disbursements made in the usual course of business conducted within the limitations adopted by the Board of Trustees. Such disbursements shall include by way of illustration but not of limitation: salaries and wages, payment of taxes, utility charges, rent installments, insurance premiums, service contract payments, all of which shall be made against contracts, vouchers or invoices upon which the items, materials or services for which compensation is sought are clearly set forth unless the Treasurer shall determine the expenditure is in the routine and usual course of administering the day-to-day affairs of the Corporation. The Treasurer and one (1) other officer of the Corporation shall sign all checks and notes of the Corporation.

The Treasurer shall keep proper and accurate books of account. The Treasurer shall perform such other duties and possess such other powers as are incident to the office or as shall be assigned by the President or the Board of Trustees.

(G) The Assistant Treasurer if any, shall have such duties and possess such authority as may be delegated to the assistant Treasurer by the Treasurer and shall perform the duties of the Treasurer in the absence of the Treasurer for any cause.

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ARTICLE X

Books and Papers

Section 1. Inspection. All books, records, papers and files of the Corporation shall at all times during reasonable business hours, upon request, be open to the inspection of any Member of the Corporation, as well as to any duly licensed attorney or certified public accountant representing any Member of the Corporation

Section 2. Audit. The Board of Trustees shall cause an annual audit of the books of the Corporation to be made by a certified public accountant at the completion of the fiscal year of the Corporation.

ARTICLE XI

Corporate Seal

Section 1. Seal. The Corporation shall have a seal , an impression of which is affixed in the margin hereof.

ARTICLE XII

Dissolution

Section 1. Distribution. Upon dissolution, after payments of all debts, no part of the remaining assets may be distributed to any Member of the Corporation or Trustee on the Board of Trustees or Officer of the Corporation but shall be distributed as the By-Laws may direct in accordance with law, provided, however, that the distribution must be to one or more organizations exempt under the provisions of Section 501 (c)(3) of the United States Internal Revenue Code or to the government of the United States of America, or a political subdivision thereof.

ARTICLE XIII

Force and Effect

Section 1. Priority. These By-Laws are subject to the provisions of the New Jersey Nonprofit Corporation Act ("The Act") and the Certificate of Incorporation as they may be amended from time to time. If any provision in these By-Laws is inconsistent with a provision in The Act or the Certificate of Incorporation, the provision of The Act or the Certificate of Incorporation shall govern to the extent of such inconsistency.

ARTICLE XIV

Amendments

Section 1. Amendments. These By-Laws shall only be amended, altered or repealed by the unanimous vote of the members of the Corporation provided that a By-Law shall not be amended, altered or repealed if so prescribed in such By-Law. Those provisions of these By-Laws which are governed by the Certificate of Incorporation of the Corporation may not be amended except as provided in said Certificate of Incorporation of the Corporation, and this limitation shall be applicable whether the specific By-Law under consideration for amendment is either stated to be or, if not so stated, is, in fact, subject to the provisions of the Certificate of Incorporation.

ARTICLE XV

Notices

Section 1. Notice. Any notice required to be sent to any member of the Corporation or Trustee on the Board of Trustees under the provisions of the Certificate of Incorporation or these By-Laws shall be given to any such members of the Corporation or Trustee on the Board of Trustees, unless waived,

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either by personal delivery or upon three (3) days after mailing, by Certified Mail, Return Receipt Requested, to such member of the Corporation or Trustee on the Board of Trustees at his last known address as shown on the records of the Corporation.

ARTICLE XVI

Miscellaneous

Section 1. Invalidity. The invalidity of any provision of these By-Laws, whether by operation of law or otherwise, shall not affect or impair the enforceability or validity of the remaining provisions of these By-Laws.

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**HOUSING ASSISTANCE ADMINISTRATION
AND REGULATION AGREEMENT**

THIS AGREEMENT made as of this _____ day of _____, 198_ by and between THE HILLS DEVELOPMENT COMPANY (hereinafter referred to as "HILLS"), a joint venture general partnership organized and existing under the laws of the State of New Jersey, having an office located at 3 Burnt Mill Road, Pluckemin, New Jersey 07978, and THE BEDMINSTER HILLS HOUSING CORPORATION (hereinafter referred to as "CORPORATION"), a nonprofit corporation organized and existing under the laws of the State of New Jersey, having a registered office located at 2-4 Chambers Street, Princeton, New Jersey 08540.

WITNESSETH:

WHEREAS, HILLS proposes to develop a condominium regime on the real property shown, described or listed on Exhibit A attached hereto and by this reference made a part hereof as fully as if set out herein; and

WHEREAS, CORPORATION desires to promote the availability and affordability of housing to low and moderate income buyers of condominium units located within the aforesaid condominium regime; and

WHEREAS, HILLS desires to assure that condominium units located within the aforesaid condominium regime are available and sold to eligible persons of low and moderate income so as to provide housing to such persons; and

WHEREAS, CORPORATION is willing to formulate, administer and regulate a procedure for the qualification and selection of low and moderate income buyers of condominium units within the aforesaid condominium regime and to assist the operation, maintenance and retention of said condominium units as affordable housing; and

WHEREAS, HILLS desires CORPORATION to perform such functions;
NOW, THEREFORE, in consideration of the sums hereinbelow set forth, and the covenants, conditions and promises herein contained, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

1.01 Meanings. The following words and terms as used in this Agreement or any Exhibit attached hereto shall have the meanings given to them below unless another meaning is plainly intended:

A. "Affordable Housing" shall mean and refer to a Unit which is available to prospective buyers of such a Unit in accordance with the criteria set forth on Exhibit C attached hereto and by this reference made a part hereof as fully as if set out herein.

B. "Agreement of Purchase and Sale" shall mean and refer to a document which, when executed by HILLS and a Buyer, shall provide for the sale to a Buyer of a a Unit subjected to the Declaration and other terms, conditions and restrictions.

C. "Assignment" shall mean and refer to the document whereby HILLS transfers to CORPORATION its rights and obligations under the Declaration subject to this Agreement, and which shall provide for the reversion of such rights and obligations HILLS upon such terms as are specified therein.

D. "Available Unit" shall mean and refer to a Unit which, due to its size and the income eligibility of such a prospective Buyer, may be sold to such Buyer in accordance with the Certification of the Buyer, and which is not then subject to an Agreement of Purchase and Sale.

E. "Buyer" shall mean and refer to a natural person, and not a legally created or quasi-legal entity, who shall have entered into an Agreement of Purchase and Sale with HILLS.

F. "Certification" shall mean and refer to the notice to HILLS of the determination by CORPORATION of a Buyer as eligible for housing according to the terms of such notice.

G. "Condominium" shall mean and refer to The Village Green Neighborhood Condominium.

H. "Condominium Units" shall mean and refer to the two hundred sixty (260) condominium units, now or hereafter to be erected, and shown, described or listed on Exhibit A attached hereto.

I. "Common Elements" shall have the same meaning as defined in The Village Green Neighborhood Condominium Master Deed, which shall be substantially in the form of Exhibit G attached hereto and by this reference made a part hereof as fully as if set out herein.

J. "CORPORATION" shall mean The Bedminster Hills Housing Corporation, a nonprofit corporation.

K. "Create" shall mean the filing of a master deed to create a condominium pursuant to N.J.S.A. 46:8B-1 et seq.

L. "Declaration" shall mean and refer to The Village Green Neighborhood Condominium Declaration of Covenants, Conditions and Restrictions, which burdens and encumbers the Condominium Units.

M. "HILLS" shall mean The Hills Development Company, a joint venture general partnership.

N. "Homeowner" shall mean and refer to any natural person or persons who purchase and own a Unit.

O. "Housing Assistance Fee" shall mean and refer to a payment, or a portion thereof, payable from a Homeowner according to the terms of the Declaration, the rights to which shall be transferred to CORPORATION by the Assignment subject to the terms and conditions of this Agreement.

P. "Housing Assistance Fund" shall mean and refer to the fund, which shall be started and separately held by CORPORATION, into which CORPORATION shall deposit any Housing Assistance Fee received pursuant to the Assignment.

Q. "Interest Rate" shall mean a rate computed on the basis of a three hundred sixty (360) day year consisting of twelve (12) thirty (30) day months.

R. "Low-Income" shall mean and refer to that level of income which is fifty (50%) percent or less of the median family income, as computed by the United States Department of Commerce, Bureau of the Census and published by the United States Department of Commerce/ United States Department of Housing and Urban Development, for the County of Somerset.

S. "Moderate-Income" shall mean and refer to that level of income which is eighty (80%) percent or less of the median family income, as computed by the United States Department of Commerce, Bureau of the Census and published by the United States Department of Commerce/ United States Department of Housing and Urban Development, for the County of Somerset.

T. "Master Deed" shall mean and refer to The Village Green Neighborhood Condominium Master Deed.

U. "payable" shall mean due and owing in accordance with the terms of the Declaration.

V. "Resale" shall mean and refer to the sale by a Buyer of a Unit to a bona fide third party Buyer for value.

W. "Unit" shall mean and refer to a single family attached residential dwelling, now or hereafter to be erected, and located within the Condominium, which is subjected to the Declaration and other covenants, conditions and restrictions.

ARTICLE II

REPRESENTATIONS OF CORPORATION

2.01 Organization. CORPORATION warrants and represents that it is a duly organized nonprofit corporation validly existing and in good standing under the laws of the State of New Jersey pursuant to Title 15A of the New Jersey Statutes and has all requisite corporate power and authority to enter into this Agreement and to perform the functions and duties contemplated herein and perform its obligations hereunder. This Agreement has been duly authorized by all necessary corporate action on the part of CORPORATION, has been duly executed and delivered by the duly authorized officers of CORPORATION and constitutes the valid and legally binding obligation of CORPORATION. The execution and delivery of this Agreement and the performance of the obligations of CORPORATION set forth herein will not conflict with or result in any violation of or default under any provisions of the Certificate of Incorporation or By-Laws of CORPORATION.

2.02 Tax Status. CORPORATION warrants and represents that it will diligently pursue a favorable determination of tax exemption under Section 501(c)(3) of the United States Internal Revenue Code and that it shall be operated as an organization within the meaning of said Section 501(c)(3), but the

failure to obtain such a favorable determination shall not result in a breach of this Agreement.

ARTICLE III

PROMISES AND COVENANTS OF CORPORATION

3.01 Promises and Covenants. CORPORATION promises and covenants to HILLS as follows:

A. Upon creation of the Condominium by HILLS, CORPORATION shall immediately commence to advertise for, and review and determine the income eligibility requirements of, prospective Buyers of Units in accordance with the procedure set forth on Exhibit B attached hereto and by this reference made a part hereof as fully as if set out herein, and make a final determination of the qualification of prospective Buyers of Units for certification in accordance with the criteria set forth on Exhibit C attached hereto and by this reference made a part hereof as fully as if set out herein.

B. Upon any such final determination of eligibility of any Buyer as set forth hereinabove, CORPORATION shall directly provide HILLS with a Certification of such Buyer by written notice.

C. All funds received pursuant to this Agreement shall be deposited in a separate interest bearing account and held in escrow for the benefit of Homeowners. Said funds shall be known as the "Housing Assistance Fund".

D. CORPORATION shall administer the subsidy program set forth on Exhibit D attached hereto and by this reference made a part hereof as fully as if set out herein, to assist Homeowners. These Homeowners shall be identified pursuant to and assisted by means of the Housing Assistance Fund in accordance

with the method described in Exhibit E attached hereto and by this reference made a part hereof as fully as if set out herein.

E. CORPORATION shall administer the provisions for the marketing and resale of Units pursuant to the provisions set forth in Exhibit F attached hereto and by this reference made a part hereof as fully as if set out herein.

F. CORPORATION shall accept from HILLS the Assignment and remit to HILLS any funds due to it according to the terms thereof or hereof.

G. CORPORATION shall not take responsibility, pursuant to a written agreement or otherwise, for any functions other than those set forth herein, unless: (i) an acceptable cost arrangement, which shall include, as a minimum, the payment of all expenses by such party desiring such functions to be performed is entered into between CORPORATION and such other Party; (ii) HILLS has been reimbursed for the administrative fee contributed to CORPORATION pursuant to Article VI hereof and the costs and expenses incurred by HILLS with respect to the establishment of CORPORATION hereof on a prorata basis; (iii) the prior written approval of HILLS is obtained for the performance by CORPORATION of such functions, which approval may be withheld in the sole discretion of HILLS; and (iv) the prior written approval of the Township of Bedminster is obtained for the performance by CORPORATION of any such functions to be performed outside of the legal boundaries of the Township of Bedminster.

ARTICLE IV

REPRESENTATIONS OF HILLS

4.01 Organization. HILLS warrants and represents that it is a duly organized joint venture general partnership validly existing and in good standing

under the laws of the State of New Jersey and has all requisite power and authority to enter into this Agreement and to perform the functions and duties contemplated herein and perform its obligations hereunder. This Agreement has been duly authorized by all necessary action on the part of HILLS, has been duly executed and delivered by the duly authorized officers of HILLS and constitutes the valid and legally binding obligation of HILLS. The execution and delivery of this Agreement and the performance of the obligations of HILLS set forth herein will not conflict with or result in any violation of or default under any provisions of the organizational documents of HILLS.

ARTICLE V

PROMISES AND COVENANTS OF HILLS

5.01 Promises and Covenants. HILLS promises and covenants to CORPORATION as follows:

A. HILLS shall, within a reasonable time after the receipt of final subdivision and site plan approval for the Condominium, make application for all necessary governmental approvals for the sale of Condominium Units within the Condominium.

B. Upon receipt of such governmental approvals, HILLS shall create the Condominium and construct the Condominium Units.

C. HILLS shall only offer a Unit for sale to a Buyer with respect to whom HILLS has obtained a Certification. Upon receipt of such Certification from CORPORATION, HILLS shall offer an Available Unit, if any, for sale to such certified Buyer upon the terms and conditions of the Certification and an Agreement of Purchase and Sale.

D. HILLS shall assign to CORPORATION, contemporaneously with such closing of title, all of its rights and obligations under the Declaration.

ARTICLE VI

FUNDING

6.01 Administration Fee. Upon the execution of this Agreement by the parties hereto, HILLS shall contribute to CORPORATION as an administration fee, the sum of Forty-Six Thousand Eight Hundred Fifty and 00/100 (\$ 46,850.00) Dollars for the administrative expenses of CORPORATION in performing its obligations.

6.02 Housing Assistance. Pursuant to the Assignment to CORPORATION of the rights of HILLS, if any, under any Declaration, the parties agree that CORPORATION shall have the right to receive, from any Homeowner so obligated, any payable Housing Assistance Fee in its entirety for the first five (5) years of the occupation of a Unit by such Homeowner. Thereafter CORPORATION shall remit to HILLS seventy-five (75%) percent of any such Housing Assistance Fee so received and retain the remainder of any such Housing Assistance Fee. CORPORATION shall deposit any such Housing Assistance Fee or portion thereof, which it is entitled to retain, in escrow in the Housing Assistance Fund. CORPORATION expressly acknowledges and agrees its receipt of any such Housing Assistance Fee so assigned shall be construed strictly in accordance with the terms of the Assignment under which CORPORATION obtains the right to receive such Housing Assistance Fee, and not as consideration for this Agreement, it being the intention of the parties hereto only to hereby set forth the handling of any Housing Assistance Fee.

6.03 Housing Assistance Fund. All funds which CORPORATION is entitled to retain pursuant to this Agreement or the Assignment shall be held in a separate escrow account, which shall be interest bearing, and known as the

Housing Assistance Fund. CORPORATION expressly recognizes that the rights of CORPORATION to use the monies in the Housing Assistance Fund are limited to the defrayment of the administrative expenses of CORPORATION with respect to its duties and functions pursuant to this Agreement and as otherwise permitted by the subsidy program set forth on Exhibit D attached hereto, and that CORPORATION shall draw against the Housing Assistance Fund for no other purpose unless the prior written consent of HILLS has been obtained.

ARTICLE VII

ACCOUNTS AND AUDIT

7.01 **Accounts.** CORPORATION shall keep books and accounts which shall clearly indicate the funds received from any Homeowner pursuant to the Assignment by HILLS, and the costs and expenses of CORPORATION necessary and normal to fulfill the performance of its duties and responsibilities of CORPORATION under this Agreement, apart from any other funds, costs and expenses of CORPORATION.

7.02 **Audit.** HILLS shall have the right to review the books and accounts of CORPORATION for the purpose of assuring compliance with the terms and conditions of this Agreement at its own sole cost and expense.

ARTICLE VIII

TERMINATION

8.01 **For Cause.** This Agreement may be terminated on thirty (30) days advance written notice of termination from HILLS to CORPORATION if any of the following events occur in the future:

A. CORPORATION is in default under any provision of this Agreement, and after notice of such and same has not been cured within ninety

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(90) days if same is curable within ninety (90) days, or if the same is not curable within said time period, if such other party has failed within said ninety (90) days to commence cure and thereafter diligently prosecute the same to completion; or

B. CORPORATION is in the future adjudged bankrupt or insolvent by a court of competent jurisdiction, or an order is made by a court of competent jurisdiction for the appointment of a receiver, liquidator or trustee of such other party, or of all or substantially all of its property by reason of the foregoing, or approving any petition filed against such other party for its reorganization, and such adjudication or order shall remain in force for a period of thirty (30) days; or

C. CORPORATION in the future institutes proceedings for voluntary bankruptcy or files a petition seeking reorganization under the federal bankruptcy laws or for relief under any law for the relief of debtors, or consents to the appointments of a receiver of itself or of all or substantially all of its property, or makes a general assignment for the benefit of creditors, or shall admit in writing its inability to pay its debits generally as they become due; or

D. Such other party makes an assignment of any of its rights and obligations under this Agreement, except an assignment permitted pursuant to the provisions of Article XI hereof.

8.02 Mutual Consent. This Agreement may be terminated at any time upon the mutual agreement by HILLS and CORPORATION for such termination.

8.03 Absolute Right. HILLS shall have the absolute right to terminate this Agreement upon thirty (30) days prior written notice by HILLS to

CORPORATION if a bona fide third party nonprofit entity is willing to perform the duties and functions by CORPORATION to be performed under this Agreement on terms and conditions equally or more favorable to HILLS.

ARTICLE IX

RIGHTS

9.01 HILLS. In the event this Agreement is terminated by HILLS for cause as provided in Article VIII hereof, HILLS shall have the following rights:

A. To assume the duties and perform the functions by CORPORATION to be performed under this Agreement, without any liability on the part of HILLS to CORPORATION for the acts of HILLS pursuant thereto; and CORPORATION hereby appoints and designates HILLS as its agent and attorney-in-fact for the purpose of performing such duties and functions; and

B. To possess and retain any then existing monies in the Housing Assistance Fund, to receive and retain future Housing Assistance Fees, and/or, in the sole discretion of HILLS, to transfer such Housing Assistance Fund and future Housing Assistance Fees to a third party, without any liability on the part of HILLS to CORPORATION for the acts of HILLS pursuant thereto; and CORPORATION hereby appoints and designates HILLS as its agent and attorney-in-fact for the purpose of executing any and all necessary documents in the name of CORPORATION to accomplish the foregoing; and

C. To contract with any third party entity for the performance of the duties and functions of CORPORATION to be performed hereunder; and

D. To cause the Assignment to revert to HILLS; and

E. To exercise and claim any and all other rights available at law or in equity.

9.02 Irreparable Harm. Corporation acknowledges that the performance of the duties and functions herein contained by Corporation to be performed are essential to the successful provision of affordable housing to low and moderate income purchasers and are of such an unusual and personal nature that they are not capable of being adequately performed to the satisfaction of HILLS by another entity, and that the failure by CORPORATION to perform such duties and functions would result in immediate and irreparable harm to HILLS. Accordingly, CORPORATION acknowledges that HILLS shall have the right to sue for specific performance by CORPORATION of the performance of the duties and functions of CORPORATION herein contained in any court having jurisdiction thereof, in addition to such other rights and remedies available at law or in equity.

ARTICLE X

DISASSOCIATION

10.01 RESULTS. In the event that this Agreement is terminated the parties agree that:

A. CORPORATION shall remit to HILLS all the then existing monies in the Housing Assistance Fund and all future Housing Assistance Fees, if any, received by CORPORATION; and

B. The Assignment shall be automatically revert to HILLS; and

C. CORPORATION shall cooperate fully with HILLS in any other action reasonable or necessary in order to effectuate the disassociation of CORPORATION from The Village Green and the performance of any duties or functions with respect thereto.

ARTICLE XI

ASSIGNMENT

11.01 Assignment. The covenants of this Agreement shall extend to and bind the assigns and successors of the respective parties hereto. CORPORATION shall not assign any of the benefits or obligations of this Agreement; provided, however, that CORPORATION may contract with a statewide private or public nonprofit entity to perform the obligations of CORPORATION under this Agreement, or assign the benefits and obligations of CORPORATION under this Agreement to such statewide private or public nonprofit entity, with the prior written consent of HILLS. Any proposed attempted assignment not conforming herewith, whether or not by operation of law, shall be void ab initio unless approved in a writing signed by the parties hereto.

ARTICLE XII

RELATIONSHIP

12.01 No Partnership. Nothing contained in this Agreement shall be construed as making CORPORATION and HILLS the partner, agent, joint venturer or fiduciary of the other, and the parties shall have no relationship to each other hereunder other than employer and independent administrator. Nothing in this Agreement shall be construed to confer any proprietary interest in the Condominium to CORPORATION.

ARTICLE XIII

MISCELLANEOUS

13.01 Compliance. CORPORATION shall comply with all statutes, rules and regulations of all governmental agencies with respect to the Condominium and the administration and regulation of the duties and functions

to be performed by CORPORATION and shall hold HILLS harmless from any failure to so comply.

13.02 Construction. The titles to the paragraphs are for reference only and neither broaden nor confine the scope, content or intent of the paragraphs. This Agreement shall be construed in accordance with the laws of the State of New Jersey and shall not be construed in conjunction or integration with any other agreement by and between the parties hereto, unless expressly stated within each such agreement.

13.03 Recording. This Agreement or any part thereof shall not be recorded by any party hereto without the prior consent of each of the parties hereto attached to such instrument prepared for recording. Any recording in violation of this provision shall be void ab initio and the party who records this Agreement, or any part thereof, shall be liable for attorneys' fees and costs resulting to clear said recorded instruments from the records.

13.04 Invalid Clause. The invalidity of any clause contained herein shall not render any other provision invalid and the balance of this Agreement not held invalid shall be binding upon all parties hereto.

13.05 Preparation. The parties acknowledge and agree that this Agreement has been approved by the Superior Court of New Jersey pursuant to Court Order dismissing the case of The Allan-Deane Corporation, et al., v. Township of Bedminster, et al., Dockets No. L36896-70 P.W. and L28061-71 P.W. The parties further acknowledge that this Agreement was prepared jointly and, therefore, this Agreement shall be construed on a parity as between the parties.

13.06 Waiver. Failure to enforce any of the provisions of this Agreement by any of the parties shall not be construed as a waiver of these provisions.

to be performed by CORPORATION and shall hold HILLS harmless from any failure to so comply.

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13.06 Waiver. Failure to enforce any of the provisions of this Agreement by any of the parties shall not be construed as a waiver of these provisions.

13.07 Waiver of Compliance. The parties hereto may, by mutual agreement in writing, extend the time for the performance of any of the obligations hereunder. The party for whose benefit a warranty, representation, covenant, obligation, condition or occurrence of default is intended may in writing waive any inaccuracies in any such warranty or representation or waive compliance with any such covenant or condition and so waive performance of any of the obligations of the other party hereto and any default hereunder; provided, however, that any such waiver shall not affect or impair the waiving party's rights with respect to any other warranty, representation, condition, obligation, covenant or default hereunder.

13.08 Force Majeure. In the event that either party is prevented from performing any of its obligations herein by reason of Act of God or any other reason beyond the reasonable control of such party, including weather, strikes, inavailability of materials and building moratorium, the time of such performance by either party shall be extended by a time equal to the amount of such delay, provided that neither party shall be entitled to claim such delay unless it has promptly notified the other party in writing of such delay and the cause thereof.

13.09 Notice. Any Notice required or allowed to be sent to a party pursuant to this Agreement shall be sent by Certified Mail, Return Receipt Requested, as follows:

If to CORPORATION:

THE BEDMINSTER HILLS
HOUSING CORPORATION
2-4 Chambers Street
Princeton, New Jersey 08540

DRAFT

with a copy to:

NEW JERSEY MORTGAGE
FINANCE AGENCY

PUBLIC ADVOCATE OF THE
STATE OF NEW JERSEY

TOWNSHIP OF BEDMINSTER

If to HILLS:

The Hills Development Company
3 Burnt Mill Road
Pluckmin, New Jersey 07978

with copy to:

Michael D. Masanoff, Esquire
Brener Wallack & Hill
2-4 Chambers Street
Princeton, New Jersey 08540

13.10 Amendments or Modifications. This Agreement may not be amended, altered or modified in any manner except in writing.

IN WITNESS WHEREOF, the parties have executed this Agreement the date first written above.

ATTEST:

THE HILLS DEVELOPMENT COMPANY
A Joint Venture General Partnership

WILLIAM ORLOWSKI
Secretary

By: _____
JOHN H. KERWIN, President

ATTEST:

THE BEDMINSTER HILLS HOUSING
CORPORATION

By: _____

DRAFT

STATE OF NEW JERSEY)
) ss:
COUNTY OF)

BE IT REMEMBERED, that on _____, 1983, before me, the
Subscriber, _____ personally appeared
William C. Orlowski, who, being by me duly sworn on his oath, deposes and makes
proof to my satisfaction, that he is the Secretary of The Hills Development Company,
the Entity named in the within Instrument; that John H. Kerwin is the President of
said entity; that the execution, as well as the making of this Instrument, has been duly
authorized by a proper resolution of the Partnership Management Committee of The
Hills Development Company and that said Instrument signed and delivered by said
President as and for the voluntary act and deed of said entity, in presence of deponent,
who thereupon subscribed his name thereto as attesting witness.

SWORN TO AND SUBSCRIBED BEFORE
ME, THE DATE AFORESAID:

DEPONENT

William C. Orlowski, Secretary

DRAFT

STATE OF NEW JERSEY)
)
COUNTY OF) ss:

BE IT REMEMBERED, that on _____, before me, the subscriber, _____ personally appeared _____, who, being by me duly sworn on ___ oath, deposes and makes proof to my satisfaction, that ___ is the Secretary of The Bedminster Hills Housing Corporation, the Corporation named in the within Instrument; that _____ is the President of said Corporation; that the execution, as well as the making of this Instrument, has been duly authorized by a proper resolution of the Board of Directors of the said Corporation; that deponent well knows the corporate seal of said Corporation; and that the seal affixed to said Instrument is the proper corporate seal and was thereto affixed and said Instrument signed and delivered by said President as and for the voluntary act and deed of said Corporation, in presence of deponent, who thereupon subscribed ___ name thereto as attesting witness.

SWORN TO AND SUBSCRIBED BEFORE
ME, THE DATE AFORESAID:

DEPONENT

_____ Secretary

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APPLICATION FOR SETASIDE OF BOND PROCEEDS FROM NEW JERSEY MORTGAGE FINANCE AGENCY BOND ISSUE FOR END LOANS TO LOW AND MODERATE INCOME HOMEBUYERS IN THE HILLS, BEDMINSTER, NEW JERSEY, SUBMITTED BY THE HILLS DEVELOPMENT COMPANY

SUMMARY OF APPLICATION

The Hills Development Company, developers of The Hills, a 1287 unit Planned Unit Development in Bedminster, New Jersey, has made a commitment to provide 20% of the units in the PUD as low and moderate income housing. It is proposed to offer 260 units for sale, with an option to construct 88 of these units as rental housing. This commitment complies with the standards of the recent Mt. Laurel II decision, without the availability of any Federal subsidy funds.

Meeting this commitment contemplates that The Hills Development Company will seek a setaside of proceeds from a forthcoming bond issue by the New Jersey Mortgage Finance Agency so as to be able to make end-loans to the low and moderate income purchasers. The total amount required to finance the 172 condominium units, is \$6,174,400 assuming 90% financing. If the rental option is not feasible, The Hills Development Company will seek additional financing from the New Jersey Mortgage Finance Agency for 88 additional units. Preliminary discussions with the MFA have indicated that additional bond proceeds are potentially available. Since anticipated bond interest rates will not, in and of themselves, be enough to make these units affordable to low income households, The Hills Development Company proposes to:

- (a). Provide two-tier sales levels, so that units will carry different prices for low-income buyers than for moderate income buyers. A two-bedroom (loft) unit will be priced at \$29,500 for low-income buyers; and the identical unit will be priced at \$ 48,500 for moderate income buyers. A three-bedroom unit will be priced at \$33,500 for low income buyers; the moderate buyers will pay \$55,500 for the same unit.
- b). Provide, in addition, a buydown program designed to reduce the first year effective rate 1.5% below the permanent rate, and provide for a gradual, moderate, increase in payments over four years.
- c). Allocate the units so that low income persons have an opportunity to own both larger and smaller units.

These steps are described in detail in the application, along with additional concessions that are being made in order to make these units available at prices which make low and moderate income homeownership realistic. Specifically, The Hills Development Company proposes to sell these units at prices ranging from \$26,500 for a one bedroom unit to \$55,500 for a three bedroom unit, in one of the most expensive parts of the State of New Jersey.

The units will include 1 bedroom, 2 bedroom, and 3 bedroom flats, with decks and patios, in attractively designed two story buildings. In keeping with the standards for low and moderate income housing set forth in Mt. Laurel II, units will be sold exclusively to households whose incomes are within low and moderate income levels. Provisions will be established to ensure that these condominium units continue to be purchased by low and moderate income households through controls on the resale of these units.

This application provides a complete picture of the proposed development, as follows:

(1) Background and history of the development, including a narrative setting forth the mixed legal and developmental circumstances leading to this project and this application;

(2) Description of the project, including an overview of The Hills PUD, factual information on the proposed low and moderate income housing units, including cost information; and an analysis of the means by which the units will be made affordable to low and moderate income households;

(3) Description of the special provisions governing the project, including sale and resale controls designed to insure continued low and moderate income occupancy of the project.

Three appendices have been added, providing background information on the developer, The Hills Development Company; maps and drawings including site plans and floor plans; and the policies adopted by FNMA and FHLMC regarding developments of the nature proposed in this application.

L. BACKGROUND AND HISTORY OF THIS PROPOSAL

This application, seeking mortgage funds for low and moderate income homebuyers in The Hills, a Planned Unit Development (PUD) located in Bedminster Township, New Jersey, is the result of a long and complex history, of particular significance to the future of affordable housing development in New Jersey. It is both a major event in itself, as well as the first significant application of the momentous Mt. Laurel II decision, which mandated the provision of low and moderate income housing in suburban New Jersey. In view of the significance of that decision, before describing the history of this project directly, a brief mention is appropriate.

A. Mt. Laurel II

In January of this year, the New Jersey Supreme Court issued a decision in six exclusionary zoning cases which rapidly became known as Mt. Laurel II*. In this decision, the Court, frustrated with the limited progress on providing housing opportunities for low and moderate income households throughout New Jersey, as had been ordered by earlier decisions, for the first time, set down explicit standards, guidelines and procedures designed to turn those orders into reality. In particular, the decision provided explicit guidelines as to the definition of "low and moderate income", gave particular support to the approach of including low and moderate income units as a part of larger developments, rather than specific, separate, projects; and, most importantly, made clear that results, rather than good faith efforts, would be the sole touchstone of compliance with the Court's mandate.

Directly relevant to this project was the Court's call for use of mandatory setasides as a means of obtaining low and moderate income housing,

* One of the six cases decided by the Court was the retrial of the original Mt. Laurel suit, decided by the Supreme Court in 1975; hence Mt. Laurel II.

characterized by the Court as "basically a requirement that developers include a minimum amount of lower income housing in their projects" (slip opinion at 109). Elsewhere in the opinion, it was suggested that allocation of 20% of the units for low and moderate income households was "reasonable". (at 129). It seems clear from the decision, particularly as long as Federal housing subsidies are unavailable, or at best, in extremely short supply, that this approach, known as inclusionary housing, would be the principal means by which the goals of Mt. Laurel II would be met in New Jersey.

While there have been a number of inclusionary housing programs enacted in municipal zoning ordinances in New Jersey, in the absence of a clear legal mandate, they have been little used up to this point*. Developers are uncertain about this entire area, although limited experience elsewhere (most notably in Orange County, California and Montgomery County, Maryland) has indicated that it can be successful. These programs, however, operated under much more generous standards than those permitted by the New Jersey Supreme Court; and therefore before a concerted effort will be made in New Jersey, it will be necessary to provide a success model, in New Jersey, under the Mt. Laurel II standards. By success model, it is meant a project that effectively provides low and moderate income housing, while blending in successfully with other housing of a variety of types and cost levels in a manner consistent with the economic imperatives of development. The Hills is seeking to accomplish that in Bedminster.

* Among New Jersey municipalities, other than Bedminster, enacting such ordinances have been East Brunswick, Franklin, (Somerset), Cherry Hill, Bridgewater and South Brunswick Townships. Note that there has been some production of lower income units with Federal subsidies under the (voluntary, rather than mandatory) East Brunswick ordinance.

B. A Short History of the Bedminster Project

The PUD known today as The Hills has a history going back to 1969. It represents one of the most complex, and significant, land use cases in the history of the New Jersey judiciary. The Allan-Deane Corporation* acquired this land in 1969, at which time it proposed a planned development to the Township, which proposal was not acted upon. As a result, a suit was filed by Allan-Deane shortly thereafter.

At the same time, largely as a result of the relocation of the AT&T Long Lines facility from Manhattan to Bedminster, a move resulting in the relocation of nearly 5,000 jobs, a number of civic and civil rights organizations focused attention of this community. As a result of that effort, spearheaded by Suburban Action Institute and the New Jersey Civil Liberties Union, a suit was filed against the Town of Bedminster on behalf of a number of moderate income families and individuals, seeking relief from the exclusionary zoning of the community. At this time, with minimal exceptions, all of the land in the Township was zoned for single family houses on lots of five or more acres.

After a variety of procedural issues had been resolved, the two cases (Allan-Deane v. Bedminster and Cieswick et al v. Bedminster), were joined, and a single trial, in which the civil rights organizations and Allan-Deane presented a common case, took place in Somerset County Superior Court in 1974. In February 1975, the court held that Bedminster's zoning was "arbitrary, capricious and unreasonable", and ordered those parts of the Township shown as growth areas in the County Master Plan, including the Allan-Deane holdings, be rezoned. Since the Mt. Laurel (I) decision came down from the Supreme Court shortly

* The Hills Development Company is the successor of Allan-Deane Corporation (see Appendix 1 for description of The Hills Development Company).

thereafter, the trial judge issued a modified, but substantially similar opinion in light of that decision in October 1975. That decision was affirmed by the Appellate Division in 1977. The Supreme Court refused to grant an appeal of that decision, brought by the defendant municipality. In the fall of 1977 the Township began to draft an amended zoning ordinance, which was submitted to the court and the parties, after a number of amendments, in mid-1978.

It was clear that, after having exhausted the courts, the Township was seeking to undo the decision by adopting a nonresponsive ordinance. A new trial was held in 1979, at the end of which the trial judge held that:

in responding to this court's order to revise its zoning the municipality's conduct has verged on legislative prestidigitation. By creating an R-20 zone, on the one hand, and so restricting its development as to render it a nullity, on the other hand, the local officials have engaged in governmental "sleight of hand." They have not complied with this court's order. The plaintiffs are entitled to relief. (Unpublished opinion at 18-19)

As a result, the court ordered that rezoning take place under the supervision of a court appointed master, and that it incorporate a reasonable development density and standards for the Allan-Deane holdings, subject to their providing 20 percent of the units in areas rezoned PUD as "least cost" housing, as set forth in the then-governing Madison decision*.

* The "least cost" doctrine of Madison, a 1977 holding of the Supreme Court, was explicitly abandoned in Mt. Laurel II. Since, however, under that doctrine, the court was unwilling to impose explicit income requirements for these units, resale controls, etc., the New Jersey Department of the Public Advocate appealed that part of the 1980 order. This appeal is technically still pending; it is the position of both parties, however, that the changes in the law made in Mt. Laurel II point a clear direction for settlement of this issue, which is being carried out with a central element being this application and the units proposed to be constructed with the assistance of NJMFA financing.

George Raymond, president of the planning firm of Raymond, Parrish & Pine, was appointed as the master, and late in 1980, a new ordinance was enacted, complying with the court order, eleven years after the initial presentation to the Township. Development activities on the site, under the auspices of the recently created The Hills Development Company, began in 1982.

During the course of this extended period of litigation this project became one of the most, if not the most, visible proposed PUD in New Jersey. The project is significant, not only by virtue of its litigation history, and its significant combination of public interest and development plaintiffs, but by virtue of its highly dramatic and important location. The project is in Bedminster Township, the center of one of the greatest employment growth areas in New Jersey; i.e., the I-287 corridor through Middlesex, Somerset and Morris Counties. The site is a short distance from the intersection of I-287 and I-78, and is readily visible to drivers along I-287 immediately north of that intersection. It is within a short walk of the Village of Pluckemin (in Bedminster Township), and a short commute to such major employers as AT&T (corporate headquarters), AT&T "Long Lines", Beneficial Finance, Chubb, American Hoechst, and others.* It represents a dramatic and unique opportunity to demonstrate the feasibility of providing low and moderate income housing in conjunction with more expensive housing units, in an economically integrated framework, in a high-demand area of the state, where jobs are available, but affordable housing is virtually nonexistent.

The balance of this application is in two sections. The first will provide a detailed description of the PUD as a whole, and the low and moderate income housing proposed for NJMFA financing, including costs, pro formas,

* See Appendix 2

affordability analysis, and related materials (site plans, floor plans, and elevations are attached). The second section will describe the special provisions to be established in keeping with the goal of creating and maintaining low and moderate income housing without Federal subsidies, in particular the proposed structure of resale controls, as mandated by the court in Mt. Laurel II (see slip opinion at 113). Additional information, including information on the development corporation, is provided in a series of appendices to this application.

II. DESCRIPTION OF THE PROPOSED LOW AND MODERATE INCOME HOUSING DEVELOPMENT

The Hills Development Company proposes to construct a total of 260 low and moderate income housing units in The Hills PUD which is 20% of all units in the PUD. As currently proposed, these 260 units will be offered for sale to low and moderate income households, and 172 units, which were contained in the original proposal, are the subject of this application for end loan funds from the New Jersey Mortgage Finance Agency. The Hills Development Company retains an option to construct 88 of these units, as rental housing. The Hills Development Company is investigating the feasibility obtaining existing Section 8 certificates, and exploring other financial considerations for the rental units. Financing for the rental units has been discussed with the New Jersey Housing Finance Agency. All these units are included in the section of the PUD referred to as "the inner loop", which has been described in an Application for Site Plan Approval before the Bedminster Township Planning Board. This section will include a substantial number of market-rate units as well. For convenience, however, the name The Village Green will be used in this narrative to describe the low and moderate income sales housing units proposed for NJMFA support, as well as the option retained by The Hills Development Company to construct a portion of these 260 units as rentals.

This section of the proposal will provide a detailed presentation on the The Village Green project, preceded by an overview of The Hills PUD as a whole.

A. The Hills PUD

The Hills PUD is located on a 128.7 acre tract immediately outside the village of Pluckemin in Bedminster Township. The site is a gently sloping site, with a steep mountainous backdrop, which is being retained in its natural

wooded state. Within The Hills PUD, approval has been obtained for a total of 1,287 units. While it is expected that all units will be attached, either two-story townhouses or flats, The Hills is providing for great diversity of size and price level within the PUD, designed to attract a highly varied resident population.

The following is the proposed development profile of The Hills PUD:

THE HILLS PUD: PROFILE OF DEVELOPMENT TYPES

<u>Number</u>	<u>Name</u>	<u>Bedrooms</u>	<u>Square Footage</u>	<u>Price Range</u>
222	Knollcrest	2-3	1900 - 2200	\$190,000 - \$225,000
255	Stone Run	1-3	1250 - 1650	\$138,000 - \$167,000
355	Fieldstone	2-3	935 - 1400	\$ 95,000 - \$132,000
194	The Mayfields Market Units	1-2	682 - 954	\$ 66,000 - \$ 89,000
260	The Village Green Low & Moderate*	1-3	567 - 997	\$ 26,500 - \$ 55,500

* Includes both rental and sales units. Rental and sales units are anticipated to be physically identical, but if the rental units are constructed, they shall be differentiated by location and separate condominium association and management structures.

NOTE: All information as of 11/1/83 and subject to change at any time.

In addition to the residential development, it is anticipated that commercial and office facilities will be located within the The Hills PUD, in a location convenient both to residents of the PUD and the residents of the surrounding area.

Construction began in late 1982 on the Stone Run and Knollcrest models. Sales to date have been successful, and it is anticipated that construction of units in the Fieldstone and The Village Green sections, as well as continued activity in the other sections, will take place beginning in the late fall of 1983 and continued through summer of 1984, subject to ability of The Hills to

obtain financing for the The Village Green units. The Hills Development Company's Planned Unit Development as a whole has attracted considerable favorable attention, and is expected to be featured in a forthcoming issue of Professional Builder magazine. It is this initial track record which makes the development so outstanding as a prototype for the successful integration of low and moderate income housing into a diverse economic environment.

B. The Village Green Neighborhood Condominium

The low and moderate income condominium units are proposed to be developed according to the following profile:

 The Village Green Neighborhood Condominium:
 LOW AND MODERATE INCOME UNITS DEVELOPMENT PROFILE

<u>Number</u>	<u>Type</u>	<u>Square Feet</u>	<u>Preliminary Price</u>
68	A 1 Bedroom	567	\$26,500
68	B 2 Bedroom (sleeping loft)	675	\$29,500 (low) \$48,500 (moderate)
80	C 2 Bedroom	769	\$52,500
44	D 3 Bedroom	997	\$33,500 (low) \$55,500 (moderate)

NOTE: All price and square footage information subject to change on basis of final approved plans. This chart includes units which may become rental units.

The Village Green Neighborhood Condominium units will be constructed in two story buildings, with three different building types ranging from 8 units per building to 16 units each. The buildings are planned to lend itself to a relatively low per square foot construction cost, and the ability to complete construction within a short period. The buildings, as can be seen from the attached plans, are attractively designed; visual quality is achieved by varying rooflines, and by providing variety to the facade through decks and exterior staircases, as well as

careful placement of windows and doors. Each unit has an exterior area for its own use, either a patio or a deck, which also serves as an entry to the unit. Although a major goal is to provide these units as inexpensively as possible, it is essential to provide units that will exist harmoniously with the balance of The Hills PUD, which includes a substantial number of units at significantly higher prices. This is particularly important in view of the relatively high net density of the PUD, or that part of the PUD being developed between the Pluckemin Village to the west, and the steep slopes to the east. There is, therefore, no room for extensive buffers and separations between the different parts of the development.

Considerable effort has been expended to develop space- and cost-efficient unit plans without sacrificing livability. One example is the two bedroom unit in which the second bedroom is a sleeping loft; this creates an attractive and livable unit at substantial cost savings over conventionally laid out units. The units themselves will not have amenities beyond those considered necessities; air conditioning will not be provided, although it will be available as an option, as will other amenity features.

While cost considerations dictate that the units themselves may lack some of the features of more expensive units, internally, it is considered essential that the residents of The Village Green have access to all of the communitywide amenities within The Hills PUD, including access to community services and recreation facilities (except for those facilities reserved for the exclusive use of others), and the like.

The condominium structure for the The Village Green units will be similar to that of the balance of The Hills; specifically, there will be a separate neighborhood condominium association for each type of ownership and

neighborhood section.¹ The residents of the The Village Green units will also be members of The Hills Village Master Association, and will pay a fee to that entity. The The Village Green Neighborhood Condominium Association(s) will be responsible for the maintenance of the exterior areas, landscaping, parking areas, garbage and snow removal, and hazard insurance within the The Village Green neighborhoods and will be supported by condominium association fees paid by the unit owners. A special program has been proposed by The Hills Development Company to provide a source of additional funds to the project, through an income recapture program.

C. Cost Analysis and Affordability Analysis

There are two key issues in this proposal: how can units be produced for these prices; and are they affordable to the target households.

1. Cost Analysis: A pro forma, or cost analysis, of The Village Green Neighborhood Condominium is presented on the following page. While it is not customarily for such information to be presented by developers, it is considered appropriate in view of the nature of this proposal, and the importance of the question; i.e., what does housing of this nature actually cost?

¹ Includes both rental and sales units. Rental and sales units are anticipated to be physically identical, but shall be differentiated by location and separate condominium association and management structures.

NOTE: All information as of 11/1/83 and subject to change at any time.

² Hereafter, all discussion refers exclusively to the The Village Green low and moderate income sales units. While The Hills Development Company retains the right to construct 88 of these 260 units as sales units, it recognizes that there needs to be certainty in the proposal, and commits itself to providing a total of 260 units, 130 of which will be affordable to persons of low income and 130 of which will be affordable to persons of moderate income.

COST ANALYSIS FOR PROPOSED VILLAGE GREEN LOW AND MODERATE INCOME SALES PROJECT (Based on the 172 Units contained in the original NJMFA application, with re-computed numbers following 11/1/83 discussion. Computations for the entire 260 units, if the entire project is built " for-sale", will be prepared and submitted to the NJMFA as part of a revised application, which will be submitted to the parties as well.

land (see note 1)		\$ 0
Site Improvements @ \$5000/DU (note 2)		860,000
Landscaping, hookups, patios, etc., @ \$3000/DU		516,000
Construction (136408 SF @ \$28/SF)		3,568,656
Architecture & engineering @ 3.4%	\$121,334	
Warranty & Service (HOW)	97,250	
Legal & Consulting	50,000	297,584
Property taxes during constuction	9,000	
Permits, fees & misc.	20,000	
	SUBTOTAL	<u>\$5,242,240</u>
Construction Financing @ 13% for 8 months		270,483
Financing fees & contingency @ 4%		249,868
Supervision & administration @ 3%		187,401
Marketing & advertising @ 3%		187,401
Closing & title @ 1%		62,467
Nonprofit corporation fee @ 0.75% (note 3)		46,850
	TOTAL DEVELOPMENT AND COST	<u>\$6,246,710</u>
Buydown (note 4)		163,566
Profit, risk & contingency @ 9%		562,204
	TOTAL PROJECT COST	6,972,480

NOTES:

(1) Some of the land value subsidy, not to exceed an amount to be determined by independent appraisal, will be subject to recapture in the event of increased homebuyer income.

(2) This includes only those site improvements required internally within the low and moderate income housing section of the PUD, and no improvements associated with the PUD as a whole, such as arterial roads and the sewage treatment plant.

(3) This will cover the costs to be incurred by the nonprofit corporation which will be responsible for screening of prospective buyers, administering resale controls, etc.

(4) The buydown will provide for a first year effective interest rate for all units at 1.5% below the permanent rate, to increase by 0.5% increments in years 2, 3.

It will be noted that the purchase price of these units are far less than the actual market cost of these units produced in an unconstrained market environment. If the full prorated cost of land and development-wide improvements, such as the "state of the art" sewerage treatment plan that was built for The Hills, were incorporated, a customary and not excessive profit and risk factor included, and other costs increased on a prorated basis, the identical housing unit would sell for roughly 40% more than the proposed selling prices for these units. Furthermore, given the nature of the housing market in this area, there is little doubt that they would be marketable units. For point of fact The Hills plans to sell similar units with slightly larger interior areas and somewhat more expensive fixtures and finishes, at prices between \$66,000 and \$89,000.

The total cost of \$6,972,480 translates into a total cost of roughly \$54.50 per square foot. The proposed pricing schedule given on page 2-3 has not be derived, however, directly from the square footage; rather, prices have been adjusted in order to increase affordability of the units relative to the applicable income ceilings for each unit.

2. Affordability Analysis: Even with these substantially below-market costs, making the units affordable to households falling within the Mt. Laurel II definition of "low and moderate income" is difficult. Since doing so lies at the core of this entire effort, this subject is worth discussing in some detail, by first defining low and moderate income, and then, defining what "affordable" should realistically mean in this context.

(a). Defining Low and Moderate Income

In Mt. Laurel II, the Court defined the target population as follows:

"Moderate income families" are those whose incomes are no greater than 80% and not less than 50% of the median income of the area, with adjustments for smaller and larger families. "Low income families" are those whose incomes do not exceed 50% of the median income of the area, with adjustments for smaller and larger families (footnote, slip opinion, p.36).

The decision further recommends reliance on those median income figures promulgated by the U.S. Department of Housing & Urban Development for each SMSA in the county, in this case, the Newark, New Jersey SMSA*. The most recent HUD figures are dated March 31, 1983, and the counterpart figures consistent with the above language from the Mt. Laurel II decision, using the Court's terminology, by family size are as follows:

LOW AND MODERATE INCOME CEILINGS FOR NEWARK SMSA BY FAMILY SIZE**

FAMILY SIZE	LOW INCOME	MODERATE INCOME
1	\$11450	\$17650
2	13100	20150 5637
3	14700	22700 5675
4	16350	25200 6300
5	17650	26750 6687
6	18950	28350

* Somerset County has recently been placed in a different, newly created, SMSA (or its new equivalent, PMSA) by the Census Bureau. HUD will revise these figures at some time in the future. The above figures will continue to be used for this project until new figures for the PMSA are promulgated by HUD. The Hills will apply the revised figures, when available, to the pricing of the units.

**Source: Newark Area Office, HUD. Subject to change (see preceding footnote).

These figures will be used as the definition of low and moderate income applicable to The Village Green. The next section will discuss how it is possible to make these units affordable to households earning the above amounts, or less.

(b). Establishing Affordability

In order realistically to meet the standards set by the Court, a unit whose purchase is to be limited to families earning no more than the above must actually be affordable to households earning some reasonable amount less than the ceiling income, so that there is a reasonable range between the maximum income at which one is eligible to buy the unit, and the minimum income needed to qualify for the unit. If the range between the two is too small, the number of households capable of meeting those conditions may become too few, and the marketability of the units, notwithstanding their low prices, becomes questionable.

In order to be affordable to a household of a given income, the standard generally used by the NJMFA has been applied; namely, that the sum of (a) debt service; (b) property taxes; (c) hazard insurance; and (d) condominium association fees, shall not exceed 28% of gross household income. The pricing has been structured on the basis that 100% of the ceiling income will be available.

The cost of taxes, hazard insurance, and condominium association fees is not dramatically variable, so that the key adjustments in the annual cost needed to make these units affordable to low and moderate income households must be made by adjusting the level of mortgage payments. At this point it can be stated unequivocally: without NJMFA mortgage financing, there is no realistic way in order to achieve that affordability, especially with regard to the low income households.

Affordability has been achieved in the following ways:

1. Obtain NJMFA financing. The Hills Development Company regards this as essential.

2. Skew the prices of the units; so that a low-income homebuyer pays a lower amount for the same unit to be purchased by a moderate unit purchaser.

Thus, a low income homebuyer would pay \$ 29,500 for a two bedroom (loft) unit, and a moderate homebuyer would pay \$ 48,500 for the same unit. A low income homebuyer would pay \$ 33,500 for a three-bedroom unit which would be priced at \$ 55,500 for the moderate homebuyer.

3. Provide an additional three year interest rate buydown:

A three year buydown program by The Hills Development Company has been built into the project budget, in order to reduce the interest rates during the first few years of the mortgages. Assuming that the N.J.MFA financing will be available at 10.5% for the term of the mortgage, The Hills Development Company proposes to begin the mortgages at 9%, with a ½% increase annually during years 2-5.

The rate of increase in interest rate is well within the level at which it is considered sound underwriting practice to qualify buyers at the initial rate. For example, a low-income homebuyer of a two-bedroom loft unit would

experience an increase of less than \$ 10/month per year for each year the rate rises. This, in conjunction with the anticipated cost levels for the other categories included in shelter cost, will enable these units to be affordable to low and moderate income households who are the subject of Mt. Laurel II.

Insofar as unit distribution is concerned, as a result of the discussions between the parties, it is proposed to distribute the units as follows:

(assumption: all 260 units available for occupancy)

Unit size	Low	Moderate
1 Bedroom	68	0
2 Br/loft	44	24
2 Br	0	80
3 Br	18	26
Total	130	130

(c). Documenting Affordability

The following affordability analysis was based on the mortgage interest rate assumptions described in detail above, and the following assumptions regarding other costs:

- Property taxes @ 1.22% of the market value of the unit. This is the current tax rate in Bedminster Township, which has remain largely stable in recent years.
- Association fees @ \$165 per year per \$10,000 house value (this can be translated into \$40/month for the least expensive units to \$70/month for the most expensive)

Hazard insurance is included in the form of a blanket policy, which is included in the condominium neighborhood association fee. A 90% mortgage was used as the basis for the following analysis, although this is understood that this will vary widely from case to case.

The table on the following page illustrates the points made earlier in the narrative. For example, the one bedroom unit will be marketed on the assumption that it will be occupied by a two-person household earning the top of the income range. This unit will be marketed, as noted earlier, to low income households.

Comparing this to the table on page 2-8, it will be found that the market for this unit is restricted to couples earning any amount which qualifies them for a mortgage, and not in excess of \$13,100.

AFFORDABILITY ANALYSIS FOR VILLAGE GREEN CONDOMINIUMS

(low income home buyer, first year, buydown in effect)

	ONE BEDROOM	TWO BEDROOM (LOFT)	THREE BEDROOM
Hshold size	2 pers.	3 pers.	5 pers.
Unit Price	\$26,500	\$29,500	\$33,500
(10% dn.pmnt)	(2,650)	(2,950)	(3,350)
Mortgage Amount	\$23,850	\$26,550	\$30,150

ANNUAL COST

Mortgage Payment (9% int. rate)	\$ 2,303	\$ 2,564	\$ 2,911
Prpty tx. (est)	325	360	409
Assn. Fee(est)	<u>437</u>	<u>487</u>	<u>553</u>
TOTAL	\$ 3,065	\$ 3,411	\$ 3,873
Minimum Income Needed at 28% of Income	\$10,946	\$12,182	\$13,832

As the table on the following page indicates, the same margins are available for the moderate income units, as well, even with the higher unit costs.

AFFORDABILITY ANALYSIS FOR VILLAGE GREEN CONDOMINIUMS
 (moderate income home buyer, first year, buydown in effect)

	TWO BEDROOM (LOFT)	TWO BEDROOM	THREE BEDROOM
Household size	3 pers.	4 pers.	5 pers.
Unit Price	\$48,500	\$52,500	\$55,500
(10% dn.pmnt)	(4,850)	(5,250)	(5,550)
Mortgage Amount	<u>\$43,650</u>	<u>\$47,250</u>	<u>\$49,950</u>

ANNUAL COST

Mortgage Payment (9% int. rate)	\$ 4,215	\$ 4,563	\$ 4,823
Prpty tx. (est)	592	641	677
Assn. Fee (est)	<u>800</u>	<u>866</u>	<u>916</u>
TOTAL	\$ 5,607	\$ 6,070	\$ 6,416
Minimum Income Needed at 28% of Income	\$20,025	\$21,679	\$22,914

 Similar comparisons can be made for other units as well. Through the steps above it has been shown that these units will indeed be sold to households categorized as low and moderate income in Mt. Laurel II, with half of the units to be sold to low income households, and the remainder to moderate income households. Absent this proposal it is unlikely that there will be any housing of reasonable quality developed in Somerset County which these households could afford.

D. Construction Timetable

The Hills Development Company has already submitted its application to Bedminster Township for site plan approval for this project, including all of the low and moderate income units. The timetable set forth below assumes a reasonably, expedited approval timetable.

Site Plan Submission	8/26/83
Site Plan Approval	11/21/83
Building Permits Issued (first phase)	12/15/83
Start Site Construction (first phase)	12/19/83
Start Building Construction (first phase)	12/19/83
Complete Construction	6/15/84 to 8/15/84
Initial Marketing & Sales	3/15/84 to 6/1/84
Closings	7/1/84 to 10/1/84

It is hoped, with favorable action by the Court and the Township of Bedminster, that the total time elapsed, from initial submission to closings should be only slightly over one (1) year.

It is anticipated that other approvals, from state agencies, will be processed and completed during the period leading up to the anticipated granting of building permits. These include the approval of this application by the Mortgage Finance Agency, approval of the condominium filing by the Department of Community Affairs, and approval of this proposal as being in substantial compliance with the requirements of Mt. Laurel II.

III. SPECIAL PROVISIONS GOVERNING PROPOSED LOW AND MODERATE INCOME HOUSING AT THE HILLS

This section will discuss three elements to this project which have been developed in response to the particular circumstances of developing low and moderate income housing without public subsidy, within the context of The Hills PUD, and the dictates of the Mt. Laurel II decision. The elements presented here are first, the role of a nonprofit monitoring corporation; second, the structure of proposed sale and resale controls; and third, the structure of the proposed recapture provisions.

A. The Nonprofit Corporation

Effective compliance with the Mt. Laurel II standards requires that appropriate mechanisms be in place to ensure that both initial and subsequent purchasers of the units be by low and moderate income households. While initial screening of households could be done by the developer, or a broker under contract with the developer, it is clearly preferable that it be done by an independent entity with no financial stake in this project. Administration of resale controls, which will be in effect for an extended period, cannot be performed by the developer both for the above reason, and since the developer should not be expected to retain his involvement in the project indefinitely. In addition, under FHLMC regulations, the developer may not administer these controls.

In order to perform these functions, as well as additional functions dictated by the proposed recapture provisions (see III(c) below), The Hills Development Company proposes to enter into a contractual agreement with a nonprofit corporation capable of performing these functions. At this point, discussion has centered on the establishment of a nonprofit corporation that would be specific to this development, whose sole purpose would be to perform

these functions (along with other functions dictated by the rental units) in The Hills, with the possibilities that:

(a) in the event a state-wide entity is established, the Bedminster functions could be assigned to that entity; and

b) if agreed to by the parties, additional developments within Bedminster, or additional towns within the region, could seek to have the non-profit corporation supply similar services to them. In that event, adequate additional compensation by the developer or the community will be paid to the non-profit corporation to cover any additional costs which might be incurred.

It is proposed that a bona fide nonprofit entity will be in place, well in advance of the initial sales which is capable of carrying out the initial screening of prospective buyers, as well as monitoring the sales and marketing program developed for The Village Green Neighborhood Condominium. As shown in the table on page 2-6, The Hills Development Company proposes that a fee of 0.75 of total project development costs be set aside in the low and moderate income project budget to provide start-up funds for this purpose. These funds will be derived independently of individual unit closings and funded in advance.

B. Sale and Resale Controls

As stated above, the nonprofit corporation will have responsibility for managing both the initial screening of prospective purchasers, and the provisions governing the resale of units in the future. Those responsibilities will be carried out as follows:

(1) Initial Screening of Purchasers: The nonprofit corporation will have the responsibility of determining whether prospective purchasers are eligible for the units, on the basis of their income; setting up priority categories for prospective purchasers, if any; and referring prospective purchasers to the mortgage lender. The nonprofit corporation will not be responsible for carrying out either a credit check, or any other action relevant to determining whether a

prospective purchaser can qualify for a NJMFA mortgage, all of which will be the responsibility of the lender, under the supervision of the NJMFA.

All recipients of NJMFA mortgages, as required by the Mortgage Bond Subsidy Tax Act, shall only use the unit as their principal residence, and shall be, in effect, first-time home buyers. With regard to any purchaser who may not, for whatever reason, utilize an NJMFA mortgage, the requirement that the owner only use the unit as his or her principal residence will be enforced by the nonprofit corporation, but the first-time home purchaser requirement will not apply.

At this time, two purchaser preference standards, in addition to income, are proposed:

- preference to be given households who, with regard to each unit type, need a unit of that size and bedroom configuration; e.g., preference for a three bedroom unit will be given families with two or more children of different sex.
- preference to be given households working in close proximity to the project, and living either (a) in substandard housing or neighborhood conditions; or (b) an excessive distance from their place of work.

With regard to the latter point, it should be noted that a substantial numbers of jobs at the major employment centers in the area, such as AT&T, are relatively low paying clerical, maintenance, and similar jobs. Many of these jobs, in turn, are held by people living in urban areas of New Jersey and commuting substantial distances to their work places. In view of the history of this project, and the nature of the area, this is considered an appropriate priority category. While additional categories may be developed, consideration is not at present being given to a priority category to residents of the immediate community or area.

The nonprofit corporation will have responsibility for establishing waiting lists, as well as such other procedures as may be necessary to provide for an orderly flow of prospective buyers to the lender, which may include lotteries.

(2) Resale Controls: As the Supreme Court noted in Mt. Laurel II:

The problem of keeping lower income units available for lower income people over time can be a difficult one. Because a mandatory setaside program usually requires a developer to sell or rent units at below their full value so that the unit can be affordable to lower income people, the owner or the developer, or the initial tenant or purchaser of the unit, may be induced to re-rent or re-sell the unit at its full value (at 112-113)

The court continues by stating that this problem must (their emphasis) be addressed. Since this clearly applies to The Hills (we have noted that there is an approximately 40% difference between the proposed pricing and full value), it is necessary to establish a structure for controlling both price and resale maintenance of resale of the units.

Any legal uncertainty regarding such mechanisms can be considered to have been resolved by the Supreme Court's unequivocal position; furthermore, in recent years, both FNMA and FHLMC* have adopted policies allowing them to purchase mortgages subject to resale controls. Furthermore, given the premium market character of Bedminster, and the attractiveness of the pricing of the The Village Green units, it is hoped that the restrictions and price controls will have a minimal effect on the marketing of these units.

The general policies to govern the imposition of resale controls in this project will be as set down here. A specific and more detailed procedural statement will be prepared, and provided to the NJMFA, in keeping with these policies.

(a). Resale controls will be established in order to ensure that all units, upon their resale, will be both affordable to and purchased by households of low and moderate income

(b). The initial sales price shall be increased on the basis of an appropriate inflation index to the time of resale.

(c). Adjustments to the sales price for property improvements, or major fixtures or appliances, may be made, with the determination of

the amount of the adjustment in the hands of the nonprofit corporation. In addition, a seller may recoup the reasonable costs of the sale, including attorney's fees and broker's commissions, if such are necessary.

(d). That nonprofit corporation will have the exclusive right to refer potential purchasers to units to be sold, at the price established above, from a waiting list maintained by the nonprofit corporation, for a fixed period of 90 days after it has been notified of the availability of a unit.

(e). If a unit has not been sold (in that no contract of sale has been executed), by the end of that period, the seller may sell it on the open market. However, price controls will remain in effect, whether or not the new purchaser is a low or moderate income buyer.

The above provisions will be framed in the form of deed covenants, restrictions and reservations and will be fully disclosed to all potential buyers. It is the judgement of The Hills that they are reasonable and most importantly, will ensure that the units continue to provide a source of low and moderate income housing. It is anticipated that these restrictions will govern these units for a period of no more than 30 years.

(3) Hills Development Company intends to develop the The Village Green low and moderate income property through a subsidiary. The property will be conveyed to the low and moderate purchasers through a deed, which will generally be set forth in the restrictions noted in the proposal herein.

*It is extremely unlikely that (e) will ever take place; still, if for some reason the corporation is incapable of performing its responsibilities, some alternative must be made available.

In addition to the covenants and restrictions otherwise discussed here, the purchaser, and each subsequent purchaser will pay, as additional consideration, such funds as required by the income regulation and re-sale recapture provision discussed more fully below.

The Hills Development Company intends to assign various of its rights to manage various aspects of the development, including the income-regulation provision, the recapture provisions and other restrictions contained in this deed and discussed herein, to the nonprofit corporation*. As consideration for this, the nonprofit corporation will pay 75% of the recapture proceeds to the Hills Development Company, retaining 25% for administrative purposes and subsequent subsidies.

C. Provisions for Resale Recapture and Income Regulation

As has been briefly noted above, it is the intention of The Hills Development Company to provide, through deed covenants, restrictions and reservations, for the potential recapture of some or all of the subsidies provided to the low and moderate income homebuyers. Recapture of subsidies shall only be sought from those purchasers whose incomes rise above the ceiling income, as it may be adjusted, for their income category and household size. The purpose of providing for recapture is twofold: (1) to provide The Hills Development Company with a limited return on its land subsidy over time, in a manner which will not affect the initial or continued affordability of the low and moderate income housing units; and (2) to create a cash flow that can be used to benefit

* The Hills Development Company will retain the right to terminate the contract with the Non-Profit corporation for cause.

the owners of the The Village Green low and moderate income condominiums.

The specific provisions by which this recapture will take place are as follows:

(1). A graduated schedule of recapture payments, as in the form of a second mortgage, which will be given to each low or moderate income homebuyer prior to the signing of an Agreement for Purchase and Sale. This schedule will be based on an estimate of the differential between the cost of the unit, as sold to the purchaser, and its value on the open market. The figure will be "capped", both as to the length of time the unit owner would have to pay and the total amount of the unit owner's obligation. There will be a lower level of recapture payments for low income persons as compared with moderate income persons.

(2). The nonprofit corporation will annually verify the household income of all homeowners households to determine their obligation, if any, to make recapture payments as a result of any increase in household income. No household will be required to make payments which, when added to his or her other housing costs (as previously defined on page 2-11) will exceed 28% of gross income. Similarly, as noted above, no would be obligated to make any payments unless their household income rose above the ceiling income, as adjusted over time, for that household size and income category.

(3). The nonprofit corporation will be responsible for collecting these funds and will be entitled to retain 25%, passing the balance to The Hills. The nonprofit corporation will use those funds for the benefit of The Village Green low and moderate income units, and their residents. The nonprofit corporation will establish formal procedures for use of these funds, which may allow for use of limited amounts for administrative purposes.

As a result of conversations with the New Jersey Mortgage Finance

Agency, it is recognized that it may become necessary to terminate all restrictions on sale, occupancy and use of units within The Village Green Neighborhood Condominium in the event of a foreclosure. In order to prevent wrongful enrichment of persons who have occupied the units and defaulted on their mortgage obligations, The Hills Development Company has provided for acceleration of the recapture obligation and return of funds to the non-profit corporation in such a case.

Additionally, a recapture program provides a source of funds to the project, and by extension, to the residents in the future. Since considerable experience has shown that a major problem associated with condominiums is the cost of repairs and replacement of major systems, ten, fifteen or twenty years after initial construction, which costs must be financed through additional levies on the owners, this approach could be a significant protection to the owners against unanticipated increases in the future.

The Hills Development Company believes that this recapture provision is a sensible approach, from a public policy standpoint, of balancing the interest of the low and moderate income homebuyer, and the interest of the developer. A draft of the proposed restrictions is attached.

Finally, it must be stressed that without below-market interest rate financing for the end-loans, which is being requested from the New Jersey Mortgage Finance Agency, this project simply cannot succeed as low and moderate income housing, at least in the sense that the term is used in the Mt. Laurel II decision. With such financing, the project can succeed, and can become a prototype for a creative and innovative public-private partnership in this area.

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Appendix 1: The Hills Development Company

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APPLICATION FOR SETASIDE OF BOND PROCEEDS FROM NEW JERSEY MORTGAGE FINANCE AGENCY BOND ISSUE FOR END LOANS TO LOW AND MODERATE INCOME HOMEBUYERS IN THE HILLS, BEDMINSTER, NEW JERSEY, SUBMITTED BY THE HILLS DEVELOPMENT COMPANY

SUMMARY OF APPLICATION

The Hills Development Company, developers of The Hills, a 1287 unit Planned Unit Development in Bedminster, New Jersey, has made a commitment to provide 20% of the units in the PUD as low and moderate income housing. It is proposed to offer 260 units for sale, with an option to construct 88 of these units as rental housing. This commitment complies with the standards of the recent Mt. Laurel II decision, without the availability of any Federal subsidy funds.

Meeting this commitment contemplates that The Hills Development Company will seek a setaside of proceeds from a forthcoming bond issue by the New Jersey Mortgage Finance Agency so as to be able to make end-loans to the low and moderate income purchasers. The total amount required to finance the 172 condominium units, is \$6,174,400 assuming 90% financing. If the rental option is not feasible, The Hills Development Company will seek additional financing from the New Jersey Mortgage Finance Agency for 88 additional units. Preliminary discussions with the MFA have indicated that additional bond proceeds are potentially available. Since anticipated bond interest rates will not, in and of themselves, be enough to make these units affordable to low income households, The Hills Development Company proposes to:

- (a). Provide two-tier sales levels, so that units will carry different prices for low-income buyers than for moderate income buyers. A two-bedroom (loft) unit will be priced at \$29,500 for low-income buyers; and the identical unit will be priced at \$ 48,500 for moderate income buyers. A three-bedroom unit will be priced at \$33,500 for low income buyers; the moderate buyers will pay \$55,500 for the same unit.
- b). Provide, in addition, a buydown program designed to reduce the first year effective rate 1.5% below the permanent rate, and provide for a gradual, moderate, increase in payments over four years.
- c). Allocate the units so that low income persons have an opportunity to own both larger and smaller units.

These steps are described in detail in the application, along with additional concessions that are being made in order to make these units available at prices which make low and moderate income homeownership realistic. Specifically, The Hills Development Company proposes to sell these units at prices ranging from \$26,500 for a one bedroom unit to \$55,500 for a three bedroom unit, in one of the most expensive parts of the State of New Jersey.

The units will include 1 bedroom, 2 bedroom, and 3 bedroom flats, with decks and patios, in attractively designed two story buildings. In keeping with the standards for low and moderate income housing set forth in Mt. Laurel II, units will be sold exclusively to households whose incomes are within low and moderate income levels. Provisions will be established to ensure that these condominium units continue to be purchased by low and moderate income households through controls on the resale of these units.

This application provides a complete picture of the proposed development, as follows:

(1) Background and history of the development, including a narrative setting forth the mixed legal and developmental circumstances leading to this project and this application;

(2) Description of the project, including an overview of The Hills PUD, factual information on the proposed low and moderate income housing units, including cost information; and an analysis of the means by which the units will be made affordable to low and moderate income households;

(3) Description of the special provisions governing the project, including sale and resale controls designed to insure continued low and moderate income occupancy of the project.

Three appendices have been added, providing background information on the developer, The Hills Development Company; maps and drawings including site plans and floor plans; and the policies adopted by FNMA and FHLMC regarding developments of the nature proposed in this application.

I. BACKGROUND AND HISTORY OF THIS PROPOSAL

This application, seeking mortgage funds for low and moderate income homebuyers in The Hills, a Planned Unit Development (PUD) located in Bedminster Township, New Jersey, is the result of a long and complex history, of particular significance to the future of affordable housing development in New Jersey. It is both a major event in itself, as well as the first significant application of the momentous Mt. Laurel II decision, which mandated the provision of low and moderate income housing in suburban New Jersey. In view of the significance of that decision, before describing the history of this project directly, a brief mention is appropriate.

A. Mt. Laurel II

In January of this year, the New Jersey Supreme Court issued a decision in six exclusionary zoning cases which rapidly became known as Mt. Laurel II*. In this decision, the Court, frustrated with the limited progress on providing housing opportunities for low and moderate income households throughout New Jersey, as had been ordered by earlier decisions, for the first time, set down explicit standards, guidelines and procedures designed to turn those orders into reality. In particular, the decision provided explicit guidelines as to the definition of "low and moderate income", gave particular support to the approach of including low and moderate income units as a part of larger developments, rather than specific, separate, projects; and, most importantly, made clear that results, rather than good faith efforts, would be the sole touchstone of compliance with the Court's mandate.

Directly relevant to this project was the Court's call for use of mandatory setasides as a means of obtaining low and moderate income housing,

* One of the six cases decided by the Court was the retrial of the original Mt. Laurel suit, decided by the Supreme Court in 1975; hence Mt. Laurel II.

characterized by the Court as "basically a requirement that developers include a minimum amount of lower income housing in their projects" (slip opinion at 109). Elsewhere in the opinion, it was suggested that allocation of 20% of the units for low and moderate income households was "reasonable". (at 129). It seems clear from the decision, particularly as long as Federal housing subsidies are unavailable, or at best, in extremely short supply, that this approach, known as inclusionary housing, would be the principal means by which the goals of Mt. Laurel II would be met in New Jersey.

While there have been a number of inclusionary housing programs enacted in municipal zoning ordinances in New Jersey, in the absence of a clear legal mandate, they have been little used up to this point*. Developers are uncertain about this entire area, although limited experience elsewhere (most notably in Orange County, California and Montgomery County, Maryland) has indicated that it can be successful. These programs, however, operated under much more generous standards than those permitted by the New Jersey Supreme Court; and therefore before a concerted effort will be made in New Jersey, it will be necessary to provide a success model. in New Jersey. under the Mt. Laurel II standards. By success model, it is meant a project that effectively provides low and moderate income housing, while blending in successfully with other housing of a variety of types and cost levels in a manner consistent with the economic imperatives of development. The Hills is seeking to accomplish that in Bedminster.

* Among New Jersey municipalities, other than Bedminster, enacting such ordinances have been East Brunswick, Franklin, (Somerset), Cherry Hill, Bridgewater and South Brunswick Townships. Note that there has been some production of lower income units with Federal subsidies under the (voluntary, rather than mandatory) East Brunswick ordinance.

B. A Short History of the Bedminster Project

The PUD known today as The Hills has a history going back to 1969. It represents one of the most complex, and significant, land use cases in the history of the New Jersey judiciary. The Allan-Deane Corporation* acquired this land in 1969, at which time it proposed a planned development to the Township, which proposal was not acted upon. As a result, a suit was filed by Allan-Deane shortly thereafter.

At the same time, largely as a result of the relocation of the AT&T Long Lines facility from Manhattan to Bedminster, a move resulting in the relocation of nearly 5,000 jobs, a number of civic and civil rights organizations focused attention of this community. As a result of that effort, spearheaded by Suburban Action Institute and the New Jersey Civil Liberties Union, a suit was filed against the Town of Bedminster on behalf of a number of moderate income families and individuals, seeking relief from the exclusionary zoning of the community. At this time, with minimal exceptions, all of the land in the Township was zoned for single family houses on lots of five or more acres.

After a variety of procedural issues had been resolved, the two cases (Allan-Deane v. Bedminster and Cieswick et al v. Bedminster), were joined, and a single trial, in which the civil rights organizations and Allan-Deane presented a common case, took place in Somerset County Superior Court in 1974. In February 1975, the court held that Bedminster's zoning was "arbitrary, capricious and unreasonable", and ordered those parts of the Township shown as growth areas in the County Master Plan, including the Allan-Deane holdings, be rezoned. Since the Mt. Laurel (I) decision came down from the Supreme Court shortly

* The Hills Development Company is the successor of Allan-Deane Corporation (see Appendix 1 for description of The Hills Development Company).

thereafter, the trial judge issued a modified, but substantially similar opinion in light of that decision in October 1975. That decision was affirmed by the Appellate Division in 1977. The Supreme Court refused to grant an appeal of that decision, brought by the defendant municipality. In the fall of 1977 the Township began to draft an amended zoning ordinance, which was submitted to the court and the parties, after a number of amendments, in mid-1978.

It was clear that, after having exhausted the courts, the Township was seeking to undo the decision by adopting a nonresponsive ordinance. A new trial was held in 1979, at the end of which the trial judge held that:

in responding to this court's order to revise its zoning the municipality's conduct has verged on legislative prestidigitation. By creating an R-20 zone, on the one hand, and so restricting its development as to render it a nullity, on the other hand, the local officials have engaged in governmental "sleight of hand." They have not complied with this court's order. The plaintiffs are entitled to relief. (Unpublished opinion at 18-19)

As a result, the court ordered that rezoning take place under the supervision of a court appointed master, and that it incorporate a reasonable development density and standards for the Allan-Deane holdings, subject to their providing 20 percent of the units in areas rezoned PUD as "least cost" housing, as set forth in the then-governing Madison decision*.

* The "least cost" doctrine of Madison, a 1977 holding of the Supreme Court, was explicitly abandoned in Mt. Laurel II. Since, however, under that doctrine, the court was unwilling to impose explicit income requirements for these units, resale controls, etc., the New Jersey Department of the Public Advocate appealed that part of the 1980 order. This appeal is technically still pending; it is the position of both parties, however, that the changes in the law made in Mt. Laurel II point a clear direction for settlement of this issue, which is being carried out with a central element being this application and the units proposed to be constructed with the assistance of NJMFA financing.

George Raymond, president of the planning firm of Raymond, Parrish & Pine, was appointed as the master, and late in 1980, a new ordinance was enacted, complying with the court order, eleven years after the initial presentation to the Township. Development activities on the site, under the auspices of the recently created The Hills Development Company, began in 1982.

During the course of this extended period of litigation this project became one of the most, if not the most, visible proposed PUD in New Jersey. The project is significant, not only by virtue of its litigation history, and its significant combination of public interest and development plaintiffs, but by virtue of its highly dramatic and important location. The project is in Bedminster Township, the center of one of the greatest employment growth areas in New Jersey; i.e., the I-287 corridor through Middlesex, Somerset and Morris Counties. The site is a short distance from the intersection of I-287 and I-78, and is readily visible to drivers along I-287 immediately north of that intersection. It is within a short walk of the Village of Pluckemin (in Bedminster Township), and a short commute to such major employers as AT&T (corporate headquarters), AT&T "Long Lines", Beneficial Finance, Chubb, American Hoechst, and others.* It represents a dramatic and unique opportunity to demonstrate the feasibility of providing low and moderate income housing in conjunction with more expensive housing units, in an economically integrated framework, in a high-demand area of the state, where jobs are available, but affordable housing is virtually nonexistent.

The balance of this application is in two sections. The first will provide a detailed description of the PUD as a whole, and the low and moderate income housing proposed for NJMFA financing, including costs, pro formas,

* See Appendix 2

affordability analysis, and related materials (site plans, floor plans, and elevations are attached). The second section will describe the special provisions to be established in keeping with the goal of creating and maintaining low and moderate income housing without Federal subsidies, in particular the proposed structure of resale controls, as mandated by the court in Mt. Laurel II (see slip opinion at 113). Additional information, including information on the development corporation, is provided in a series of appendices to this application.

II. DESCRIPTION OF THE PROPOSED LOW AND MODERATE INCOME HOUSING DEVELOPMENT

The Hills Development Company proposes to construct a total of 260 low and moderate income housing units in The Hills PUD which is 20% of all units in the PUD. As currently proposed, these 260 units will be offered for sale to low and moderate income households, and 172 units, which were contained in the original proposal, are the subject of this application for end loan funds from the New Jersey Mortgage Finance Agency. The Hills Development Company retains an option to construct 88 of these units, as rental housing. The Hills Development Company is investigating the feasibility obtaining existing Section 8 certificates, and exploring other financial considerations for the rental units. Financing for the rental units has been discussed with the New Jersey Housing Finance Agency. All these units are included in the section of the PUD referred to as "the inner loop", which has been described in an Application for Site Plan Approval before the Bedminster Township Planning Board. This section will include a substantial number of market-rate units as well. For convenience, however, the name The Village Green will be used in this narrative to describe the low and moderate income sales housing units proposed for NJMFA support, as well as the option retained by The Hills Development Company to construct a portion of these 260 units as rentals.

This section of the proposal will provide a detailed presentation on the The Village Green project, preceded by an overview of The Hills PUD as a whole.

A. The Hills PUD

The Hills PUD is located on a 128.7 acre tract immediately outside the village of Pluckemin in Bedminster Township. The site is a gently sloping site, with a steep mountainous backdrop, which is being retained in its natural

wooded state. Within The Hills PUD, approval has been obtained for a total of 1,287 units. While it is expected that all units will be attached, either two-story townhouses or flats, The Hills is providing for great diversity of size and price level within the PUD, designed to attract a highly varied resident population.

The following is the proposed development profile of The Hills PUD:

 THE HILLS PUD: PROFILE OF DEVELOPMENT TYPES

<u>Number</u>	<u>Name</u>	<u>Bedrooms</u>	<u>Square Footage</u>	<u>Price Range</u>
222	Knollcrest	2-3	1900 - 2200	\$190,000 - \$225,000
255	Stone Run	1-3	1250 - 1650	\$138,000 - \$167,000
355	Fieldstone	2-3	935 - 1400	\$ 95,000 - \$132,000
194	The Mayfields Market Units	1-2	682 - 954	\$ 66,000 - \$ 89,000
260	The Village Green Low & Moderate*	1-3	567 - 997	\$ 26,500 - \$ 55,500

* Includes both rental and sales units. Rental and sales units are anticipated to be physically identical, but if the rental units are constructed, they shall be differentiated by location and separate condominium association and management structures.

NOTE: All information as of 11/1/83 and subject to change at any time.

In addition to the residential development, it is anticipated that commercial and office facilities will be located within the The Hills PUD, in a location convenient both to residents of the PUD and the residents of the surrounding area.

Construction began in late 1982 on the Stone Run and Knollcrest models. Sales to date have been successful, and it is anticipated that construction of units in the Fieldstone and The Village Green sections, as well as continued activity in the other sections, will take place beginning in the late fall of 1983 and continued through summer of 1984, subject to ability of The Hills to

obtain financing for the The Village Green units. The Hills Development Company's Planned Unit Development as a whole has attracted considerable favorable attention, and is expected to be featured in a forthcoming issue of Professional Builder magazine. It is this initial track record which makes the development so outstanding as a prototype for the successful integration of low and moderate income housing into a diverse economic environment.

B. The Village Green Neighborhood Condominium

The low and moderate income condominium units are proposed to be developed according to the following profile:

 The Village Green Neighborhood Condominium:
 LOW AND MODERATE INCOME UNITS DEVELOPMENT PROFILE

<u>Number</u>	<u>Type</u>	<u>Square Feet</u>	<u>Preliminary Price</u>
68	A 1 Bedroom	567	\$26,500
68	B 2 Bedroom (sleeping loft)	675	\$29,500 (low) \$48,500 (moderate)
80	C 2 Bedroom	769	\$52,500
44	D 3 Bedroom	997	\$33,500 (low) \$55,500 (moderate)

NOTE: All price and square footage information subject to change on basis of final approved plans. This chart includes units which may become rental units.

The Village Green Neighborhood Condominium units will be constructed in two story buildings, with three different building types ranging from 8 units per building to 16 units each. The buildings are planned to lend itself to a relatively low per square foot construction cost, and the ability to complete construction within a short period. The buildings, as can be seen from the attached plans, are attractively designed; visual quality is achieved by varying rooflines, and by providing variety to the facade through decks and exterior staircases, as well as

careful placement of windows and doors. Each unit has an exterior area for its own use, either a patio or a deck, which also serves as an entry to the unit. Although a major goal is to provide these units as inexpensively as possible, it is essential to provide units that will exist harmoniously with the balance of The Hills PUD, which includes a substantial number of units at significantly higher prices. This is particularly important in view of the relatively high net density of the PUD, or that part of the PUD being developed between the Pluckemin Village to the west, and the steep slopes to the east. There is, therefore, no room for extensive buffers and separations between the different parts of the development.

Considerable effort has been expended to develop space- and cost-efficient unit plans without sacrificing livability. One example is the two bedroom unit in which the second bedroom is a sleeping loft; this creates an attractive and livable unit at substantial cost savings over conventionally laid out units. The units themselves will not have amenities beyond those considered necessities; air conditioning will not be provided, although it will be available as an option, as will other amenity features.

While cost considerations dictate that the units themselves may lack some of the features of more expensive units, internally, it is considered essential that the residents of The Village Green have access to all of the communitywide amenities within The Hills PUD, including access to community services and recreation facilities (except for those facilities reserved for the exclusive use of others), and the like.

The condominium structure for the The Village Green units will be similar to that of the balance of The Hills; specifically, there will be a separate neighborhood condominium association for each type of ownership and

neighborhood section.¹ The residents of the The Village Green units will also be members of The Hills Village Master Association, and will pay a fee to that entity. The The Village Green Neighborhood Condominium Association(s) will be responsible for the maintenance of the exterior areas, landscaping, parking areas, garbage and snow removal, and hazard insurance within the The Village Green neighborhoods and will be supported by condominium association fees paid by the unit owners. A special program has been proposed by The Hills Development Company to provide a source of additional funds to the project, through an income recapture program.

C. Cost Analysis and Affordability Analysis

There are two key issues in this proposal: how can units be produced for these prices; and are they affordable to the target households.

1. Cost Analysis: A pro forma, or cost analysis, of The Village Green Neighborhood Condominium is presented on the following page. While it is not customarily for such information to be presented by developers, it is considered appropriate in view of the nature of this proposal, and the importance of the question; i.e., what does housing of this nature actually cost?

¹ Includes both rental and sales units. Rental and sales units are anticipated to be physically identical, but shall be differentiated by location and separate condominium association and management structures.

NOTE: All information as of 11/1/83 and subject to change at any time.

² Hereafter, all discussion refers exclusively to the The Village Green low and moderate income sales units. While The Hills Development Company retains the right to construct 88 of these 260 units as sales units, it recognizes that there needs to be certainty in the proposal, and committs itself to providing a total of 260 units, 130 of which will be affordable to persons of low income and 130 of which will be affordable to persons of moderate income.

COST ANALYSIS FOR PROPOSED VILLAGE GREEN LOW AND MODERATE INCOME SALES PROJECT (Based on the 172 Units contained in the original NJMFA application, with re-computed numbers following 11/1/83 discussion. Computations for the entire 260 units, if the entire project is built " for-sale", will be prepared and submitted to the NJMFA as part of a revised application, which will be submitted to the parties as well.

land (see note 1)		\$ 0
Site Improvements @ \$5000/DU (note 2)		860,000
Landscaping, hookups, patios, etc., @ \$3000/DU		516,000
Construction (136408 SF @ \$28/SF)		3,568,656
Architecture & engineering @ 3.4%	\$121,334	
Warranty & Service (HOW)	97,250	
Legal & Consulting	50,000	297,584
Property taxes during constuction	9,000	
Permits, fees & misc.	20,000	
	SUBTOTAL	<u>\$5,242,240</u>
Construction Financing @ 13% for 8 months		270,483
Financing fees & contingency @ 4%		249,868
Supervision & administration @ 3%		187,401
Marketing & advertising @ 3%		187,401
Closing & title @ 1%		62,467
Nonprofit corporation fee @ 0.75% (note 3)		46,850
	TOTAL DEVELOPMENT AND COST	<u>\$6,246,710</u>
Buydown (note 4)		163,566
Profit, risk & contingency @ 9%		562,204
	TOTAL PROJECT COST	6,972,480

NOTES:

(1) Some of the land value subsidy, not to exceed an amount to be determined by independent appraisal, will be subject to recapture in the event of increased homebuyer income.

(2) This includes only those site improvements required internally within the low and moderate income housing section of the PUD, and no improvements associated with the PUD as a whole, such as arterial roads and the sewage treatment plant.

(3) This will cover the costs to be incurred by the nonprofit corporation which will be responsible for screening of prospective buyers, administering resale controls, etc.

(4) The buydown will provide for a first year effective interest rate for all units at 1.5% below the permanent rate, to increase by 0.5% increments in years 2, 3,

It will be noted that the purchase price of these units are far less than the actual market cost of these units produced in an unconstrained market environment. If the full prorated cost of land and development-wide improvements, such as the "state of the art" sewerage treatment plan that was built for The Hills, were incorporated, a customary and not excessive profit and risk factor included, and other costs increased on a prorated basis, the identical housing unit would sell for roughly 40% more than the proposed selling prices for these units. Furthermore, given the nature of the housing market in this area, there is little doubt that they would be marketable units. For point of fact The Hills plans to sell similar units with slightly larger interior areas and somewhat more expensive fixtures and finishes, at prices between \$66,000 and \$89,000.

The total cost of \$6,972,480 translates into a total cost of roughly \$54.50 per square foot. The proposed pricing schedule given on page 2-3 has not be derived, however, directly from the square footage; rather, prices have been adjusted in order to increase affordability of the units relative to the applicable income ceilings for each unit.

2. Affordability Analysis: Even with these substantially below-market costs, making the units affordable to households falling within the Mt. Laurel II definition of "low and moderate income" is difficult. Since doing so lies at the core of this entire effort, this subject is worth discussing in some detail, by first defining low and moderate income, and then, defining what "affordable" should realistically mean in this context.

(a). Defining Low and Moderate Income

In Mt. Laurel II, the Court defined the target population as follows:

"Moderate income families" are those whose incomes are no greater than 80% and not less than 50% of the median income of the area, with adjustments for smaller and larger families. "Low income families" are those whose incomes do not exceed 50% of the median income of the area, with adjustments for smaller and larger families (footnote, slip opinion, p.36).

The decision further recommends reliance on those median income figures promulgated by the U.S. Department of Housing & Urban Development for each SMSA in the county, in this case, the Newark, New Jersey SMSA*. The most recent HUD figures are dated March 31, 1983, and the counterpart figures consistent with the above language from the Mt. Laurel II decision, using the Court's terminology, by family size are as follows:

LOW AND MODERATE INCOME CEILINGS FOR NEWARK SMSA BY FAMILY SIZE**

FAMILY SIZE	LOW INCOME	MODERATE INCOME
1	\$11450	\$17650
2	13100	20150 5637
3	14700	22700 5675
4	16350	25200 6300
5	17650	26750 6687
6	18950	28350

* Somerset County has recently been placed in a different, newly created, SMSA (or its new equivalent, PMSA) by the Census Bureau. HUD will revise these figures at some time in the future. The above figures will continue to be used for this project until new figures for the PMSA are promulgated by HUD. The Hills will apply the revised figures, when available, to the pricing of the units.

**Source: Newark Area Office, HUD. Subject to change (see preceding footnote).

These figures will be used as the definition of low and moderate income applicable to The Village Green. The next section will discuss how it is possible to make these units affordable to households earning the above amounts, or less.

(b). Establishing Affordability

In order realistically to meet the standards set by the Court, a unit whose purchase is to be limited to families earning no more than the above must actually be affordable to households earning some reasonable amount less than the ceiling income, so that there is a reasonable range between the maximum income at which one is eligible to buy the unit, and the minimum income needed to qualify for the unit. If the range between the two is too small, the number of households capable of meeting those conditions may become too few, and the marketability of the units, notwithstanding their low prices, becomes questionable.

In order to be affordable to a household of a given income, the standard generally used by the NJMFA has been applied; namely, that the sum of (a) debt service; (b) property taxes; (c) hazard insurance; and (d) condominium association fees, shall not exceed 28% of gross household income. The pricing has been structured on the basis that 100% of the ceiling income will be available.

The cost of taxes, hazard insurance, and condominium association fees is not dramatically variable, so that the key adjustments in the annual cost needed to make these units affordable to low and moderate income households must be made by adjusting the level of mortgage payments. At this point it can be stated unequivocally: without NJMFA mortgage financing, there is no realistic way in order to achieve that affordability, especially with regard to the low income households.

Affordability has been achieved in the following ways:

1. Obtain NJMFA financing. The Hills Development Company regards this as essential.

2. Skew the prices of the units, so that a low-income homebuyer pays a lower amount for the same unit to be purchased by a moderate unit purchaser.

Thus, a low income homebuyer would pay \$ 29,500 for a two bedroom (loft) unit, and a moderate homebuyer would pay \$ 48,500 for the same unit. A low income homebuyer would pay \$ 33,500 for a three-bedroom unit which would be priced at \$ 55,500 for the moderate homebuyer.

3. Provide an additional three year interest rate buydown:

A three year buydown program by The Hills Development Company has been built into the project budget, in order to reduce the interest rates during the first few years of the mortgages. Assuming that the N.J.MFA financing will be available at 10.5% for the term of the mortgage, The Hills Development Company proposes to begin the mortgages at 9%, with a ½% increase annually during years 2-5.

The rate of increase in interest rate is well within the level at which it is considered sound underwriting practice to qualify buyers at the initial rate. For example, a low-income homebuyer of a two-bedroom loft unit would

experience an increase of less than \$ 10/month per year for each year the rate rises. This, in conjunction with the anticipated cost levels for the other categories included in shelter cost, will enable these units to be affordable to low and moderate income households who are the subject of Mt. Laurel II.

Insofar as unit distribution is concerned, as a result of the discussions between the parties, it is proposed to distribute the units as follows:

(assumption: all 260 units available for occupancy)

Unit size	Low	Moderate
1 Bedroom	68	0
2 Br/loft	44	24
2 Br	0	80
3 Br	18	26
Total	130	130

(c). Documenting Affordability

The following affordability analysis was based on the mortgage interest rate assumptions described in detail above, and the following assumptions regarding other costs:

- Property taxes @ 1.22% of the market value of the unit. This is the current tax rate in Bedminster Township, which has remain largely stable in recent years.
- Association fees @ \$165 per year per \$10,000 house value (this can be translated into \$40/month for the least expensive units to \$70/month for the most expensive)

Hazard insurance is included in the form of a blanket policy, which is included in the condominium neighborhood association fee. A 90% mortgage was used as the basis for the following analysis, although this is understood that this will vary widely from case to case.

The table on the following page illustrates the points made earlier in the narrative. For example, the one bedroom unit will be marketed on the assumption that it will be occupied by a two-person household earning the top of the income range. This unit will be marketed, as noted earlier, to low income households.

Comparing this to the table on page 2-8, it will be found that the market for this unit is restricted to couples earning any amount which qualifies them for a mortgage, and not in excess of \$13,100.

AFFORDABILITY ANALYSIS FOR VILLAGE GREEN CONDOMINIUMS

(low income home buyer, first year, buydown in effect)

	ONE BEDROOM	TWO BEDROOM (LOFT)	THREE BEDROOM
Hshold size	2 pers.	3 pers.	5 pers.
Unit Price	\$26,500	\$29,500	\$33,500
(10% dn.pmnt)	(2,650)	(2,950)	(3,350)
Mortgage Amount	<u>\$23,850</u>	<u>\$26,550</u>	<u>\$30,150</u>

ANNUAL COST

Mortgage Payment (9% int. rate)	\$ 2,303	\$ 2,564	\$ 2,911
Prpty tx. (est)	325	360	409
Assn. Fee(est)	<u>437</u>	<u>487</u>	<u>553</u>
TOTAL	\$ 3,065	\$ 3,411	\$ 3,873
Minimum Income Needed at 28% of Income	\$10,946	\$12,182	\$13,832

As the table on the following page indicates, the same margins are available for the moderate income units, as well, even with the higher unit costs.

AFFORDABILITY ANALYSIS FOR VILLAGE GREEN CONDOMINIUMS
(moderate income home buyer, first year, buydown in effect)

	TWO BEDROOM (LOFT)	TWO BEDROOM	THREE BEDROOM
Hshold size	3 pers.	4 pers.	5 pers.
Unit Price	\$48,500	\$52,500	\$55,500
(10% dn.pmnt)	(4,850)	(5,250)	(5,550)
Mortgage Amount	<u>\$43,650</u>	<u>\$47,250</u>	<u>\$49,950</u>

ANNUAL COST

Mortgage Payment (9% int. rate)	\$ 4,215	\$ 4,563	\$ 4,823
Prpty tx. (est)	592	641	677
Assn. Fee(est)	<u>800</u>	<u>866</u>	<u>916</u>
TOTAL	\$ 5,607	\$ 6,070	\$ 6,416
Minimum Income Needed at 28% of Income	\$20,025	\$21,679	\$22,914

Similar comparisons can be made for other units as well. Through the steps above it has been shown that these units will indeed be sold to households categorized as low and moderate income in Mt. Laurel II, with half of the units to be sold to low income households, and the remainder to moderate income households. Absent this proposal it is unlikely that there will be any housing of reasonable quality developed in Somerset County which these households could afford.

D. Construction Timetable

The Hills Development Company has already submitted its application to Bedminster Township for site plan approval for this project, including all of the low and moderate income units. The timetable set forth below assumes a reasonably, expedited approval timetable.

Site Plan Submission	8/26/83
Site Plan Approval	11/21/83
Building Permits Issued (first phase)	12/15/83
Start Site Construction (first phase)	12/19/83
Start Building Construction (first phase)	12/19/83
Complete Construction	6/15/84 to 8/15/84
Initial Marketing & Sales	3/15/84 to 6/1/84
Closings	7/1/84 to 10/1/84

It is hoped, with favorable action by the Court and the Township of Bedminster, that the total time elapsed, from initial submission to closings should be only slightly over one (1) year.

It is anticipated that other approvals, from state agencies, will be processed and completed during the period leading up to the anticipated granting of building permits. These include the approval of this application by the Mortgage Finance Agency, approval of the condominium filing by the Department of Community Affairs, and approval of this proposal as being in substantial compliance with the requirements of Mt. Laurel II.

III. SPECIAL PROVISIONS GOVERNING PROPOSED LOW AND MODERATE INCOME HOUSING AT THE HILLS

This section will discuss three elements to this project which have been developed in response to the particular circumstances of developing low and moderate income housing without public subsidy, within the context of The Hills PUD, and the dictates of the Mt. Laurel II decision. The elements presented here are first, the role of a nonprofit monitoring corporation; second, the structure of proposed sale and resale controls; and third, the structure of the proposed recapture provisions.

A. The Nonprofit Corporation

Effective compliance with the Mt. Laurel II standards requires that appropriate mechanisms be in place to ensure that both initial and subsequent purchasers of the units be by low and moderate income households. While initial screening of households could be done by the developer, or a broker under contract with the developer, it is clearly preferable that it be done by an independent entity with no financial stake in this project. Administration of resale controls, which will be in effect for an extended period, cannot be performed by the developer both for the above reason, and since the developer should not be expected to retain his involvement in the project indefinitely. In addition, under FHLMC regulations, the developer may not administer these controls.

In order to perform these functions, as well as additional functions dictated by the proposed recapture provisions (see III(c) below), The Hills Development Company proposes to enter into a contractual agreement with a nonprofit corporation capable of performing these functions. At this point, discussion has centered on the establishment of a nonprofit corporation that would be specific to this development, whose sole purpose would be to perform

these functions (along with other functions dictated by the rental units) in The Hills, with the possibilities that:

(a) in the event a state-wide entity is established, the Bedminster functions could be assigned to that entity; and

b) if agreed to by the parties, additional developments within Bedminster, or additional towns within the region, could seek to have the non-profit corporation supply similar services to them. In that event, adequate additional compensation by the developer or the community will be paid to the non-profit corporation to cover any additional costs which might be incurred.

It is proposed that a bona fide nonprofit entity will be in place, well in advance of the initial sales which is capable of carrying out the initial screening of prospective buyers, as well as monitoring the sales and marketing program developed for The Village Green Neighborhood Condominium. As shown in the table on page 2-6, The Hills Development Company proposes that a fee of 0.75 of total project development costs be set aside in the low and moderate income project budget to provide start-up funds for this purpose. These funds will be derived independently of individual unit closings and funded in advance.

B. Sale and Resale Controls

As stated above, the nonprofit corporation will have responsibility for managing both the initial screening of prospective purchasers, and the provisions governing the resale of units in the future. Those responsibilities will be carried out as follows:

(1) Initial Screening of Purchasers: The nonprofit corporation will have the responsibility of determining whether prospective purchasers are eligible for the units, on the basis of their income; setting up priority categories for prospective purchasers, if any; and referring prospective purchasers to the mortgage lender. The nonprofit corporation will not be responsible for carrying out either a credit check, or any other action relevant to determining whether a

prospective purchaser can qualify for a NJMFA mortgage, all of which will be the responsibility of the lender, under the supervision of the NJMFA.

All recipients of NJMFA mortgages, as required by the Mortgage Bond Subsidy Tax Act, shall only use the unit as their principal residence, and shall be, in effect, first-time home buyers. With regard to any purchaser who may not, for whatever reason, utilize an NJMFA mortgage, the requirement that the owner only use the unit as his or her principal residence will be enforced by the nonprofit corporation, but the first-time home purchaser requirement will not apply.

At this time, two purchaser preference standards, in addition to income, are proposed:

- preference to be given households who, with regard to each unit type, need a unit of that size and bedroom configuration; e.g., preference for a three bedroom unit will be given families with two or more children of different sex.
- preference to be given households working in close proximity to the project, and living either (a) in substandard housing or neighborhood conditions; or (b) an excessive distance from their place of work.

With regard to the latter point, it should be noted that a substantial numbers of jobs at the major employment centers in the area, such as AT&T, are relatively low paying clerical, maintenance, and similar jobs. Many of these jobs, in turn, are held by people living in urban areas of New Jersey and commuting substantial distances to their work places. In view of the history of this project, and the nature of the area, this is considered an appropriate priority category. While additional categories may be developed, consideration is not at present being given to a priority category to residents of the immediate community or area.

The nonprofit corporation will have responsibility for establishing waiting lists, as well as such other procedures as may be necessary to provide for an orderly flow of prospective buyers to the lender, which may include lotteries.

(2) Resale Controls: As the Supreme Court noted in Mt. Laurel II:

The problem of keeping lower income units available for lower income people over time can be a difficult one. Because a mandatory setaside program usually requires a developer to sell or rent units at below their full value so that the unit can be affordable to lower income people, the owner or the developer, or the initial tenant or purchaser of the unit, may be induced to re-rent or re-sell the unit at its full value (at 112-113)

The court continues by stating that this problem must (their emphasis) be addressed. Since this clearly applies to The Hills (we have noted that there is an approximately 40% difference between the proposed pricing and full value), it is necessary to establish a structure for controlling both price and resale maintenance of resale of the units.

Any legal uncertainty regarding such mechanisms can be considered to have been resolved by the Supreme Court's unequivocal position; furthermore, in recent years, both FNMA and FHLMC* have adopted policies allowing them to purchase mortgages subject to resale controls. Furthermore, given the premium market character of Bedminster, and the attractiveness of the pricing of the The Village Green units, it is hoped that the restrictions and price controls will have a minimal effect on the marketing of these units.

The general policies to govern the imposition of resale controls in this project will be as set down here. A specific and more detailed procedural statement will be prepared, and provided to the NJMFA, in keeping with these policies.

(a). Resale controls will be established in order to ensure that all units, upon their resale, will be both affordable to and purchased by households of low and moderate income

(b). The initial sales price shall be increased on the basis of an appropriate inflation index to the time of resale.

(c). Adjustments to the sales price for property improvements, or major fixtures or appliances, may be made, with the determination of

the amount of the adjustment in the hands of the nonprofit corporation. In addition, a seller may recoup the reasonable costs of the sale, including attorney's fees and broker's commissions, if such are necessary.

(d). That nonprofit corporation will have the exclusive right to refer potential purchasers to units to be sold, at the price established above, from a waiting list maintained by the nonprofit corporation, for a fixed period of 90 days after it has been notified of the availability of a unit.

(e). If a unit has not been sold (in that no contract of sale has been executed), by the end of that period, the seller may sell it on the open market. However, price controls will remain in effect, whether or not the new purchaser is a low or moderate income buyer.

The above provisions will be framed in the form of deed covenants, restrictions and reservations and will be fully disclosed to all potential buyers. It is the judgement of The Hills that they are reasonable and most importantly, will ensure that the units continue to provide a source of low and moderate income housing. It is anticipated that these restrictions will govern these units for a period of no more than 30 years.

(3) Hills Development Company intends to develop the The Village Green low and moderate income property through a subsidiary. The property will be conveyed to the low and moderate purchasers through a deed, which will generally be set forth in the restrictions noted in the proposal herein.

*It is extremely unlikely that (e) will ever take place; still, if for some reason the corporation is incapable of performing its responsibilities, some alternative must be made available.

In addition to the covenants and restrictions otherwise discussed here, the purchaser, and each subsequent purchaser will pay, as additional consideration, such funds as required by the income regulation and re-sale recapture provision discussed more fully below.

The Hills Development Company intends to assign various of its rights to manage various aspects of the development, including the income-regulation provision, the recapture provisions and other restrictions contained in this deed and discussed herein, to the nonprofit corporation*. As consideration for this, the nonprofit corporation will pay 75% of the recapture proceeds to the Hills Development Company, retaining 25% for administrative purposes and subsequent subsidies.

C. Provisions for Resale Recapture and Income Regulation

As has been briefly noted above, it is the intention of The Hills Development Company to provide, through deed covenants, restrictions and reservations, for the potential recapture of some or all of the subsidies provided to the low and moderate income homebuyers. Recapture of subsidies shall only be sought from those purchasers whose incomes rise above the ceiling income, as it may be adjusted, for their income category and household size. The purpose of providing for recapture is twofold: (1) to provide The Hills Development Company with a limited return on its land subsidy over time, in a manner which will not affect the initial or continued affordability of the low and moderate income housing units; and (2) to create a cash flow that can be used to benefit

* The Hills Development Company will retain the right to terminate the contract with the Non-Profit corporation for cause.

the owners of the The Village Green low and moderate income condominiums.

The specific provisions by which this recapture will take place are as follows:

(1). A graduated schedule of recapture payments, as in the form of a second mortgage, which will be given to each low or moderate income homebuyer prior to the signing of an Agreement for Purchase and Sale. This schedule will be based on an estimate of the differential between the cost of the unit, as sold to the purchaser, and its value on the open market. The figure will be "capped", both as to the length of time the unit owner would have to pay and the total amount of the unit owner's obligation. There will be a lower level of recapture payments for low income persons as compared with moderate income persons.

(2). The nonprofit corporation will annually verify the household income of all homeowners households to determine their obligation, if any, to make recapture payments as a result of any increase in household income. No household will be required to make payments which, when added to his or her other housing costs (as previously defined on page 2-11) will exceed 28% of gross income. Similarly, as noted above, no would be obligated to make any payments unless their household income rose above the ceiling income, as adjusted over time, for that household size and income category.

(3). The nonprofit corporation will be responsible for collecting these funds and will be entitled to retain 25%, passing the balance to The Hills. The nonprofit corporation will use those funds for the benefit of The Village Green low and moderate income units, and their residents. The nonprofit corporation will establish formal procedures for use of these funds, which may allow for use of limited amounts for administrative purposes.

As a result of conversations with the New Jersey Mortgage Finance

Agency, it is recognized that it may become necessary to terminate all restrictions on sale, occupancy and use of units within The Village Green Neighborhood Condominium in the event of a foreclosure. In order to prevent wrongful enrichment of persons who have occupied the units and defaulted on their mortgage obligations, The Hills Development Company has provided for acceleration of the recapture obligation and return of funds to the non-profit corporation in such a case.

Additionally, a recapture program provides a source of funds to the project, and by extension, to the residents in the future. Since considerable experience has shown that a major problem associated with condominiums is the cost of repairs and replacement of major systems, ten, fifteen or twenty years after initial construction, which costs must be financed through additional levies on the owners, this approach could be a significant protection to the owners against unanticipated increases in the future.

The Hills Development Company believes that this recapture provision is a sensible approach, from a public policy standpoint, of balancing the interest of the low and moderate income homebuyer, and the interest of the developer. A draft of the proposed restrictions is attached.

Finally, it must be stressed that without below-market interest rate financing for the end-loans, which is being requested from the New Jersey Mortgage Finance Agency, this project simply cannot succeed as low and moderate income housing, at least in the sense that the term is used in the Mt. Laurel II decision. With such financing, the project can succeed, and can become a prototype for a creative and innovative public-private partnership in this area.

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SECTION I

EXECUTIVE SUMMARY

The Hills Development Company's Settlement Proposal

EXECUTIVE SUMMARY

I. The Hills Development Company and the Bedminster PUD

During the past twelve years, the process of building a major new community within Bedminster Township has occupied more time in court than in the design and construction process. However, the balance has now shifted: the process of physically developing a major new residential center in Bedminster has now begun. The Hills Development Company seeks to settle the last remaining legal issues which affect the developmental process.

The Hills Development Company was formed in November, 1980, by the creation of a joint venture general partnership. The Allan-Deane Corporation contributed land and capital to the venture; and Ligone, Incorporated, a privately held real estate investment firm, contributed capital. The partnership hired RecreActions, a major real estate development specialist, to manage the process of planning, design and construction.

Since the formation of the Hills Development Company, substantial time and financial resources have been committed to the process of transforming 140 acres of land near the village of Pluckemin into a Master Planned Community ultimately comprising 1287 residential units and 350,000 square feet of office and commercial space. The Hills Development Company has already spent in excess of \$ 6 million for needed infrastructure improvements, such as a sewage system, a roadway system, underground utilities, and landscaping; and has committed itself to an additional \$ 1.2 million for other, off-site improvements related to the PUD. To date, the Hills Development Company has received approvals for, and begun construction and sales of, 227 townhouse residential units as well as 88 condominium units.

As mentioned, the early history of the Hills PUD was primarily written through the legal process. Allen-Deane, the predecessor in interest to the Hills Development Company, had sued Bedminster Township in 1971 in order to overturn the original zoning, a process which led, eventually, to a court ordered re-zoning of the Township. The Hills Development Company and its predecessor in interest participated in the rezoning process, and has proceeded, under the new municipal land development ordinance, to obtain Phase I preliminary approval for the entire PUD, as well as subsequent site plan and subdivision approvals for portions of the development. The remaining legal issue revolves around the language of Bedminster's provision for affordable housing. That ordinance requires developers of PUDs to provide at least 20% of their units, as subsidized or as least-cost units. The Township requires that the construction of these subsidized/least-cost units proceed in tandem with the market housing; and as of the present time, Hills Development cannot apply for any more market housing until it complies with the municipal ordinance. Hills Development Company is prepared to comply with that ordinance, but the Public Advocate felt that the language of the ordinance did not sufficiently protect the public interest, and sought to prevent further municipal approvals until the matter was clarified.

The New Jersey Supreme Court's Mount Laurel II decision, while arguably not binding on the Hills Development Company's already-in-progress PUD*, may point the way to settle this matter. Bedminster is moving to amend its ordinance to comply with the language of Mt. Laurel II, and the Hills Development Company, by the Offer of Settlement contained herein, proposes to construct housing units for persons of low and moderate income which, in its judgement, would meet the Mount Laurel II standard.

II. The Proposal

Hills Development Company has applied to the New Jersey Mortgage Finance Agency (NJMFA) for a setaside of bond proceeds, so as to provide mortgage money for 172 housing units which are proposed for sale to persons of low and moderate income. Hills proposes to sell units which range in size from 567 square feet (1 bedroom) to 997 square feet (3 bedroom) at prices which range from \$26,500 to \$55,500. The prices, coupled with a favorable interest rate available if the NJMFA mortgage funds are setaside for this purpose would mean that households with incomes from \$ 10,300 to \$ 22,711 will be able to afford housing in one of New Jersey's most attractive locations. The Application, as revised due to the discussions among the parties to this case as of November 1, 1983, is contained in Tab II, which follows this summary.

Originally, The Hills Development Company had proposed to construct, in addition to the 172 housing units for sale, an additional 88 units for rental. It was anticipated that New Jersey Housing Finance Agency funding might be available to assist in making these units affordable. The rental option is still being explored, and is set forth, as in the original application, in Section III of this proposal.

*Hope that
N.J. H.F.A.
might be
available to
assist in
rent*

The rental option may be unfeasible, due to a variety of financial constraints, and in this revised Proposal, The Hills Development Company proposes, as its primary means of providing housing for persons of low and moderate income, to build an additional 88 units of "for sale" housing, identical to the units described in the NJMFA application. In order to provide an opportunity for those persons of low income who may not have the resources for a down payment, The Hills Development Company will establish a fund, not to exceed \$ 132,000, to provide grants to assist first-time low income homebuyers in the Village Green Neighborhood Condominium, which is the name selected for the low and moderate income development proposed herein.

In the event that the rental option is successfully pursued, it is anticipated to generally follow the lines of the original proposal. An application will be prepared, to be submitted to the New Jersey Housing Finance Agency for financing assistance for rental units. The Hills Development Company will seek to obtain Section 8 certificates to assist a portion of the low-income families expected to reside within the rental units, and would otherwise skew the rents so that a low income family would pay between \$230 and \$300/month, depending on unit size; a moderate income family would pay between \$380 and \$500/month, depending on unit size. A description of the Rental Component which was originally proposed is found in Section III. The Hills Development Company reserves the right, in the event that it can obtain Section 8 financing, or to otherwise resolve the

financing difficulties within its original proposal, to revise the rental portion of the Offer. The concurrence of the parties to the case would be obtained in the event that any significant modifications were required.

The revised Settlement Offer, then, is for 260 housing units to be offered for sale to persons of low and moderate income, with half of the units allocated to each income group, and with a special low-income purchase assistance fund of up to \$ 132,000 to assist low-income home buyers with down payments; and with The Hills Development Company retaining an option to construct up to 88 rental units in place of an equal number of for-sale units, and in lieu of the \$132,000 fund.

The Hills Development Company proposes to establish a non-profit Housing Corporation to monitor the income-regulation features of the plan, and to ensure that the units continue to remain affordable and available for persons of low and moderate income in the future. A description of the policies, procedures and organization of that Corporation is set forth in Section IV.

The Settlement Offer can be summarized as follows: The Hills Development Company proposes to build 260 units of housing affordable to persons of low and moderate income; to provide a mechanism to ensure that these units remain affordable; to do so within the limits of presently available public and private resources; and with the approval of the Court and the municipality, to begin construction on this housing in 1983. The Hills Development Company believes that these proposals, which are presented in detail in the sections which follow this summary, meet the requirements of Mount Laurel II and will be acceptable to all parties.

* See Point IV, below.

III. Consequences of Failure to Settle the Case

The Hills Development Company has, under construction, all of the units for which municipal approvals can be granted under the existing ordinance. It has crews available, working drawings available, and should have favorable weather available to start construction of these proposed low and moderate income housing units this year. The Bedminster Planning Board has already conducted extensive reviews of the proposed build-out of all of the housing units in the "inner loop", which includes these low and moderate income units and has endorsed the concept plan. If there is a settlement of all of the outstanding issues in this case, there is no barrier to the construction and sale of these units, assuming favorable action by the state agencies to which the Hills Development Company has applied for funds.

If, for some reason, there is a delay in acceptance by Bedminster and the Public Advocate of this offer, the following events are likely to occur:

1. Hills Development Company will build and sell the remaining units for which it has approval, and will then have to shut down construction and sales operations. This will result in substantial additional costs to the company, since it will remain liable for its essential overhead and the interest charges for money it has borrowed for infrastructure it has already built. These charges will be in excess of \$100,000/month.
2. The NJMFA has informed The Hills that 1983 is the last year it will be able to offer a tax free bond to the public under terms of its existing legislative authority, which expires this year, and which may not be renewed by the Legislature.
3. The interest rates which help make this low and moderate income project affordable may not be available again; and it is likely that inflation will cause an increase in construction costs.

The inevitable result of delay is an increase in costs to all parties, and the likelihood that fewer persons of low and moderate income will be able to find housing. Failure to accept this settlement offer could deprive other municipalities and developers throughout the State of an example of a successful integration of low and moderate units within a larger planned unit development offering housing to buyers throughout the income spectrum.

IV. Previous Commitments of The Hills Development Company

The motions filed by Bedminster and the Public Advocate, the oral argument before the Appellate Division and the prior litigation in this case have been replete with rhetoric about Hills Development Company's prior commitments to this court with respect to the issue of affordable housing. The only commitments which have been made are contained in the affidavit of E. James Murar, then President of Allan-Deane Corporation, dated March 19, 1978. This affidavit was filed in response to a motion filed by Bedminster in 1977, alleging that Allan-Deane had no standing to bring an exclusionary zoning case by reason of the fact that they intended to construct no affordable housing. At the time this

motion was filed Oakwood at Madison was the most recent Supreme Court decision on all Mt. Laurel issues.

In their affidavit, Allan-Deane committed itself to do the following:

a. Give an option to a limited dividend or a non-profit corporation, to be established by the Cieswick Plaintiffs, to enable them to purchase sufficient land, at a price acceptable under the New Jersey Housing Finance Agency and federal programs, to construct at least 20% of the residential units on the Bedminster property as low and moderate income housing. The Allan-Deane Corporation and Johns-Manville Properties Corporation would cooperate, if specific corporate relief were granted, with the legal entity established to apply for subsidized financing and use its best efforts to insure that financing applications were approved.

b. Include capacity in the advanced waste water treatment facility.

c. Such commitments were conditioned on Bedminster Township cooperating and adopting a resolution of need and granting tax abatements where necessary to obtain federal subsidies; since most, if not all, subsidy programs would be otherwise unavailable. (See Oakwood at Madison, supra, page 546 and 547). In the event the options were not exercised due to the unavailability of funding or lack of municipal cooperation, Allan-Deane agreed to market least cost housing on those sites upon the expiration of the aforesaid options.

Hills is today and has always been ready, willing and able to meet that commitment.

The proposal outlined herein constitutes the first and only formal offer which Hills has made to extend that commitment. This is an offer of settlement and in no way should be construed by this court as an admission of liability or an admission that this case should be treated in all respects as an exclusionary zoning case initiated after Mt. Laurel II.*

In other words, Hills will commit to this settlement, providing only if such a commitment will result in a dismissal of all matters on appeal and the immediate processing by Bedminster of all applications pending before the Township. If the development of this project is held up in order to litigate any issues Hills will withdraw this offer and intends to litigate all issues.

* See Mt. Laurel II, 92 N.J. at 267 n. 30 where the Supreme Court discusses the mandatory set-aside and the confiscation issue. The Court reasons that confiscation is not an issue because "a builder who undertakes a project that involves a mandatory set-aside voluntarily assumes the financial burden". In this case, of course, Allan-Deane voluntarily assumed only a "least-cost" burden and if Mt. Laurel II is to be applied retroactively, confiscation remains an issue. Stated differently, the Supreme Court gets around this issue of confiscation by analyzing exclusionary zoning litigation as the kind of "institutional litigation" where the developer makes a "contract" with the court to secure the public interest by promoting low and moderate income housing. Allan-Deane entered into a "contract" with the Oakwood at Madison consideration, least cost housing, not the Mt. Laurel II low and moderate consideration.

SECTION II

**DESCRIPTION OF FOR-SALE HOUSING COMPONENT AND APPLICATION
TO NEW JERSEY MORTGAGE FINANCE AGENCY FOR
SET-ASIDE OF BOND PROCEEDS**

September 21, 1983

Ms. Constance B. Gibson
Acting Executive Director
New Jersey Mortgage Finance Agency
1180 Raymond Boulevard
Newark, New Jersey 07102

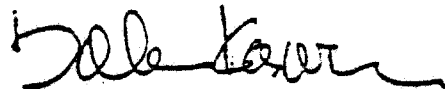
Dear Ms. Gibson:

On behalf of The Hills Development Company, I am pleased to submit the attached application for a set-aside of proceeds from the next bond issue to be offered by the New Jersey Mortgage Finance Agency. The enclosed application sets forth, in detail, the proposal which The Hills Development Company is making to provide a total of 172 for sale housing units for persons of low and moderate income.

To date, The Hills in Bedminster Township, Somerset County, has been successful in offering well-designed housing for the private market. With this application, The Hills Development Company commits itself, with the assistance of the New Jersey Mortgage Finance Agency, to providing housing affordable to qualified families whose incomes fall within the low and moderate income range as defined by the New Jersey Supreme Court in its Mt. Laurel II decision.

The Hills intends to carry out its commitment to provide quality affordable housing, and looks forward to working with the New Jersey Housing Finance Agency to make this project a reality. We will provide you and your staff with any further information which you may need.

Sincerely,



John H. Kerwin
President,
The Hills Development Company

Alan Mallach
27 W Patcong Ave
Linwood NJ 08221

September 20, 1983

Ms. Constance B. Gibson
Acting Executive Director
New Jersey Mortgage Finance Agency
1180 Raymond Boulevard
Newark, New Jersey 07102

Dear Ms. Gibson:

I am pleased to be able to submit to the New Jersey Mortgage Finance Agency the attached application, which seeks approximately \$6.2 million in tax-exempt bond proceeds, in order to provide end loans to low and moderate income homebuyers in The Hills, a planned unit development under construction in Bedminster Township, New Jersey.

These funds will make it possible for low and moderate income households to purchase 172 units, priced between \$28,000 and \$52,000, which have been planned and designed to be affordable to households earning 80 percent of the area median income or less, and, through a variety of means, to remain affordable to such households over an extended period.

* This project represents not only the culmination of over a decade of litigation in Bedminster itself, but, more importantly, the first large-scale development to come to fruition under the standards set down by the New Jersey Supreme Court in the landmark January 1983 Mt. Laurel II decision. We consider it a potential prototype of development of low and moderate income housing without Federal subsidies, and of a genuine public-private partnership to provide such housing, as reflected by this application.

I look forward to hearing from you, and to continuing to work together to make this project, and many others like it, a reality in New Jersey.

Sincerely,



Alan Mallach

AM/lk
enc.

609-927-1706

THE APPLICATION OF THE HILLS DEVELOPMENT COMPANY

FOR A SETASIDE OF

NEW JERSEY MORTGAGE FINANCE AGENCY

BOND PROCEEDS .

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