

# Decent Housing Called a Right

By LINDA VAN KIRK

~~Seventy-two per cent of the Penfield voters responding to a survey by the Housing Task Force said decent housing is the right of every citizen.~~

But 47 per cent would object to living within a quarter-mile of moderate-income dwellings.

These are some of the results of an opinion survey conducted among 2319 Penfield residents in mid-April. Thirty-five per cent of the citizens returned the 42-question survey.

The 18-member Housing Task Force was formed March 8 to determine moderate-income housing needs in Penfield. The group will present its report tonight and make some recommendations to the town board.

The group's report will combine the results of the opinion survey, a study of housing needs in Monroe County, a determination of Penfield's "fair share" of those needs, a study of styles of moderate-income housing, a review of the town zoning ordinance and a look at government housing projects.

Pierre Coste, chairman of the task force, said the group's recommendations will reflect the results of the opinion survey.

Seventy-two per cent of

those responding to the survey said the town should formulate plans and take actions which will provide moderate-income housing that best serves the progress of the town.

Coste said that one of the most surprising results of the survey was the attitude toward the Urban Development Corporation's (UDC) proposed project at Penfield and Nine Mile Point roads. Thirty-nine per cent said it was a step in the right direction; 40 per cent said it was not.

"I think this reflects both an absence of organized opposition to UDC and the fact that the Penfield voter recognizes what he can change and does not try to change what he can't," Coste said.

He said he was also surprised at the attitudes toward tax abatement for moderate-income housing. Sixty-five per cent said they disapproved of tax abatements.

However, when tax abatements are used to provide moderate-income housing for the elderly, 64 per cent said they approved.

Other results of the survey include:

Eighty-one per cent said they would be more favorable to an apartment house or town house if the residents paid their "fair share" of town services.

Do 2 4/5/72.

# Where You'll Find Crime in the City

By DICK COOPER

TU  
3/9/72

More than half of the major crimes in Rochester last year occurred in less than a third of the city's neighborhoods, according to a Times-Union survey based on police statistics.

The high-crime neighborhoods cut a path from southwest to northeast, roughly along Chili Avenue and Main Street.

Major crimes, as defined by police and the FBI, are homicides, rapes, robberies, assaults, burglaries, larcenies and auto thefts.

The police department has 43 reporting areas. The first 14 accounted for 57 per cent of the major crimes. About 29 per cent of the crimes occurred in the next 14 areas, and 14 per cent were reported in the remaining 15 areas.

Police Commissioner John A. Mastrella said the number of crimes is directly related to the density of population in an area. More people mean more crime, he said.

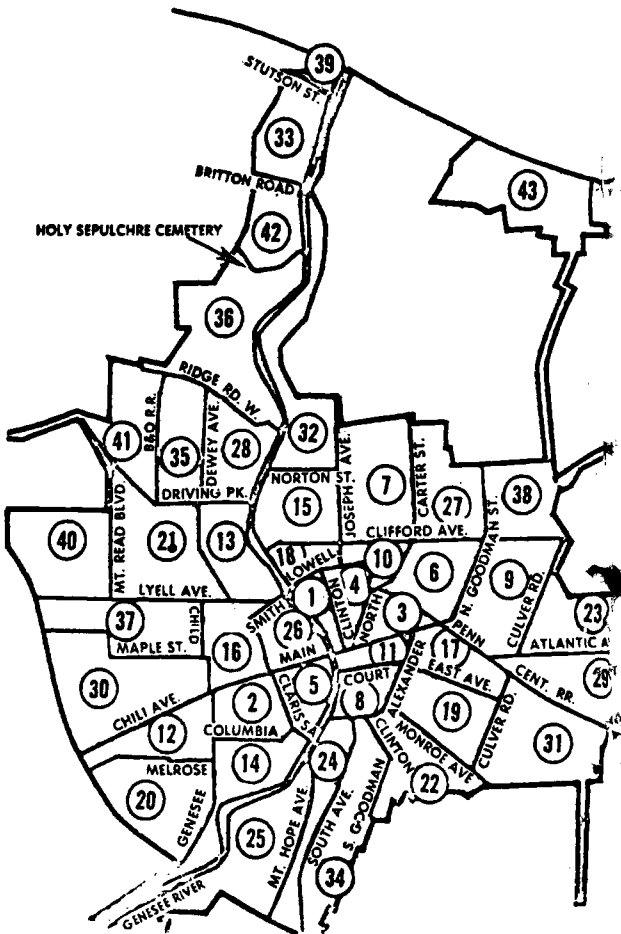
Mastrella said 4,246 arrests were made last year, accounting for 17.1 per cent of the major crimes.

The district with the highest rate of major crime—based on police reporting zones—is bounded by the Genesee River, Lowell Street, North Clinton Avenue and East Main Street. Police reported 1,723 major crimes there.

Mastrella said the high crime rate there is due mainly to the dense population, and a large number of shops and industries which are targets of thieves at night. Larcenies accounted for 1,000 of the total. A large number of these were shopliftings.

The safest area in the city was Durand-Eastman Park with 27 incidents there reported to police. Nineteen of the 27 were larcenies, mostly committed for by bicycle

## The Locations



## EXHIBIT N

## The Breakdown

... Street, Clavissa Street, Columbia Avenue and Geneva Street, was the worst neighborhood in the city for violent crimes. Four homicides, 5 rapes, 52 robberies were reported there last year.

By contrast, no homicides, rapes or robberies were reported in areas 38 and 41, the only neighborhoods with no violent crimes reported.

Area 2 also led the city in burglaries with 406, 162 more than second-place area 14.

Mastrella said police have tried to combat the problems in high-crime areas by using more men and more intensive patrolling methods.

"We use monthly computer printouts to show us where the bad spots are and then concentrate on them," he said.

The police Tactical Unit is moved around the city to add more police to high crime areas, he said.

The Model Cities Neighborhood in the northeast, and the southwest sections of the city are patrolled by Coordinated Team Patrols. They operate closely to try to solve more crimes.

### Shooting Case Trial Begins

ALBION — Trial of Sandra Nichols, 20, of Hemlock Ridge Road, Albion, and Robert Roy White, 19, of Root Road, Albion, both charged with first degree assault, opened in Orleans County Court yesterday before Judge J. Kenneth Serve and a jury of six men and six women.

Testimony was heard from witnesses for the plaintiff, Harvey Bank of Clarendon, who was allegedly injured by a shotgun blast on Nov. 1 on the property of James Reamer of Upper Holley Road, Town of Clarendon. Testifying were Reamer, Laura White, wife of defendant, White, and Morris Lemica of Barker.

Plaintiff's testimony will be resumed at 10 a.m., today.

District	Homicide	Rape	Robbery	Assault	Burglary	Larceny	Stolen Vehicles	Total
1	3	2	54	311	227	1090	41	1728
2	4	5	52	424	406	315	61	1267
3	2	2	42	274	220	488	75	1103
4	1	3	30	306	206	422	83	1071
5	2	2	24	261	196	523	48	1058
6	2	4	44	217	215	346	70	998
7	0	1	30	210	137	492	43	913
8	2	3	48	184	148	480	42	907
9	0	1	24	186	133	504	48	896
10	4	1	25	309	202	290	54	885
11	0	1	31	102	94	596	56	850
12	1	1	60	163	222	383	26	816
13	0	1	16	148	108	428	74	775
14	3	3	20	207	244	207	46	730
15	0	4	26	156	155	302	42	685
16	0	1	18	165	143	300	46	671
17	1	0	13	115	109	350	24	672
18	2	1	21	151	179	215	31	606
19	0	5	1	48	76	406	21	557
20	1	0	14	78	145	238	18	494
21	0	0	5	60	83	307	32	487
22	1	1	10	95	78	296	15	484
23	0	0	16	89	47	312	16	461
24	0	1	8	105	85	223	22	444
25	0	0	2	34	34	349	22	441
26	0	0	10	53	92	236	45	436
27	0	1	9	69	80	244	16	419
28	0	2	7	53	60	206	22	350
29	1	0	4	48	82	216	14	345
30	0	1	8	45	71	195	18	341
31	0	1	2	22	55	235	12	327
32	0	1	7	33	30	211	16	318
33	0	1	14	126	20	124	2	307
34	1	0	8	48	39	178	15	298
35	0	0	1	35	36	193	12	277
36	0	0	1	23	37	182	16	259
37	0	0	1	20	38	153	10	222
38	0	1	5	59	25	116	7	213
39	0	0	0	23	23	84	7	137
40	0	0	1	10	18	52	18	97
41	0	0	0	13	8	64	6	89
42	0	0	1	17	22	46	1	87
43	0	2	1	4	1	19	0	27
unknown	0	1	1	54	1	124	5	186
Total	31	54	725	5,251	4,666	12,743	1,297	24,767

Map shows police crime reporting zones, numbered from the highest crime area (1) to the lowest (43). Chart lists breakdown of major crimes in each area. Numbers on chart correspond with dis-

trict numbers on the map. Chart listing "unknown" refers to fact that records do not show district in which particular crimes occurred.

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF NEW YORK

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Title \*  
Omitted \* AFFIDAVIT  
In \* Civil Action  
Printing No. 1972-42  
\*

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STATE OF NEW YORK)  
COUNTY OF MONROE ) SS:  
CITY OF ROCHESTER)

ANN McNABB, being duly sworn  
according to law, deposes and says:

1. I am a private citizen residing  
at 1966 Penfield Road, Penfield, New  
York. I am a member of Metro-Act of  
Rochester, Inc. and a member of the  
Housing Task Force for Metro-Act of  
Rochester, Inc., one of the plaintiffs  
in the above noted lawsuit. I am also  
a resident of the Town of Penfield, one  
of the defendants in the above noted  
lawsuit. As a resident of Penfield, I

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am a member and director of Penfield Better Homes, a non-profit corporation organized for the purpose of building low moderate income housing in the Town of Penfield to help alleviate what is a critical need for low and moderate income housing in the Rochester metropolitan area including the Town of Penfield. I make this affidavit in opposition to the motion of the defendants herein to dismiss this lawsuit.

2. I have been involved in Metro-Act since 1966. I have been involved with Penfield Better Homes since its organization in 1968. Penfield Better Homes is a charter member of the Housing Council in the Monroe County Area, Inc.; the Housing Council seeks with the consent of the present plaintiffs to become a plaintiff in this lawsuit. From

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my participation in both of these organizations, I have an on going knowledge of the various attempts to bring low moderate income housing to the Town of Penfield. I have personal knowledge of the attempts of Penfield Better Homes to bring low, moderate income housing to the Town of Penfield. I have a knowledge of the proposals which have been submitted to the Town of Penfield from time to time to provide low and moderate income housing. I have attended and/or participated in many of the public meetings held in the Town of Penfield in connection with the providing of low and moderate income housing since 1968.

3. From my experience in efforts to bring low and moderate income housing construction to the Town of Penfield, I

can personally attest to the findings made by the Metropolitan Housing Committee in its study "Housing in Monroe County, New York" and the study entitled "Town Zoning and the Shortage of Moderate and Low Income Housing, Monroe County, New York" prepared by Rochester Bureau of Municipal Research, Inc., now the Rochester Center for Governmental Research, as being conclusions which are directly applicable to the Town of Penfield with respect to its policies and practices on zoning and with respect to its zoning ordinance. The Rochester Bureau of Municipal Research, Inc. (now Rochester Center for Governmental Research) in its study of April 1967 entitled "Town Zoning and the Shortage of Moderate and Low Income Housing, Monroe County, New York" found that town zoning

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practices which mandate large lot sizes, large structure setbacks and low density occupation of the land, are a major contributing factor to the maintenance of the suburban towns of Rochester as enclaves for middle and high income residences only. (See Town Zoning and the Housing Shortage, Monroe County, pages 19 and 20, Exhibit A attached hereto and made a part hereof.) Further, the Metropolitan Housing Committee in its report "Housing in Monroe County, New York", Summary Report, April 1970, found that there was a critical need for the construction of low and moderate income housing in the suburban towns; that the necessary land available for the construction of low and moderate income housing was to be found in the



suburban towns.

The complete rejection by suburban communities of all low and moderate income housing is testimony to the severity of the problem of prejudice involved. While many of the community groups and agencies - as well as individual citizens - have been working for open housing, their various efforts have proved insufficient. Racial prejudice and discrimination must be considered one of the most serious obstacles blocking the construction of low/moderate income housing where it is needed.

(Summary Report, Housing in Monroe County, New York, page 10, Exhibit F of Robert J. Warth affidavit submitted herewith.)

4. As a private citizen I have been continually involved in advocating the construction of low and moderate income housing in the Town of Penfield since 1967 and have been a participant in the submission of proposals for the construction of low and moderate income housing in the Town of Penfield since 1969. The Penfield town board and planning

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board have, through a combination of actions as more particularly set forth below, either 1) delayed action on proposals for inordinante periods of time, 2) denied approval to a proposal for the construction of low and moderate income housing for totally arbitrary reasons, 3) failed to provide necessary supporting services for low and moderate income housing, 4) amended the zoning ordinance to make nearly impossible the approval of low and moderate income housing proposals.

5. In May of 1970, the Town of Penfield was the first suburban Rochester community to adopt a planned unit development section of its zoning ordinance.

The Planned Unit Development (PUD) concept involves planning on the level of a neighborhood or community rather than on the level of an individual lot or single use. Generally,

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the PUD concept applies most effectively to project areas exceeding 100 acres in size. PUD objectives are comprehensive and involve viewing the components of a development as they relate to the needs of an entire town and, even, to a metropolitan area. A PUD achieves flexibility and efficiency in land use. A PUD conserves our limited land resources by stopping current patterns of urban sprawl development. A PUD provides a more convenient, conflict-free environment through the integration of commercial, recreational, educational, vocational and open space land uses with residential uses at neighborhood levels. A PUD includes a variety of residential types suitable for all age groups and income levels. In short, a PUD provides a living environment superior to that generally achievable under standard zoning and subdivision regulations.

Attached hereto and made a part hereof as Exhibit B is a copy of A Model Planned Unit Development Article for a Town Zoning Ordinance, Monroe County Planning Council and the Rochester Center for Governmental Research and Community Research, Inc., March 1970 (Third Draft).

Because high cost of land and construction in suburban towns makes it impossible or

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extremely difficult for the developer to build low and moderate income housing, the clustering and use of higher density in the planned unit development allows the builder to reduce his costs and then rent or sell his property at relatively lower prices.

6. A review of the courses of the following planned unit development proposal is an index to the Town of Penfield's action to discourage and prevent low and moderate income housing in the Town of Penfield. A PUD plan was submitted by Mr. Joseph Audino for the Beacon Hill site in Penfield. In June 1970, this proposal was for the construction of 490 single and multi-family units including a commercial area. Attached hereto and made a part hereof as Exhibit C are the Planning Board Minutes,

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June 9, 1970. The proposal was tabled by the planning board of Penfield. I understand that people who lived in neighboring areas objected to the apartments and the commercial area which was a part of the plan.

7. In August of 1970, Mr. Audino submitted a second, different plan for a PUD; the planning board, in September of 1970, denied this proposal (a more conventional proposal omitting the commercial area and not as diversified as the former in mixture of housing types) as a proposal not consistent with the best overall use of the area. This proposal consisted of the construction of 316 units. (See Planning Board Minutes attached hereto and made a part hereof as Exhibit D.)

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8. An additional proposal for a planned unit development was submitted to the planning board by Mr. Audino for the Beacon Hill area in May of 1971. This proposal provided for the construction of 474 units. (See Planning Board Minutes attached hereto and made a part hereof as Exhibit E.) The Monroe County Planning Council approved the plan. (See Exhibit F attached hereto and made a part hereof.) The plan also was approved by the Town of Penfield's planning board with the proviso of reducing the density from that proposed. (See Exhibit G attached hereto and made a part hereof.) The number of units was reduced to 387 at a later stage. A description of the plan is attached hereto and made a part hereof as Exhibit H. At the time the Audino application to re-zone

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the area from residential AA to PUD District (for the purpose of implementing the Beacon Hill 's PUD) was presented to the Penfield town board, the Penfield town, apparently responding to citizen pressure, held a hearing on amending the PUD ordinance. The Planned Unit Development ordinance was amended reducing the permitted density from 5.2 to 4 dwelling units per acre and further providing for every multiple dwelling unit or duplex unit there must be a single family dwelling. (See Exhibit I attached hereto and made a part hereof.)

9. The Beacon Hills PUD was passed by the Penfield town board with the condition that it conform to the density limitations in the PUD amendment. (See Exhibit J attached hereto and made a

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part hereof.) In January of 1972, the Penfield town board repealed the re-zoning from AA to PUD of the Beacon Hills PUD and referred the matter to the Monroe County Planning Council for its recommendations. (See Exhibit K attached hereto and made part hereof.) The Monroe County Planning Council recommended disapproval for the re-zoning change. (See Exhibit L attached hereto and made a part hereof.)

10. According to Mr. Audino, the Beacon Hills PUD proposal is under tabled matters under consideration by the Planning Board pending results of court action taken by the neighbors around the Beacon Hill site and attempts to arrive at a compromise on a further lowering of the number of units. According to a recent news article, Exhibit M attached hereto and made a part hereof, a compromise on the number of units has now



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been made.

11. Prior to the hearing on the amendment to the PUD ordinance, noted above, Penfield supervisor, Howard J. Frank, commented (see news articles attached as Exhibit I above ) that because the planned unit development proposals submitted to the Town of Penfield had thus far included a high percentage of apartments, Penfield would need to amend the ordinance. Supervisor Frank was quoted in the newspaper as saying, "You've got problems when you have apartments and you're putting them in residential AA areas next to \$40,000.00 homes." The amendment to the planned unit development ordinance in the Town of Penfield was passed over the strong opposition of builders interested in

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constructing low and moderate income housing as well as the Monroe County Housing Council who described the proposed amendment as a "foolhardy attempt to impose even more stringent regulations." (See full statement of the Monroe County Housing Council and correspondence attached hereto and made a part hereof as Exhibit N.)

12. An application by Penfield Better Homes for the re-zoning of land in the Town of Penfield from A to Townhouse Dwelling District for the construction of low moderate income housing met with a pattern of frustration delay and ultimate denial. In September 1969, Penfield Better Homes Corp., of which I am a member and director, made a proposal to the Penfield Planning Board at a public

hearing for the construction of a project "Highland Circle", a complex of cooperative housing units which would be sold to persons earning approximately \$5,000.00 to \$8,000.00 a year under §236 of the Federal Housing Act of 1968. (A copy of the proposal is attached hereto and made a part hereof as Exhibit O.) This proposal was submitted to the Planning Board after comprehensive studies had been made by Penfield Better Homes Corp. on all aspects of the effect of this proposal on the surrounding community. (See attached Exhibits P through Q attached hereto and made a part hereof.) The background work on the proposal included the securing of a legal opinion by Penfield Better Homes from Robert M. Anderson, Esq., zoning expert at Syracuse University Law School, in anticipation of

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the concern the Town of Penfield might have for rezoning and creating a "spot zoning" problem. (See Exhibit R attached hereto and made a part hereof.) A second public hearing was held in November 1969.

13. By resolution of the Penfield Planning Board, a copy attached hereto and made a part hereof as Exhibit S, the proposal of Penfield Better Homes Corp. was denied on the grounds that the

- 1) townhouse construction proposed would constitute an inappropriate use of the land and would not be consonant with existing character of the neighborhood,
- 2) the proposed use would create traffic problems within the area and
- 3) the proposed use would create problems of erosion during and after the construction.

Data previously supplied to the Planning

Board directly contradicted the specific reasons for denial of the application - a survey by the County of Monroe, Director of Public Works, had revealed that increased traffic would not create any problem with respect to the existing traffic facilities in the area. Further, a thorough review of the proposed apartment site demonstrated that, following certain precautions, construction could well proceed in the area without any detrimental effect. The town board further denied an application by Penfield Better Homes for a public hearing to consider further the question of rezoning for the Highland Circle Project. (See Exhibit T attached hereto and made a part hereof.)

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14. To my knowledge, Penfield Better Homes is the only corporation to present a plan to the town involving a subsidy program in order to provide low moderate income housing for individual persons and particularly for families, with the exception of the recent, April 1972 UDC proposal.

15. In September of 1971, O'Brien Homes, Inc. submitted an application to the Penfield Planning Board for the re-zoning of 17.1 acres in Penfield from AA to apartment zoning of approximately 12 units per acre. On the basis of a County Planning Council recommendation, O'Brien Homes, Inc. had previously committed itself to the Town of Penfield to set aside a portion of land in a townhouse development O'Brien Homes had underway to

be used for low to moderate income housing.

16. O'Brien Homes outlined a proposal for a condominium development of apartment homes, including a Home Owners Association to guarantee exterior maintenance, consisting of 51 four-family buildings with garage for each family as an integral part of the building (two hundred and four units). A copy of this proposal is attached hereto and made a part hereof as Exhibit U.

17. The project was described as one to offer single people and small families of low income with accumulated funds and those of moderate income with limited funds for down payment the opportunity to enjoy the advantage of home ownership.

18. The O'Brien Homes proposal was denied by the Planning Board following the September hearing. (See Exhibit V attached hereto and made a part hereof.) There was further discussion by the Planning Board on March 27, 1972. (See Exhibit W attached hereto and made a part



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hereof.) A modification of the original proposal was heard by the Planning Board on April 24, 1972. (See Exhibit X attached hereto and made a part hereof.) To date it remains under tabled items and has been referred to the Monroe County Planning Council for its recommendation.

19. At this time there are only two PUDs which have received the first stage of approval in Penfield. (The Audino PUD has been repealed. See above.) The first is known as the Standco PUD - approved in 1970 for re-zoning and before public concern focused on the PUD issue in Penfield. The second is known as the Rock Lake PUD (which was 4.67 units per acre) and was approved for re-zoning in September 1971 under the condition that it conform to the density limitation in the PUD ordinance, as amended. (See

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Exhibit Y attached hereto and made a part hereof.) The PUD ordinance requires three stages of approval 1) re-zoning 2) preliminary site plan 3) final site plan. The Standco PUD is awaiting further public hearing. (See Exhibit Z attached hereto and made a part hereof.) Persons connected with the Rock Lake PUD say that at the present density they cannot build the type of community they had planned, so they are virtually giving up the idea for the moment.

20. Most recently has come the suggestion by the Town of Penfield board officials that sewer services are inadequate in the Town of Penfield for the increased density that would be involved in the construction of low and moderate income housing and therefore such a proposal must be denied. In March of 1972, the Penfield

planning board announced that it was the town's new policy not to allow any more building in Sewer District #3 in Penfield because the sewer services in that district were now operating at 1 1/2 times its capacity.

21. According to minutes of the planning board attached hereto and made a part hereof as Exhibit AA, an application of Philip Prinzi for Zuric Development Corporation, Lyell Avenue, Rochester, New York to re-zone from residential AA to residential A, sections 3 and 4 of Independence Ridge subdivision in order to build smaller homes on lots of the same size as originally planned was denied by the planning board. A representative of Domus Homes which planned to construct the homes, argued to the planning board that there was a great need and a

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market for homes in the \$25,000.00 to \$30,000.00 range.

Additionally, from minutes of planning board in March of 1972, the Penfield planning board denied the application of Angelo Castronova, 1766 Empire Blvd., Rochester, New York for re-zoning of two acres of land on the west side of Creek Street from commercial to apartment house and multiple dwelling for the purpose of constructing 24 apartment units.

The Beacon Hills Planned Unit Development proposed by developer Audino, referred to above in paragraphs 6 through 10 is located in Penfield Sewer District #3 on which the planning board of Penfield now imposes a complete construction moratorium. Mr. Audino to cope with this situation,

is planning to pump sewer into another Penfield sewer district. The Housing Task Force of the Town of Penfield by its Report of Penfield Housing Task Force on Moderate Income Housing, June 5, 1972, has acknowledged the insufficiency of present sewer facilities in view of its proposals for moderate income housing construction in Penfield.

In contrast the sanitary sewer situation is too complicated to be dealt with effectively within the scope of the activities of this Task Force. At present there is insufficient capacity to handle 2000 additional dwelling units in Penfield, regardless of their location or cost. In fact, certain approved developments cannot start construction until portions of the sanitary sewer problem are resolved. The Town Board is aware of these problems and is evaluating solutions. This Task Force assumes that satisfactory solutions will be identified and that the appropriate action will be taken to permit the normal growth of Penfield as well as the construction of the recommended moderate income housing.

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22. As is illustrated above, the town board of Penfield, and the planning board of Penfield have either individually and/or in concert, directly or indirectly in the past, and continuing to date, frustrated attempts at the building of and prevented opportunities for low and moderate income housing units in the Town of Penfield, amended the PUD ordinance so as to make more difficult the availability of low and moderate income housing through planned unit development in Penfield and have failed or refused to re-zone as might be required for the construction of low and moderate income housing in the Town of Penfield. Such policies and practices have the effect of specifically excluding low and moderate income persons, blacks, Spanish-

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Americans, and other minorities from  
living in the Town of Penfield.

/s/ Ann McNabb  
ANN McNABB

Jurat  
Omitted  
In  
Printing

**643**

EXHIBIT A

TOWN ZONING AND  
THE HOUSING SHORTAGE

ROCHESTER BUREAU OF  
MUNICIPAL RESEARCH,  
INC.  
A CITIZEN AGENCY



**644**

EXHIBIT A

TOWN ZONING AND THE SHORTAGE OF  
MODERATE AND LOW INCOME HOUSING  
Monroe County, New York

A Study Memorandum Prepared for the  
CIVIC DEVELOPMENT COUNCIL  
of the Rochester Chamber of Commerce

by

Friedrich J. Grasberger, Principal Research  
Analyst

ROCHESTER BUREAU OF MUNICIPAL RESEARCH,  
INC.  
37 South Washington Street  
Rochester, New York  
14608  
April, 1967

## EXHIBIT A

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## EXHIBIT A

Introduction

Within the last few years the Rochester area has experienced a phase of unprecedented economic growth. Total employment figures, which increased at the average annual rate of 3,000 during the 'fifties, increased almost 12,000 annually between 1960 and 1966. In fact, during 1966 the Rochester area experienced its largest one-year increase in civilian employment on record--almost 20,000 new employees were added.<sup>1</sup> The rapid expansion of employment was accompanied by equally impressive increases in industrial production and per capita

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<sup>1</sup>New York State Department of Labor:  
Manpower Trends, 1950-1966.

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income. The dollar value added by manufacture per employee in Monroe County rose from about \$10,000 in 1958 to almost \$15,000 in 1963 when all other metropolitan areas of New York State including New York City were still hovering around the \$10,000 level.<sup>1</sup> The 1960-1964 growth in per capita income in Monroe County was almost twice that of its neighboring metropolitan counties of Erie and Onondaga.<sup>2</sup>

In the last year or two, however, this exciting record of economic expansion has been marred by the realization that commerce and industry are

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<sup>1</sup>U.S. Census of Manufactures: New York, preliminary report.

<sup>2</sup>New York State Department of Commerce: Personal Income in Counties of New York State, 1960-64.

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running into severe difficulties to recruit the manpower necessary for the continuation of their growth. Recent surveys of Rochester industry point to a current manpower shortage of more than 10,000. Considering the extremely low current rate of unemployment (slightly more than one percent) these manpower needs must be met primarily from immigration. However, repeated efforts by local industry to attract new manpower into this community have met with very little success because of a serious lack of low and moderate income housing in Monroe County.

This housing shortage is rapidly assuming proportions that pose a serious threat to the future growth and the economic as well as social health of the Rochester community. Low and moderate

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income earners are crowding the older sections of the city, the aged are unable to exchange their dwellings for smaller homes or reasonable rental units requiring less maintenance efforts, and the community's youth entering into the manpower market are finding it increasingly difficult to remain in the Rochester area because of the lack of suitable housing.

If this community is to continue to grow and prosper, immediate attention must be focused on the problem and coordinated efforts directed towards its solution must be undertaken without delay.

Interestingly enough, the severe housing shortage has arisen at a time when the construction of new homes and apartments has reached record levels in Monroe

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County. During the six years from 1960 through 1965 in the county's towns alone the construction of 26,852 new dwelling units was authorized by building permits, 7,221 of which were apartments.<sup>1</sup> Unfortunately, however, almost all of this construction occurred in price and rental categories which are beyond the means of the moderate and low income earner.

Traditionally the blame for the high cost of housing has been placed on rapidly rising construction costs and on the booming cost of land. Increasing attention in recent months, however, has been directed towards a third cause--

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<sup>1</sup>Monroe County Planning Council: Sixth Annual Building Permit and Population Survey, Monroe County, New York, June, 1966.

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zoning. It is contended by builders that the towns' zoning ordinances prevent the construction of needed moderate and low income housing by imposing excessive requirements for lots and buildings.

This study memorandum will examine the extent of the housing shortage, analyze its causes, and develop recommendations to alleviate the problem.

The Scope of the Problem

In order to determine the extent of the low and moderate income housing shortage it is necessary to (1) define the term low and moderate income, (2) measure the demand for such housing, and (3) measure its supply.

Definition of Low and Moderate Income Housing

The average weekly earnings of



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Rochester production workers, including pay for overtime, amounted to \$120.96 in 1965<sup>1</sup> or, converted to an annual figure, to \$6,290 per year. Since a significant proportion of production workers are single individuals who normally are considered more a part of the demand for rental dwellings, a better income criterion for the potential buyers of low and moderate income houses is the average or median income for families. Since most of the families constituting the demand for moderate and low income housing are in relatively low age brackets, the estimated 1965 median income given

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<sup>1</sup>New York State Department of Labor:  
Employment Review, New York Manpower  
Profile, 1965 in Perspective, May, 1966.

## EXHIBIT A

for families with family heads under thirty-five years of age and children under six should serve as an appropriate definition of "moderate income" in this context. The median income for such families is \$7,560 per year in Monroe County.<sup>1</sup>

Experience indicates that the average family can afford to purchase a home costing the equivalent of twice its annual income.<sup>2</sup> Another commonly used yardstick suggests that an individual's or a family's monthly expenditures on housing should not exceed one week's income. Thus, for the purposes of this

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<sup>1</sup>Estimate based on 1960 U.S. Census figure and per capita income growth as reported by the New York State Department of Commerce.

<sup>2</sup>This ratio would rise with an increasing amount of cash down payment.

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study, moderate and low income housing will be defined as purchasable homes costing in the neighborhood of \$15,000 or less and as rental units with monthly gross rents of \$140 or less.

The Demand for Low and Moderate Income Housing

The aggregate demand for additional housing of all kinds in the Rochester area consists of (1) internal population growth, i.e. young, single adults and newly married couples leaving their parental homes, and (2) single and married in-migrants moving in from outside the county.

It is difficult to estimate from the available data even the approximate numbers of potential home renters and buyers entering the market each year. It is possible, however, to indicate the

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relative changes on the housing demand side which have occurred since 1960. As a result of the rapid increases in the Monroe County birth rate beginning in 1942, the 1960's are, and will be experiencing the entrance of unprecedented numbers of young adults into the home rental and buying markets. As shown in Table 1 on the following page, the younger age groups preceding age group 25-29 exceed the latter by 12.4%, 41.7%, and 63.4% respectively.<sup>1</sup>

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<sup>1</sup>Death rates for the above age groups are uniformly low and will not affect the validity of the comparison.

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TABLE 1

SELECTED AGE GROUPS, MONROE COUNTY,  
1960 and 1964

Age Group	Number of Persons		1964 Age Group 25-29 = 100%
	1960	1964	
25-29	34,665	35,045	100.0%
20-24	30,847	39,417	112.4%
15-19	37,549	49,670	141.7%
10-14	50,888	57,278	163.4%

Sources: 1960 U.S. Census of Population  
1964 Special Census, Monroe  
County, New York

On the basis of these data it can be safely concluded that the annual number of new family formations which ran at a level of approximately 3,500<sup>1</sup> in 1960 was at least ten percent higher in the early 'sixties and will in all likelihood reach a level of almost 5,000 a year in the late 'sixties. Corresponding relative increases have taken and will take place in the number of young single adults looking for their own

<sup>1</sup>New York State Department of Health, Vital Statistics Review, 1960.

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homes. Due to the very young median ages of the brides (21 years)<sup>1</sup> and grooms (23 years)<sup>1</sup>, it can be assumed that the vast majority of them will be looking for either low or moderate income housing. On the other hand, the young single adults will probably be in the market for mostly low income housing since, unlike some young couples, they are dependent on only one person's income.

The net in-migration component of housing demand has also been increasing steadily. According to data from the Monroe County Planning Council annual net in-migration into Monroe County has risen from about 3,000 in the 'fifties

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<sup>1</sup>New York State Department of Health, Vital Statistics Review, 1960.

## EXHIBIT A

to about 5,000 in the middle 'sixties. Previous studies of in-migration patterns have revealed that the majority of the incoming adults are in the 20-35 year age group. For this reason they can be expected to add considerably to the demand for low and moderate income housing.

Supply of Low and Moderate Income Housing

Net additions to the supply of low and moderate income housing have failed completely to keep pace with the growth of the demand for such dwellings. A 1965 survey of rental vacancies conducted by the Rochester Bureau of Municipal Research indicated that the number of low and moderate rental vacancies had dropped drastically below the 1960 level. No data are available reflecting changes in the supply of rental housing in the City of

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Rochester. In the towns of Monroe County, 7,221 multiple housing units were authorized for construction between 1960 and 1965<sup>1</sup> virtually all of which rent at levels considerably above \$140 per month.

A more precise but equally discouraging picture is offered by the following data depicting the annual supplies of low and moderate income homes which were purchased between 1960 and 1965.

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<sup>1</sup>Monroe County Planning Council: op.cit.



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TABLE 2

NEW HOUSES COMPLETED AND SOLD IN MONROE  
COUNTY, 1960-1965

	Homes Selling For			
	<u>\$15,000 or less</u>		<u>\$15,001-20,000</u>	
	<u>#</u>	<u>% of Total</u>	<u>#</u>	<u>% of Total</u>
1960	61	4.3	697	49.3
1961	20	1.2	670	39.0
1962	40	2.0	837	42.5
1963	4	.4	842	34.6
1964	13	.5	793	27.6
1965	3	.1	604	20.0

Source: First Federal Savings and Loan Association: Annual Surveys of New Construction in the Rochester Metropolitan Area, 1960-1965.

As shown in Table 2, new houses costing \$15,000 or less have virtually disappeared from the market. New homes in the \$15,000-20,000 class which in 1960 accounted for almost fifty percent of all new homes sold have dropped drastically to represent a mere twenty percent of the market in 1965.

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Table 3 shows that the sales of existing homes have also failed to rise sufficiently to keep pace with the growth in demand. Total 1965 sales of all existing homes under \$20,000 were only thirty -seven units above the 1960 total. A closer inspection of the "\$15,000 or less" data, furthermore, reveals that the existing homes in this category sold in the towns of Monroe County actually decreased from 758 units in 1961 to 407 units in 1965. The compensating growth in this price class, therefore, occurred within the City of Rochester. But unfortunately many of these units are located in relatively undesirable neighborhoods and are consequently unacceptable to a large portion of the demand sector.

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TABLE 3

EXISTING HOMES SOLD IN MONROE COUNTY,  
1960-1965

	Existing Homes Selling for			
	<u>\$15,000 or less</u>		<u>\$15,001-20,000</u>	
	<u>#</u>	<u>% of Total</u>	<u>#</u>	<u>% of total</u>
1960	1,756	53.4	935	28.4
1961	1,761	52.8	979	29.4
1962	1,756	48.9	1,132	31.5
1963	1,717	47.3	1,106	30.5
1964	1,629	45.4	1,080	30.0
1965	1,634	43.3	1,094	29.0

Source: See Table 2

Reasons for the High Cost of Housing

The primary determinants of the cost of a new home are the size and quality of the structure and the size and location of the lot. Both construction costs and land cost have risen continually for several decades now particularly in urban areas, and indications are that this trend will continue to extend into the future. But what about personal income?

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Has personal income not also grown to maintain an equilibrium between the cost of housing and the ability to purchase a new home?

TABLE 4

## GROWTH OF BUILDING COSTS AND PER CAPITA INCOME

	Average Building Cost Index(United States)	Per Capita Income Index (Monroe County)
1956	100.0	100.0
1957	103.6	102.5
1958	106.9	100.5
1959	111.6	104.8
1960	114.0	107.8
1961	115.8	108.0
1962	118.2	112.9
1963	121.0	116.7
1964	124.7	125.6
1965	127.7	135.6

- Sources: 1. Engineering News Record, 1957-1966.  
2. New York State Department of Commerce, Personal Income in Counties of New York State, 1950-1965.

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Table 4 above reveals that per capita personal income in Monroe County has kept pace with the increases in average building costs over the past ten years. Unless evidence can be introduced showing that average building costs in Monroe County have risen significantly faster than the national average the blame for the shortage of moderate and low income housing cannot be placed on the rising costs of construction.

Unfortunately no precise statistics<sup>1</sup> are available which might reflect the increases in the cost of land in Monroe County. It is safe to assert, however, that the cost of land in and immediately

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<sup>1</sup>A National Association of Home Builders' survey published in the January issue of the Rochester Home Builders Monthly showed a 1960-1964 price increase per lot of 31.3% in Rochester. However, the survey neither defined "Rochester" nor the type and location of lots surveyed.

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adjacent to urbanized areas has risen much faster than both construction costs and personal income. Ten years ago the per acre cost of residentially zoned land was selling in the hundreds of dollars, today builders talk in terms of thousands of dollars per acre of raw land.

"While every segment of our economy has experienced rising prices, the pronounced increase in vacant land costs throughout the state has far exceeded the 'norm' established in these other segments. In the last decade average land prices have more than tripled and some urban and suburban land has skyrocketed as much as 2,000 per cent. . ."<sup>1</sup>

In addition to the growth of the costs of raw land builders are being faced by more and more demands for investment

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<sup>1</sup>New York State Home Builders' Association: 1966-67 Housing Report, p. 14.

## EXHIBIT A

in community facilities such as sanitary and storm sewers, sewage treatment plants, water lines, streets, curbs, and park and recreation areas. The expenses for these investments are added to the cost of land to the home buyer who then must finance them with prevailing mortgage interest rates.

"These costs, plus the land cost, now represent approximately twenty-five percent of the purchase price of the house. In the 1940's the average figure was 8-9 percent of the cost of the house. . . "1

Thus, rising land costs have been a significant factor contributing to the shortage of low and moderate income housing. Of course, land costs could be

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<sup>1</sup>Ibid.

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reduced by building at farther distances from urban centers, but increased commuting expenses and the scarcity or lack of municipal services would tend to offset the increased price attractiveness of such homes.

In view of these rising per unit costs and the increased demand, it would seem logical that builders would attempt to satisfy this demand for low and moderate income housing by building more instead of less or the smaller homes on smaller lots, thereby counteracting the cost trends discussed above. Probably the major deterrent to this solution is ZONING.

Residential Zoning in the Towns of  
Monroe County

The general city, village and town laws of the state provide that any city,



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village or town **may** adopt zoning regulations. Under the law municipalities are empowered to regulate and restrict the size and use of buildings, structures, and land.<sup>1</sup> Within the context of this study we may ignore city and village zoning since very little vacant land is left in these urban centers which can be used for residential development. The primary concern is with town zoning, the zoning for the vast areas of vacant land surrounding the urban cores and urbanized rings. To provide a basis for evaluation of zoning practices, the following sections contain: (1) a review of current expert opinion on optimum densities for residential development in suburban

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<sup>1</sup>New York State Department of Commerce:  
Local Planning and Zoning, 1966 Edition.

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areas; (2) a description of prevailing zoning practices in the towns of Monroe County; and (3) an analysis of the reasons for these practices.

Optimum Average Residential Densities

Planning experts are in close agreement on the optimum ranges of housing and population densities for various types of communities and different types of structures. The following densities are considered optimal in terms of neighborhood planning, cost of construction, market absorption and long-term values:

1. According to the American Public Health Association<sup>1</sup> a desirable average residential density consists of 5 dwelling units per acre with a

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<sup>1</sup>American Public Health Association: Planning the Neighborhood, Standards for Healthful Housing, 1943.

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maximum of 7 per acre. The recommended minimum lot size is 6,000 square feet, the minimum structural square footage per family is 870.

2. Professor Kevin Lynch of M.I.T. cites a standard density of five single dwellings per acre and a recommended size of the structure equal to 20 percent of the lot.<sup>1</sup>

3. The optimum residential density envisioned for the planned community of Reston, Virginia is fourteen persons per acre which roughly corresponds to four families per acre.<sup>2</sup>

4. The Urban Land Institute in "New Approaches to Residential Land Development" describes many new community developments with density objectives ranging from four dwellings per acre in suburban areas to seven families in areas closer to the urban center.<sup>3</sup>

The most concise treatment of optimum

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<sup>1</sup>Kevin Lynch: Site Planning, the M.I.T. Press, 1962, p. 145.

<sup>2</sup>R.E. Simon: Planning a New Town-Reston, Virginia, American Society of Planning Officers, 1964.

<sup>3</sup>Urban Land Institute: New Approaches to Residential Land Development, Technical Bulletin 40, January, 1961.

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residential density has recently been prepared by the Federal Housing Administration.<sup>1</sup> Its optimum range for one story detached dwellings consists of a minimum of 4,356 square feet and a maximum of 7,840 square feet of floor area per gross acre. For one story structures averaging 1,000 square feet the resulting optimum density range would thus be 4.4 - 7.8 dwellings per acre, for one story structures averaging 1,500 square feet the range would be 2.9 - 5.2. Its optimum range for two story detached dwellings is 4,356 - 8,712 square feet of floor area per gross acre which is equivalent to a density range of 3.6 - 7.3 for dwellings

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<sup>1</sup>F.H.A.: Land Use Intensity, Land Planning Bulletin No. 7, 1965.

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of 1,200 square feet or 2.7 - 5.4 for dwellings averaging 1,600 square feet of floor area. Converted to net acreage requirements the above density ranges would be equivalent to lot sizes ranging from 6,500 square feet to 13,000 square feet.

Residential Zoning Practices in the Towns  
of Monroe County

The zoning ordinances in the towns of Monroe County have traditionally restricted residential land use to one family houses. Some of the more urbanized towns have recently provided some land for multiple dwelling but virtually all of the apartments **constructed are for** high income families only. Most of the land zoned for residential purposes still consists of large areas in separate zoning categories, each category restricting

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land use by clearly defined minimum sizes of lots and structures. As a result the residential patterns show clearly delineated economic stratifications.

Areas in which minimum standards governing the size of lots and structures are high are primarily occupied by high income families. Areas with lower minimum standards have attracted proportionately less affluent segments of the population. This type of zoning and the accompanying economic stratification of the residents has led to a high degree of uniformity of developments within the same zoning areas and of homes within the same developments. The acceptance of such uniformity in turn has acted as a strong impediment to zoning for smaller lots and homes because

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while uniformity appears proper in the case of middle and high income houses it is not acceptable for the moderate and low income homes. In spite of ample evidence to the contrary, particularly in the towns of Brighton and Irondequoit, small lots and homes are popularly viewed as unsightly and undesirable, and any action to relax zoning to permit such lots and homes in large areas would be most likely considered an attempt to create large scale slums in the suburbs.

As shown in Table 5 below, the average minimum lot sizes in the various zoning categories in the towns of Monroe County, with the exception of Irondequoit, are far above the optimum standards discussed in the preceding section.

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TABLE 5

MINIMUM PERMISSIBLE SIZES FOR RESIDENTIAL  
 LOTS AND TWO STORY STRUCTURES  
 TOWNS OF MONROE COUNTY, 1966

	<u>Minimum lot area (Square feet)</u>	<u>Minimum ground floor area for 2-story residences (Square feet)</u>
Greece	7,200-20,000	600-1,200
Gates	8,000-15,000	625- 875
Irondequoit	9,600- 9,600	500- 660
Brighton	11,250-23,125	500- 900
Henrietta	12,000-20,000	480-1,000
Chili	12,000-20,000	650- 700
Parma	14,450-20,000	600- 800
Wheatland	15,000-30,000	500- 650
Penfield	15,000-20,000	650- 750
Clarkson	15,000-20,000	640- 840
Hamlin	15,000-15,000	768- 768
Perinton	15,750-20,000	650- 925
Pittsford	16,000-25,000	750-1,000
Ogden	17,500-20,000	660- 768
Webster	18,000-28,125	660- 864
Sweden	20,000-20,000	576- 576
Riga	20,000-20,000	884- 884
Rush	30,000-30,000	575- 750
Mendon	30,000-30,000	800- 800

Source: Zoning Ordinances, Towns of  
 Monroe County, 1966.



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Table 5 also indicates wide disparities in the minimum requirements regarding sizes of residential lots and structures in the nineteen towns of Monroe County. The minimum lot sizes in the towns of Rush and Mendon are more than four times as large as the minimum lot size in the town of Greece. The minimum ground floor area for two story structures in the town of Riga is almost twice as large as that in the town of Henrietta.

Only six of the nineteen towns provide for lot sizes within the optimum range and of these six only Irondequoit keeps the minima for all single residential zoning categories within this range.

The minimum ground floor areas for two story structures is in all cases higher than the minimum of 435 square feet

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recommended by the American Public Health Association (see page 9), although the four towns with minima of 500 square feet or less are very close to this standard. The remaining fifteen towns, however, exceed the standard by 32 to 103 percent.

Returning to the crucial issue of permissible lot size, Table 5 shows that six of Monroe County's 19 towns do have zoning provisions permitting lots of size deemed optimal by planners. The existence of a zoning ordinance providing for such land use, however, is no automatic guarantee that a sufficient supply of such land is available in the proper locations. In fact, the zoning classification may simply encompass an area which is already filled by the permitted uses or it may be located in an area

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unsuited for such use.

A comprehensive land use inventory for Monroe County compiled in 1963 by the New York State Department of Public Works as part of its Metropolitan Transportation Study demonstrated this lack of available land in the smaller lot categories. Using a computer print-out supplied by the department which listed all parcels of vacant land zoned for residential use, a tabulation was made of vacant parcels twenty acres<sup>1</sup> or larger located in the six towns with the optimal minimum zoning provisions. This showed that only a few of the optimum type parcels were still vacant in 1963 in the towns of Chili, Henrietta and Brighton,

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<sup>1</sup>Twenty acres were considered the minimum size for efficient tract development.

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and most of these were situated in undesirable or unsuitable locations (e.g., around the airport, along the river, in areas of hilly land.) A relatively large number of vacant parcels in the town of Irondequoit are located in areas of steep slopes in the vicinity of Durand Eastman Park. According to the Monroe County Planning Council:

"Development possibilities (in these areas) are extremely restricted. Much of these areas should remain permanently in open uses, and where urban development does take place it should be on a very low density basis to minimize problems of site development."<sup>1</sup>

This leaves only the towns of Gates and Greece with significant supplies of vacant land in optimal density categories. But even in these towns natural character-

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<sup>1</sup>Monroe County Planning Council: Background for Planning, December 1962, p.9.

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istics make efficient development of many of these parcels impossible:

"Along the shore of Lake Ontario the land is almost continuously flat or marshy.

"Areas with problems of intermediate degree . . . occur most extensively in a band extending along the north side of Ridge Road where shallow soils and flat terrain combine to cause difficulties.

"South of (the area between Ridge Road and Spencerport Road) none of the wet lands or flat lands . . . are very extensive, but interspersed as they are among areas of sloping ground, they will have a retarding effect upon the overall development of this part of the county."<sup>1</sup>

Two additional factors to be considered in this context are: (1) the available supply of vacant land of optimum density zoning has most certainly

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<sup>1</sup>Ibid., pp. 11,12.

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shrunk even further since 1963 when the land use analysis was conducted, and (2) the fact that land is zoned for a certain type of residential use does not necessarily mean the present owners will make it available for such use.

It is clear that a serious imbalance exists between the demand for low cost homes and the willingness of the towns to provide a zoning framework which would permit their construction. In fact, while the demand has been increasing, seven of the nineteen towns have raised their minimum requirements for lot and/or dwelling sizes over the past three years! Town zoning is running on a collision course with the needs of the metropolitan community.

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Reasons for Low Density Zoning

So far it has been established that the density ranges and structural sizes mandated by the zoning ordinances in the towns of Monroe County are considerably above those recommended by planning experts, and it has been shown that even in the few towns which have allocated some land to zoning categories fully within the optimum density range the supply of such land is dwindling or unusable due to locational disadvantages. Thus, the question arises: Why are the towns so unresponsive to the demonstrated needs of the county as a whole? There are three major reasons for this unresponsiveness which can be categorized under the headings of aesthetics, economics, and desire for exclusiveness.

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The first of these reasons, aesthetics, has already been discussed in the preceding section. It derives from the absence of mixed and flexible residential zoning. Each zoning category consists of large plots of land upon which a rigid stamp of uniformity is impressed by prevailing zoning restrictions. While this type of uniformity appears to be desirable to the towns for medium and high cost housing it seems to be unacceptable for low cost housing.

The economic reasons for low density zoning are perhaps more significant than any of the others. Fiscal pressures on local government have evoked increasing concern with land use and its fiscal consequences. Today the so-called "fiscal zoning game" is played by virtually all



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developing suburbs. Its rules are simply to permit only those types of land uses which add enough assessed valuation to the tax base to finance the municipal services required. In the case of dwellings the paramount consideration revolves around school taxes. School taxes in the towns of Monroe County account for the lion's share of the total fiscal burden. Since experience shows that low income families tend to have more children than high income families the addition of low cost housing results in an incremental expense for public education which is much larger than the incremental yield of the expansion of the tax base.

To illustrate the severity of this problem, the school district of West Irondequoit would presently require an addition of \$32,464 in full value to its

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tax base to fully finance the additional property tax levy required for one additional public school pupil! The Pittsford School District, to cite another example, would need a full value increment of \$38,280 for each additional pupil!

Thus, it is quite apparent why the suburban towns are attempting to maximize their tax base by reserving their land for primarily high value uses.

"There was a county in northern New Jersey which acquired a very large industrial plant. It promptly rezoned the rest of its land as far as possible to one acre lot zoning. In other words, the community was saying 'now that we have the plant, we would like to house the executives of the plant, but the workers with their children may go somewhere else with their lower cost houses'. . ."<sup>1</sup>

The only way to stop the fiscal zoning game and thereby eliminate a primary motive for low density, high value zoning is to

<sup>1</sup> Jerome P. Pickard: Opportunities and Problems, American Society of Planning Officials, 1966.

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solve the fiscal needs of communities on something more than a small local unit basis. The most obvious approach to the solution of this problem is to find a way in which to decrease reliance on property taxation for the support of the broader governmental services including public education, health welfare, etc.

" . . . property taxation is not a fair source of revenue for the support of services benefiting the entire urban area. Some other tax source, which reaches all the people (benefiting from these services) would be more equitable."<sup>1</sup>

Some degree of equalization of educational cost burdens has already been attained through state aid for education and the allocation of a sizable share of the county sales tax to school districts. Even greater equalization is necessary, however, to deprive the fiscal zoning game of one of

<sup>1</sup> University of North Carolina, Institute of Government, Greensboro Suburban Analysis.

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its prime incentives.

The third reason for low density zoning stems from town residents' desire for exclusiveness. Many suburban residents formerly lived in cities. Their move to suburban surroundings was often motivated by the desire to leave a deteriorating environment. To prevent the recurrence of such deterioration they developed into avid advocates of "exclusivity zoning." Insisting on their inherent rights to preserve and even upgrade their chosen surroundings, they have denied the rights of others by molding their zoning ordinances to make it financially impossible for them to live in similarly desirable areas. Thus it happens that in some suburban towns of Monroe County individuals working as school teachers, production workers, etc. are unable to make their homes in the towns in which they work.

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This third reason is probably the least justifiable argument in support of restrictive zoning, particularly since most new building would take place in areas which are as yet completely undeveloped and would, therefore, not affect existing residential developments.

Conclusion

It has been demonstrated in the preceding analysis that the demand for moderate and low income housing, of both rental and purchasable units, is growing at a rapid rate. It has also been shown that the supply of such housing has failed to keep pace with the growth in demand. The resulting gap between supply and demand has been widening each year and now poses a serious threat to the economic health of this community. It is stymieing industry's efforts to attract needed manpower, it is

crowding a large portion of low income families into city slums, it inflates the price of available units and land, it prevents older couples from purchasing smaller homes requiring a minimum of maintenance efforts, and it may soon make it impossible for many young newly married Rochester couples to find decent dwellings so that they may remain in this community.

The basic reasons for the lack of supply have been identified as rising costs of construction, soaring costs of land and town zoning practices.

Although unit costs of construction appear not to have risen faster than per capita income and should, therefore, not be viewed as a major cause of the housing shortage, a breakthrough in the technology of home and apartment construction could be

a significant factor in reducing the gap between demand and supply.

Land costs must assume a large share of the blame for the shortage of moderate and low income housing and should be a principal target of any corrective action. While the Rochester area has vast reserves of vacant acreage, much of this acreage is controlled by interests withholding it from the market and thereby stimulating the soaring growth of land prices. To solve this problem a new approach to the taxation of vacant land may have to be developed which would make it substantially less profitable for land speculators to limit the supply of land.

Town zoning which could have mitigated the impact of rising unit costs of land and construction by providing an adequate supply

of reasonable sized lots and structures has, instead, compounded the rise in prices by mandating even larger lots and larger homes than even before. Proper remedial action for the situation must include an attack on the basic causes responsible for current zoning practices.

The economic causes, consisting primarily of the tax advantages which are the prize of a well-played fiscal zoning game, can only be removed by county and state legislative action. Such action should be aimed at broadening the property tax base for the financing of the costs of public education beyond the present tax district boundaries and at greater emphases on revenue sources which are not related to real property.

Town residents' opposition to less



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restrictive zoning for reasons of aesthetics and exclusiveness can only be overcome through more imaginative zoning. New communities now being planned and constructed in many parts of this nation offer convincing proof that combinations of low and high density land use can result in both aesthetically attractive and marketable residential developments. A first and very promising step in this direction is contained in the proposed zoning ordinance for the town of Pittsford. The Monroe County Planning Council which prepared this ordinance suggested that average density development be permitted in the town for the purpose of allowing:

"Variation in lot size in areas proposed for development . . . to encourage flexibility of design, to enable land to be developed in such a manner as to promote its most appropriate use, to facilitate the adequate and economical

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provision of streets and utilities,  
and to preserve the natural and  
scenic qualities of open space . . ."1

The major impetus for a change in the towns' current zoning practices must come from two sources, the Monroe County Planning Council and the informed citizens of this community.

The county planning body should study and quantify the need for the various types of land uses required by this growing community. It should be given the power, by state law, to determine which general areas in the county are best suited to accomodate the needed land uses and to advise and assist the towns in the implementation of these broad land use mandates into actual zoning. This is an extremely important responsibility which requires the utmost in ingenuity, imagination and good judgement. It is not

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<sup>1</sup> Monroe County Planning Council: Proposed Zoning Ordinance, Town of Pittsford, 1965.

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intended to deprive towns of their zoning powers but rather to assign to each town a share of suburbia's responsibility for land use benefiting the entire metropolitan area. It is the task of the individual towns to discharge this responsibility in a manner which adds rather than detracts from the desirability of the town as a community.

An informed citizenry can be of invaluable help in bringing town zoning up to date. A growing number of community leaders are becoming aware of the potentially disastrous consequences of our housing shortage and its relationship to town zoning. They realize that the welfare of the well-to-do is closely intertwined with that of the moderate and low income earner, that the City of Rochester is limited in its ability to provide additional housing for this latter

group due to lack of land, and that, consequently, the continued growth and prosperity of the entire metropolitan community hinges on the towns' willingness to take steps towards a solution of the grave problem. It is this type of citizen who must provide local leadership and convince his elected governmental officials and the members of his planning board that the time has come to create a more flexible zoning framework which, while protecting existing development, permits the development of available vacant land to serve the needs not only of a favored segment of the population but of all citizens of our community.

If such leadership is not provided by the planning council and the citizenry, this community is inviting either economic stagnation or possibly corrective action by the federal government or the courts. This

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latter possibility is not as remote as it sounds as these concluding quotations from a recent court decision show:

"Zoning is a means by which a governmental body can plan for the future-- it may not be used as a means to deny the future. . .

"It is clear . . . that the general welfare is not fostered or promoted by a zoning ordinance designed to be exclusive and exclusionary.

"A zoning ordinance whose primary purpose is to prevent the entrance of newcomers in order to avoid future burdens, economic and otherwise, upon the administration of public services and facilities cannot be held valid . . ."1

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<sup>1</sup> National Land and Investment Company and Dorothy M. Ennis vs. Harold E. Kohn and Edith Kohn, his wife, Interveners, Appellants. Appeal of BOARD OF ADJUSTMENT OF EASTTOWN TOWNSHIP. Supreme Court of Pennsylvania, November 9, 1965, Rehearings Denied January 17, 1966.

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P. U. D.

A MODEL PLANNED UNIT DEVELOPMENT ARTICLE  
FOR A TOWN ZONING ORDINANCE

MONROE COUNTY PLANNING COUNCIL

ROCHESTER CENTER FOR GOVERNMENTAL  
AND COMMUNITY RESEARCH, INC.

March, 1970

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EXHIBIT B

A MODEL PLANNED UNIT DEVELOPMENT (PUD)  
ARTICLE FOR A TOWN ZONING ORDINANCE

Prepared by the  
MONROD COUNTY PLANNING COUNCIL  
and the  
ROCHESTER CENTER FOR GOVERNMENTAL  
AND COMMUNITY RESEARCH, INC

March, 1970  
(Third Draft)

# 699

## EXHIBIT B

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INTRODUCTION

The Planned Unit Development (PUD) concept involves planning on the level of a neighborhood community rather than on the level of an individual lot or single use. Generally, the PUD concept applies most effectively to project areas exceeding 100 acres in size. PUD objectives are comprehensive and involve viewing the components of a development as they relate to the needs of an entire town and, even, to a metropolitan area. A PUD achieves flexibility and efficiency in land use. A PUD conserves our limited land resources by stopping current patterns of urban sprawl development. A PUD provides a more convenient, conflict-free environment through the integration of commercial, recreational, educational, vocational and open space land uses with residential uses at neighborhood levels. A PUD includes a variety of residential types

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suitable for all age groups and income levels. In short, a PUD provides a living environment superior to that generally achievable under standard zoning and subdivision regulations.

The PUD article presented here is intended to provide adequate protection for a responsible community and to channel and encourage the developer in the application of good design and planning. The article falls into two major parts: (1) a statement of intent, objectives and general requirements, and (2) an application procedure and approval process. The intent states that the PUD ordinance is meant to replace the usual approval process involving rigid use and bulk specifications with the actual PUD plan submitted by the developer. The objectives and requirements provide a developer with a ready general guide showing the minimum expectations of a town in

respect to a PUD.

The General Requirements permit a PUD to be located in any part of the town where an applicant can demonstrate that his holdings meet PUD objectives. The use of a variety of housing types is encouraged. Depending on size and needs, accessory commercial, service and other non-residential uses are allowed and encouraged. Intensity of land use ("density") is determined by the characteristics of a particular proposal.

The Application Procedure and Approval Process (flow charted on the following page by functional role) are designed to safeguard public interests while allowing developers great flexibility and freedom. The article provides standards and procedures by which the Planning Board and Town Board may evaluate a PUD proposal. The Sketch Plan review is thorough and permits the Town Board-- on the basis of Planning

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Board, public,<sup>1</sup> and professional advice-- to give early approval to a project. The key here is commitment at an early time in project development through a clear spelling out of administrative roles and responsibilities. By this, it is hoped that both developers' money and administrative time will be saved through quick elimination or modification of inadequate PUD proposals. Once PUD zoning is granted by the Town Board (step 7 on the flow chart), the approval of preliminary and final plans is deemed to be the technical function of the Planning Board-- with only a nominal role being played by the Town Board unless the sketch plan is substant-

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<sup>1</sup> Prior to zoning a PUD district, the Town Board holds a public hearing on the PUD proposal (step 5a on flow chart). Note that there is normally only this one public hearing per project and that it is held at the sketch plan stage.

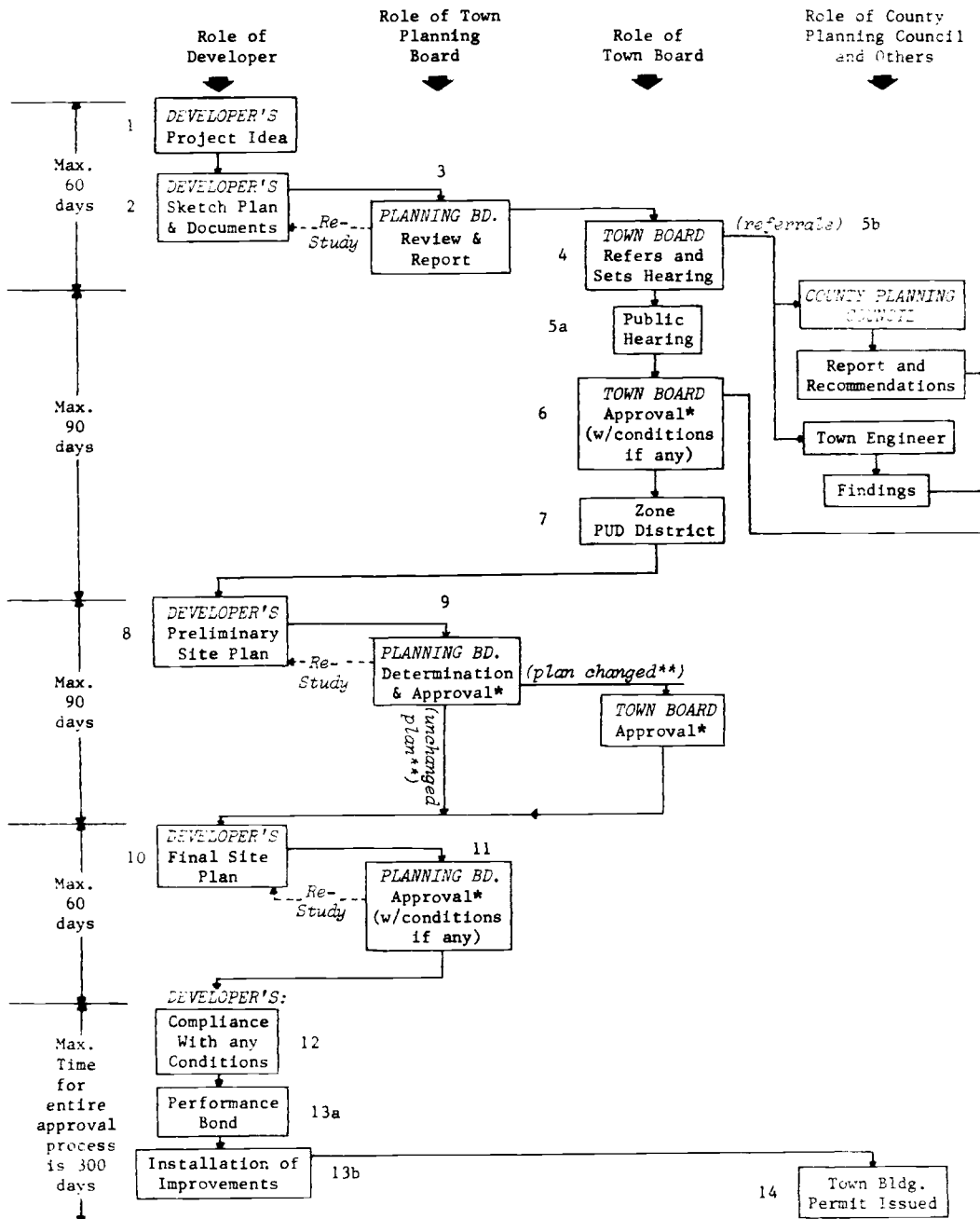
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ially altered in its preliminary or final  
form.

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## PROCEDURAL FLOW OF THE PROPOSED PLANNED UNIT DEVELOPMENT ORDINANCE FOR TOWNS



\* Unfavorable reports or disapprovals by the Planning Board are subject to hearing before Town Board upon initiative of the developer. Town Board disapprovals are final.

\*\* Sketch Plan.

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The approval process could take a maximum of 300 days from first submission to issuing of building permit. This 300 day period is maximum provided an applicant acts at his earliest opportunity after each town decision. While a large PUD will probably require at least 300 days, smaller PUD's should be processed far more quickly. Although 300 days, almost an entire year, seems a long time for an application to be approved, it should be noted that commitment occurs at step 7, within 5 months time. The remaining steps involve detailed design development which take this length of time as a matter of course and considering the investment involved, actually demand review periods of this nature. A good architect designing a single \$50,000 home would take at least two or three months to develop his plans. How much more important, then, is a \$50,000,000



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development.

A PUD may be staged. However, if any plan requires more than 24 months to be completed, a PUD must be staged and a staging plan must be developed.

After initial construction and occupancy, changes from the PUD plan are to be processed as special permit requests to the Planning Board--although use changes require Town Board approval.

This model PUD article is intended for direct incorporation into a town's existing zoning ordinance. It is considered enforceable under existing (1969) New York State laws. In short, this ordinance is suitable for adoption by all Monroe County towns without changes-- other than changes in format to fit a particular town zoning ordinance.

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A MODEL PLANNED UNIT DEVELOPMENT ARTICLE  
FOR A TOWN ZONING ORDINANCE

Third Draft (March, 1970)

ARTICLE O

SECTION 00-1-STATEMENT OF INTENT AND  
OBJECTIVES

A. Intent

It is the intent of this Planned Unit Development (PUD) article to provide flexible land use and design regulations through the use of performance criteria so that small-to-large scale neighborhoods or portions thereof may be developed within the Town that incorporate a variety of residential types and non-residential uses, and contain both individual building sites and common property which are planned and developed as a unit. Such a planned unit is to be designed and organized so as to be capable of

## EXHIBIT B

satisfactory use and operation as a separate entity without necessarily needing the participation of other building sites or other common property in order to function as a neighborhood. This article specifically encourages innovations in residential development so that the growing demands for housing at all economic levels may be met by greater variety in type, design, and siting of dwellings and by the conservation and more efficient use of land in such developments.

This article recognizes that while the standard zoning function (use and bulk) and the subdivision function (platting and design) are appropriate for the regulation of land use in areas or neighborhoods that are already substantially developed, these controls represent a type of pre-

regulation, regulatory rigidity and uniformity which may be inimical to the techniques of land development contained in the planned unit development concept. Further, this article recognizes that a rigid set of space requirements along with bulk and use specifications would frustrate the application of this concept. Thus, where PUD techniques are deemed appropriate through the re-zoning of land to a Planned Unit Development District by the Town Board, the set of use and dimensional specifications elsewhere in this Ordinance are herein replaced by an approval process in which an approved plan becomes the basis for continuing land use controls.

Objectives

In order to carry out the intent of this