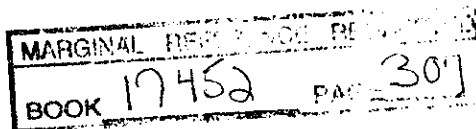


TOWN OF LINCOLN, MASSACHUSETTS PLANNING BOARD
 SEPTEMBER 9, 1987
BATTLE ROAD FARM SPECIAL PERMIT

Upon application of Lincoln House Associates Limited Partnership ^{Revised 04/88} ("Lincoln House") for a Special Permit pursuant to Section 12.5 of the Town of Lincoln Zoning By-Law to allow construction of 120 units of residential housing on 24 acres of land in the Town of Lincoln, a Preliminary Development Plan (the "Preliminary Plan") dated October 1, 1986, as revised by a Zoning Plan Submission dated October 21, 1986, was filed with the Town Clerk on October 21, 1986. This Preliminary Plan was supplemented by a Final Zoning Plan Submission, dated October 29, 1986. A public hearing was held by the Town of Lincoln Planning Board on October 21, 1986 at 8:00 p.m. pursuant to notice thereof published in a local newspaper and mailed to all parties of interest. The Preliminary Plan was approved by a two-thirds vote of Town Meeting. A definitive plan submission, dated April 6, 1987, was submitted to the Planning Board on April 7, 1987. The definitive plan submission was supplemented on May 12, 1987, May 26, 1987 and June 17, 1987 (collectively, the "Definitive Plan"). Public hearings were held on the Definitive Plan on May 13, 1987 and continued on May 27, 1987 and June 17, 1987.

The Definitive Plan provides for the development of 120 units of residential housing on a 24 acre parcel located in the

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North Lincoln Planning District (the "Project"). The Project will consist of 40 separate buildings: 15 Farmhouses, 16 Carriage Houses, 7 Meadow Houses, for a total of 120 residential units, and two community facilities. The Project will contain 81 two-bedroom condominiums and 39 three-bedroom condominiums. Sixty percent of the units will be sold at affordable prices as defined in Massachusetts Housing Partnership and Massachusetts Housing Finance Agency affordability guidelines (the "Affordable Units"). Forty percent of the units will be sold at market rate prices. Six (6) units will be set aside as rental units. At the hearings referenced above, oral testimony and documentary evidence was presented, after which time it was voted to issue the requested Special Permit on the terms and conditions hereinafter described.

DECISION.

The Planning Board has considered the evidence presented with the Definitive Plan at the public hearings and meetings regarding the Special Permit under said Section 12.5 of the Town of Lincoln Zoning By-Law to allow construction of the Project and related site improvements, including surface parking, a sewage treatment facility, accessory community buildings, plantings and other landscape areas. Said evidence

submitted to the Board relative to said Definitive Plan included:

1. The Preliminary Plan and all adenda thereto.
2. The Definitive Plan.
3. The site plan dated June 12, 1987 (the "Site Plan").
4. The application of Lincoln House to the Massachusetts Department of Environmental Quality Engineering for construction and operation of a sewage treatment plant (the "DEQE Application").
5. Three letters to William Constable, Chairman, Town of Lincoln Zoning Board, addressing issues raised at various public hearings, dated, respectively, May 12, 1987, May 26, 1987 and June 17, 1987.
6. Letter dated May 11, 1987 from Amy Anthony Secretary, Executive Office of Communities and Development, regarding a community development action grant.
7. The drawings listed on Exhibit A attached hereto (the "Drawings"). All Drawings referenced herein are those

drawings on file in the office of the Planning Board, initialled by both the Chairman of the Planning Board and a general partner of Lincoln House as the "Final Version" of that drawing.

On the basis of the evidence and after open deliberations, the Town of Lincoln Planning Board makes the following findings:

1. The density of use of the Project, the sewage treatment facility, traffic generated by the Project, and the disturbance of the land by the Project are acceptable in light of the lack of affordable housing in the region and in the Town of Lincoln and the contribution which the Project makes to ameliorate this shortage by providing 72 Affordable Units for low- and moderate-income persons and families.
2. The Definitive Plan is substantially consistent in all respects with the approved Preliminary Plan;
3. The Definitive Plan provides for no greater height or number of dwelling units than is provided for in the approved Preliminary Plan;

4. The Definitive Plan provides for no uses that are not permitted by the approved Preliminary Plan;
5. The Definitive Plan provides for a suitable development which is in harmony with the general purpose and intent of the Town of Lincoln Zoning By-Law and is not detrimental to the neighborhood or to the Town, and which, when supplemented as herein provided, meets the requirements of Section 17 of the Zoning By-Law for site plan approval, including, without limitation, the criteria set forth in Section 17.4;
6. The Definitive Plan provides that the land shown in the Preliminary Plan as permanent open land is to be owned by an association of the owners of the land as approved by the Planning Board, with provisions for limited easements for recreational use by residents of the Commonwealth, which assure that the Town shall have sufficient rights to enable it to enforce compliance with the restrictions imposed by the Planning Board as conditions of its Special Permit;
7. The Definitive Plan provides that the land on which the Project shall be built shall be preserved in its

natural state, insofar as practicable, by minimizing tree and soil removal, and that manmade features, such as stone walls, shall be maintained with minimal alteration and disruption;

8. The Definitive Plan provides for the construction of the Project in such a manner that the natural character and appearance of the Town shall be maintained or enhanced. The Project shall be screened from nearby streets, single family neighborhoods, or Town property by the effective use of existing land forms or alteration thereto by berms, by existing vegetation or supplemental plantings;
9. The Definitive Plan provides for open space to be designed and located so as to increase the visual amenities of the neighborhood as well as for the occupants of the Project;
10. The Definitive Plan provides for architecture, scale, massing and detailing of buildings which is compatible with those prevalent in the neighborhood and complimentary to the nearest single family neighborhood;

11. The Definitive Plan does not provide for the removal of or substantial alteration of buildings of historical or architectural significance and the new use of the land is designed so as to preserve any historical significance thereof;
12. Insofar as practicable, the Definitive Plan provides that the buildings shall be located harmoniously with the land form, vegetation and other natural features of the site; effectively for solar and wind orientation for energy conservation; and advantageously for views from the buildings, while minimizing intrusion on views from the other buildings;
13. The Definitive Plan provides for the buildings, and the grounds adjoining them, to permit for sufficient access and operation by fire, police and other emergency personnel and equipment;
14. The Definitive Plan provide for the construction of all necessary access to the Town system of public facilities and services, such as conservation areas, recreational facilities, footpaths or bicycle paths, transportation systems or utility systems;

15. The Definitive Plan provide a system of routes for pedestrians and bicycles with minimum conflict with vehicles;
16. The Definitive Plan provides that the number of access points to the Town system of primary and secondary streets is minimized and that location of intersections with these streets is designed so as to minimize traffic congestion; and
17. The Definitive Plan provides that electric, telephone and cable television and such other lines and equipment are designed to be underground or as inconspicuous as possible. Storage, refuse disposal, utility buildings and structures for recreational activities are located, screened and designed to be less visible.

The Planning Board has determined that the gross floor area of the Project as shown in the Definitive Plan is somewhat greater than the gross floor area shown in the approved Preliminary Plan. The gross floor area was increased with the Planning Board's approval, to provide a better living environment for residents of the Project. The Planning Board

has determined that this change is substantially consistent with the Preliminary Plan, imposes no incremental adverse impact on the Town, and is consistent with the intent of the Zoning By-Law.

On the basis of the foregoing, the Town of Lincoln Planning Board finds that the construction of the proposed "Battle Road Farm" Project on the subject site is in conformance with the intent and purposes of said Section 12.5.

Therefore, upon a motion duly made and seconded on September 9, 1987, the Board grants Lincoln House a Special Permit for construction of 120 units of residential housing and accessory facilities on the Project site in accordance with the terms of the Definitive Plan.

This Special Permit hereby granted is expressly contingent upon the satisfaction of the following conditions:

1. Construction of the Project shall be executed in accordance with the Definitive Plan and with the Drawings submitted to the Planning Board as part of the application for the Special Permit.

2. The units in any phase of the Project may be sold and occupied before final completion of roads, landscaping and related infrastructure on remaining phases of development. The staging of construction will include three phases, as described in the Definitive Plan: Phase I shall include buildings 19 through 39 (56 units); Phase II will include buildings 2 through 8 and building 40 (32 units); and Phase III will include buildings 9 through 18 (32 units). The loop road, the meeting hall and immediate vicinity, and the northern section including the sewage treatment plant will be included in the Project. All off-site utilities and all on-site utilities, infrastructure, and construction of the loop road binder course and meeting hall in Phase I will be completed prior to conveyance of any units. All utilities, infrastructure and landscaping for the other phases will be completed prior to conveyance of any units in such phases. The ratio of affordable and market units (60/40) will apply in each phase, unless otherwise approved by the Planning Board.
3. Prior to the issuance of a building permit for the Project, the Planning Board shall review working drawings and construction documents solely to approve

additional details not shown on existing plans and drawings included in the Definitive Plan and to approve any changes to the Definitive Plan, with the exception of plans and drawings for the Meeting Hall Community structure to be built. The Planning Board shall complete a full review of the plans and working drawings for said Meeting Hall/Community structure prior to the issuance of a building permit for the Project. Approval of working drawings and construction documents pursuant to this Paragraph 3 shall be given by the Planning Board if Lincoln House demonstrates to the Planning Board's reasonable satisfaction that any such details or changes are consistent with (i) the requirements of this Special Permit; (ii) the specifications set forth in the Preliminary Plan and the Definitive Plan and all Drawings previously submitted to and accepted by the Planning Board; (iii) the State Building Code; and (iv) the Town of Lincoln Zoning By-Law. The Planning Board shall review and approve or disapprove such details and changes within fifteen (15) business days after delivery by Lincoln House of such details or changes submitted in the form required by the Town of Lincoln Zoning By-Law. It is understood that design review of the buildings is completed.

4. The memorandum entitled "Affordability and Eligibility/Battle Road Farm", dated August, 1987 (the "Affordability Guidelines"), a copy of which is attached hereto as Exhibit B, outlines agreements between Lincoln House, the Town of Lincoln and the Massachusetts Executive Office of Communities and Development ("EOCD") with regard to guidelines and criteria of eligibility of buyers for the Project's Affordable Units, the marketing of the Affordable Units and the plans for long-term affordability control for the Affordable Units. The Affordability Guidelines are hereby expressly incorporated as a condition of this Special Permit and shall be applicable to the development of the Project. A final Marketing, Affordability and Eligibility Program (the "Program") will be drafted by Lincoln House, the Town of Lincoln, acting by and through its Housing Commission and Board of Selectmen, and EOCD within thirty (30) days of the closing of the sale of the Project site by the Town of Lincoln to Lincoln House. The Planning Board shall review and reasonably approve or disapprove the Program within fifteen (15) business days of the submission of the Program to the Planning Board, in order to assure that the various elements of the Program are substantially consistent with the provisions of the Affordability Guidelines.

Construction of the Project may begin notwithstanding the lack of an approved Program; provided, however, that the failure to have an approved Program within sixty (60) days of said closing shall be a violation of this Special Permit, unless the Planning Board shall extend the period available to formulate and obtain approval for such Program for up to an additional sixty (60) days, which extension shall be granted if the Planning Board determines that reasonable and concerted efforts are being made to provide such a Program. In the event of such violation, all construction and site work on the Project shall cease, and shall not again commence unless and until such Program is approved by the Planning Board.

5. Lincoln House has committed to certain specifications regarding insulation and energy conservation. The R factor standards for walls, ceilings and slabs have been set forth in the Definitive Plan except that the R factor for window and storm systems shall be 2.6, not 2.9 as previously stated. Any infiltration performance testing shall be conducted at the Town of Lincoln's expense. Any infiltration performance standards and methods for testing must be within the norm of commonly accepted industry practice and state

energy standards. Any infiltration deficiencies shown by such tests shall be rectified at Lincoln House's expense.

6. The Planning Board shall have the right to review and approve the final landscape plan, final species selection of landscape materials, to insure that the species, sizes, quantity and placement thereof are consistent with the intent and purpose of the Landscape Plan, which is a part of the Drawings included in the Definitive Plan.
7. Lincoln House shall construct the Project in accordance with all state standards and codes for fire safety. In addition, one or more central stations with annunciator panels shall be constructed at locations reasonably approved by the Planning Board with the advice of the Town of Lincoln Fire Chief.
8. (a) Lincoln House shall construct the Project in accordance with the construction standards for sound transmission set forth in Paragraph 9 below, and such construction standards shall be separately enforceable by the Town of Lincoln under this Special Permit in addition to any right of enforcement it may have under

the Building Code or any similar codes or ordinances dealing with construction.

(b) Lincoln House shall insert in all of its deeds to individual units a notice of provisions specifically disclosing that (i) due to the proximity of the Project to Hanscom Field, the Project is subject to levels of aircraft noise and vibrations which may at times be disturbing to certain individuals, that such noise and vibration levels may vary over time and that studies of aircraft noise exposure affecting the area (including the Project) surrounding Hanscom Field may be obtained at the Town of Lincoln Town Hall and at the offices of the Massachusetts Port Authority, and (ii) if units are not maintained or improved in conformance with construction standards for sound transmission as set forth in Paragraph 9 below, unpleasant noise levels may result. Lincoln House shall furnish a copy of such construction standards to each unit purchaser. Lincoln House shall to provide a separate disclosure statement regarding aircraft noise to each unit purchaser prior to the signing of any purchase and sale agreement for each unit. Such separate disclosure statement shall be in a form substantially similar to the notice provisions to be inserted in individual unit deeds.

(c) Lincoln House shall include provisions in the master condominium deed documents (i) which require all units to comply with all applicable laws, rules and regulations for construction near airports, including without limitation, Title 14, Part 77 of the Code of Federal Regulations, both in connection with the original construction of the units and any additions or alterations thereto, and (ii) which obligate the condominium association to maintain doors and storm windows of all units in accordance with the original construction standards referred to in subparagraph (a) of this Paragraph 8. The provisions of the master condominium deed addressing the subject matter set forth in clause (i) hereinabove shall be non-amendable, and the provisions addressing the subject matter set forth in clause (ii) hereinabove shall be amendable only by vote of the owners of not less than 90% of the units.

9. The compliance agreement on noise shall be:

The noise reduction performance of the building envelope will be designed to reduce noise of typical aircraft operations by 30dBA. "Typical aircraft operations" is defined by the spectrum generated by a twin engine propeller aircraft at 100 ft., or as shown

in the graph provided by BBN, + or - 3 DB in any octave band.

Upon completion of each phase of the Project and prior to occupancy of any unit therein, the actual noise reduction performance will be tested in the following manner: a typical aircraft operation or an electronically generated noise source with a similar spectrum will be measured outside a dwelling unit and inside the center of a typical room at the same time. The difference between the simultaneous maximum levels of the two signals, measured in dBA, shall be defined at the difference in A-weighted noise levels, and this value shall be at least 25 dBA. Basic measurement techniques and equipment shall conform to ASTM standard E-336 Measurement of Airborne Sound Insulation in Buildings, Appendix A2.2 Source Outdoors..." adapted and adjusted as noted above.

The cost of this test shall be incurred by the Town of Lincoln. The tests will be repeated in sample locations reasonably chosen by the Lincoln Planning Board.

If any of the tests fails to meet this criterion, Lincoln House shall repair the problem. Re-tests will be performed at the expense of Lincoln House.

10. The Planning Board acknowledges that if Old Bedford Road is relocated, an easement from Cranberry Hill Associates will be required for the Project site. Lincoln House shall prepare the access easement in recordable form. The Planning Board agrees to use best efforts to cause the Town of Lincoln to require Cranberry Hill Associates to grant the aforementioned easement upon the abandonment of Old Bedford Road.
11. Lincoln House shall obtain all permits, licenses, easements, and shall so construct all off-site utilities in accordance with the Definitive Plan and Drawings and subsequent working drawings and construction documents referred to in Paragraph 3 of the conditions to this Special Permit, all as approved by the Planning Board and in accordance with all applicable government regulations.
12. Lincoln House shall not receive a building permit nor begin construction of the Project until all necessary government approvals have been obtained and all relevant appeal periods relating thereto have expired.

13. There will be one three-foot by five-foot wood entrance sign and one conventionally designed street sign at each intersection as shown on the Site Plan and Drawings, the design of which shall be approved by the Planning Board before any units are sold or before such signs are erected. The stone walls along the park buffer shall be completed before conveyance or occupancy of the units which abut the park buffer. The stone wall shall be a "farmer's wall", no more than two courses high and limited to 900 feet starting at the southwest property corner as shown on the Site Plan. The farmer's wall shall resemble the farmer's wall shown in a picture currently on file with the Town of Lincoln Conservation Commission.
14. The Town of Lincoln Conservation Commission has agreed to build all conservation trails. The trails through the orchard shall be constructed so as to be 10 feet wide. A 16 foot easement shall be granted for construction of these trails. The trails along the old road bed shall be 8 feet wide, constructed pursuant to a 16 foot wide easement. The trails around the perimeter of the wetlands shall be 4 feet wide, constructed pursuant to a 10 foot easement. Conservation easements for trails, an access easement to the public way, a maintenance and fire protection

easement to the buffer areas, and a conservation restriction over wetland areas shall be granted by Lincoln House to the Town of Lincoln Conservation Commission, in a form which has been accepted by the Conservation Commission and is also reasonably acceptable to the Planning Board, prior to the issuance of a building permit for the Project.

15. Roads constructed on the Project site shall remain as private ways, owned by the Condominium Association. Prior to the sale of any unit, easements will be granted, in a form reasonably satisfactory to the Planning Board, for public access, publicly owned utilities and as necessary for the Town to maintain public services, if the Town so desires.

16. The sewage treatment plant shall be owned by the Condominium Association and will be for the exclusive use of the 120 units of residential housing and the meeting house to be constructed as part of the Project. Maintenance of the sewage treatment facility and testing of such facility shall be subject to the provisions of any permit for the construction and operation thereof to be issued by the Massachusetts Department of Environmental Quality Engineering ("DEQE"). The Planning Board acknowledges that the

DEQE is responsible for review and approval of the technical design of the sewage treatment facility. However, and to the extent not inconsistent with the DEQE's jurisdiction over any and all matters relating to its approval of the sewage treatment facility, the Planning Board retains the right to approve the siting, exterior design, access to and screening of the sewage treatment facility. The Planning Board has approved the method of sewage treatment facility because it has determined that the Project provides a substantial public benefit by facilitating the availability of low and moderate-income housing in the Town and because the Definitive Plan includes a program which will ensure the safe and efficient operation of the sewage treatment facility. Lincoln House shall assign any and all warranties for the sewage treatment facility and Project infrastructure it has in its possession to the Condominium Association.

17. The conditions set forth in this Special Permit shall be contained in a Covenant which shall be recorded at the appropriate Registry of Deeds at the time of conveyance by the Town of Lincoln to Lincoln House of the Project site. Said Covenant shall not be amended, altered or changed without the prior written approval of the Planning Board. The Covenant shall take effect

upon its recording, shall run with the land and shall bind Lincoln House and its successors and assigns. All plans recorded regarding the Project shall contain a reference to the Covenant. Upon the completion of each phase of the Project, Lincoln House shall deliver, by registered or certified mail, to the Planning Board, an affidavit stating that the conditions or safeguards contained in said Covenant have been complied with as to such completed phase. The Planning Board shall review such affidavit and take action thereon within fifteen (15) business days of the receipt thereof. If the Planning Board determines that the conditions or safeguards of the Special Permit have been complied with, it shall execute a Release of the Covenant by an appropriate instrument, in recordable form, duly acknowledged, as to the particular completed phase of the Project and shall deliver such Release to Lincoln House. If the Planning Board determines that the conditions or safeguards included in the Special Permit have not been complied with, it shall specify the conditions or safeguards with which Lincoln House has not complied in a notice, sent by registered or certified mail, to Lincoln House. Within fifteen (15) business days of receipt of such notice of non-compliance, Lincoln House shall comply with the conditions and safeguard

referenced in said notice of non-compliance, and shall resubmit an affidavit of compliance to the Planning Board. The Planning Board shall review such affidavit and take action thereon within five (5) business days of the receipt thereof, by executing the aforementioned Release of the Covenant, or forwarding a notice of non-compliance, registered or certified mail, to Lincoln House. The Planning Board shall issue the aforementioned Release of the Covenant if the Project, or any phase thereof, is completed in accordance with the Definitive Plan, the Drawings, the Covenant, the Town of Lincoln Zoning By-Laws, this Special Permit and the State Building Code.

18. "As-Built Plans" shall be required as each phase is completed, before conveyance of the units therein.

19. The Planning Board has accepted, in principle, gravel parking lots and driveways subject to final specifications to the Planning Board's reasonable satisfaction. In the event that acceptable gravel specification cannot be provided, Lincoln House shall substitute specifications for bituminous concrete parking lots and driveways not to exceed the typical roadway standards described in the Town of Lincoln Subdivision Rules and Regulations, or such other standards as the Planning Board may approve.

20. Lincoln House shall submit to the Planning Board copies of the condominium master deed, unit deed forms, condominium trust and condominium association by-laws prior to recording thereof. The Planning Board shall review such documents solely for the purposes of assuring that the conditions set forth in this Special Permit are not abridged.

21. In the event construction of the Project is interrupted or discontinued after commencement thereof for a period in excess of twenty-one (21) business days, Lincoln House shall take such action as is reasonably necessary to prevent soil erosion damage to vegetation and other environmental degradation in a manner reasonably acceptable to the Planning Board and, if such action is not undertaken within 15 days after written notice to Lincoln House, the Planning

Board may take such action and Lincoln House shall promptly reimburse the Planning Board for reasonable costs attributable thereto.

THE TOWN OF LINCOLN PLANNING BOARD

Elizabeth W. Croonan

Margory L. Collins

F. J. [unclear]

William G. [unclear]

5962L

September 9, 1987 (Conformed Copy)

I hereby certify, pursuant to Section 11 of Chapter 40A of the Massachusetts General Laws, as amended, that the foregoing decision of the Planning Board, in the Matter of the Special Permit for Battle Road Farm was filed in the Office of the Town Clerk on September 11, 1987.

Nancy J. Zuelke

Twenty days have elapsed after the date of filing and no appeal has been filed.

Date: Oct. 1, 1987

Nancy J. Zuelke
Nancy J. Zuelke, Town Clerk

EXHIBIT A: DRAWINGS REFERRED TO IN P&S AND SPECIAL PERMIT

A-1	Building Plans - Farmhouse	4/1/87
A-2	Building Plans - Meadow House	4/1/87
A-3	Building Plans/Elevations - Carriage House	4/1/87
A-4	Building Elevations - Farmhouse	4/1/87
A-5	Building Elevations - Meadow House	4/1/87
A-6	Unit Plans - Units A, B, C	4/1/87
A-7	Unit Plans - Units D, E, F	4/1/87
A-8	Unit Plans - Units G, H, I	4/1/87
L-1	Site Plan: Landscape	7/13/87
L-2	Typical Planting Plan, Meadow House	5/13/87
L-3	Farmhouse Elevations	5/13/87
L-4	Typical Planting Plan, Farm/Carriage house	5/13/87
C-1	Site Plan	6/12/87, 9/2/87 general revisions
C-2	Layout Plan	6/12/87, 9/9/87 general revisions
C-3	Utilities Plan	6/12/87, 7/28/87, 9/9/87 revisions
C-4	Roadway Profiles and Sections	6/12/87
C-5	Roadway Profiles	6/12/87
C-6	Erosion Control	6/12/87
C-7	Details	6/12/87
C-8	Details	6/12/87
Meeting Hall	7/20/87	

EXHIBIT C

Lincoln House Associates
August, 1987AFFORDABILITY AND ELIGIBILITY
BATTLE ROAD FARMI. Eligibility

A. State-Defined Criteria

To be eligible to buy affordable units with state-subsidized mortgages, buyers must be:

1. First time homebuyers (defined as anyone who has not had an ownership interest in a residence during the past three years)
2. Income eligible at time of purchase: (These are the 4/87 guidelines and are subject to change based on changes in EOCD guidelines.)

<u>Unit</u>	<u>Max. Gross Income</u>	<u>Family Size</u>
Very Affordable (5% mortgage)	\$29,900	4 or less
Affordable (8% mortgage)	\$35,000 \$40,000 (plus \$1,500 per each additional)	1 2

3. Under existing income limits and MHFA underwriting standards some buyers may not be able to purchase homes with a 5% downpayment. EOCD has agreed that the income limits may be increased by 10% so that buyers will be able to purchase homes with only a 5% downpayment. In addition, buyers may elect to put down more than 5%, with the result that less income would be required. We will continue to try to prudently minimize the condo fees as well so that less income will be required. Verifiable proof of income will be required, such as tax returns, employers, etc.

B. Lincoln Local Preference Criteria

Buyers receiving local preference must show verifiable written record of his/her status as a:

1. Current or previous Lincoln resident
2. Parent or child of current Lincoln resident
3. Parent of child currently enrolled in Lincoln public schools (K-12 or Lincoln special education, but not in private schools)

Affordability and Eligibility
 Lincoln House Associates
 Page 2

Two additional categories of local preference are desired by the Town but need a ruling from the state, which will be finalized when the complete Affordability plan is written.

4. Current employee of Town of Lincoln receiving benefits (EOCD indicated that it may not be possible to make a distinction between different levels of employees, but that anyone who works for the town would qualify).

5. Current full-time employee of Lincoln private non-profit institutions (Carroll School, deCordova, Audubon, Bethany, etc.) EOCD indicated that this may be too restrictive, and a distinction might not be able to be made between those who work for non-profit and those who work for profit organizations.

6. Lincoln Woods residents may purchase affordable homes in Battle Road Farm even though according to IRS regulations they are considered to be homeowners because of the "limited equity cooperative shares" they own in Lincoln Woods. Lincoln Woods residents will not be eligible for MHFA financing but they will be able to purchase homes allocated to the Mod-HOP category and use conventional financing. These homes will have the same affordability restrictions and income requirements upon resale as other homes in their price range with MHFA financing. Lincoln Woods residents will be placed in the local preference and/or minority categories for purposes of selection in the lottery. No priority within local preference will be given to them.

C. Distribution of 120 units

	<u>Affordable</u>	<u>Market</u>
Local Preference	36	
Open Access	17	40
Subsidized Rental	6	
Handicapped	4	2
Affirmative Action	9	6
	----	----
TOTALS	72	48

D. Affordable Home Prices

Lincoln House Associates has agreed to the following number of units and sale prices.

Affordability and Eligibility
 Lincoln House Associates
 Page 3

Category	-----2 BRS-----		-----3 BRS-----		Total No.
	No.	Price	No.	Price	
Rental	4	78,500	2	78,500	6
MHP (low)	22	81,000	11	93,000	33
MHFA (mod)	22	105,000	11	115,000	33
Market	32	market	16	market	48

It should be noted that the units priced at \$115,000 are not eligible for MHFA financing since the current maximum limit is \$110,000. This limit is under review and in future MHFA bond issues will most likely be increased. LHA proposed this \$115,000 in expectation that the price limits could be increased and that it was important to offer homes in a range of prices. If this price increase is not made before marketing begins, the lower priced affordable units will be increased in price (by approximately \$1,000) and the \$115,000 units will be reduced to \$110,000 so as to yield the same expected gross sales revenue from the affordable units.

II. Selection Process

Advertisements will be placed in various media, starting locally. Ads will specify how interested buyers can obtain applications and for how long applications will be received prior to a single deadline date. Lincoln House Associates is maintaining a list of all those who have previously shown interest.

Applications received by the advertised deadline will be pre-screened by Lincoln House Associates for eligibility and for credit history. They will then be sorted into four groups or "pots": handicapped, affirmative action, local preference, and open access. An applicant meeting criteria for two or more groups would be placed in all of those categories simultaneously. Lotteries (by means of random generation of code numbers) for the three closed groups would be held first. Any applicant who failed to obtain a unit in his initial group's lottery, would then be placed in the open access group and thus have a second chance for selection.

The order in which an applicant is selected determines the order in which that applicant chooses his/her unit. Thus the first buyer selected in any category has the widest choice; the last, the least. Later applicants may choose not to purchase any available unit in their pool but instead give up their place and join the open access group for a chance at the unit they had hoped for.

Affordability and Eligibility
 Lincoln House Associates
 Page 4

Once a selected applicant has chosen a unit, Lincoln House Associates or a town-designated agent will give the buyer a certificate stating that he/she qualifies for an HOP or MHFA loan (income-eligible, first-time homebuyer). The buyer will then take the certificate to one of four banks who have agreed to handle these loans (Shawmut, Bank of New England, Malmart Mortgage Co., Merchants National). Trained bank staff will assist the buyer in filling out conventional mortgage application forms, and additional forms for MHFA's requirements.

III. Guaranteeing Affordability

Lincoln House Associates and the Town of Lincoln support the following two standards of 1) guaranteeing the continued affordability of each price-reduced unit and 2) guaranteeing the constant, maximum number of affordable units (72 including the 6 rental units.)

It must be recognized that over the long term, it is relative affordability that is being guaranteed. Whether a home remains affordable depends upon the major factors of housing appreciation, interest rates, incomes and extent of housing subsidies. Each plays an important part in the affordability equation. Home prices may rise 10% a year, but if incomes increase by the same amount and other housing costs remain constant, then the home is equally as affordable as before. Likewise, housing prices may rise, but if interest rates go down, the housing affordability equation may be the same. The affordability of homes is also affected by available subsidies. Lincoln will have the right to review, but not unreasonably reject, changes in affordability standards made by EOCD.

EOCD has made several major policy and program commitments to insure continued affordability of homes in Battle Road Farm. They are, as follows:

1. The price reduction of approximately \$100,000 per unit on 72 homes for a total value of \$7.2 million will be preserved and in the unlikely event of foreclosure or sale on the open market, this price reduction benefit will return to the Town of Lincoln, rather than to EOCD.
2. MHFA first time mortgages with 8% interest rates may be assumed by future buyers.
3. The interest write downs from 8% to 5% on the 33 low priced HOP units will return to the Town of Lincoln. This will be done as long as Lincoln can demonstrate that these subsidies will be used for the purpose of continuing affordability.

Affordability and Eligibility
 Lincoln House Associates
 Page 5

4. Affordability may be retained for more than 40 years.
5. EOCB is suggesting Lincoln will be granted the opportunity to establish a new program of local control of resale of affordable homes, assorted resale controls, and use of subsidies.

The important thing to note is that the involvement of a local non-profit makes it possible to respond creatively and flexibly to retain the affordable housing at Battle Road Farm.

A. Appreciation Formula

The price appreciation at resale will be limited by the application of an appreciation formula:

$$\begin{array}{r} \text{Initial Purchase Price} \\ \text{-----} \\ \text{Initial Appraised Value} \end{array} \times \begin{array}{l} \text{Appraised} \\ \text{Value at} \\ \text{Resale} \end{array} = \begin{array}{l} \text{Allowable} \\ \text{Sales Price} \end{array}$$

Lincoln House Associates and the Town of Lincoln chose this formula because it relates the price of the affordable units to market forces and provides incentive for improving units which will then be reflected in a homeowner's equity.

B. Appreciation Restrictions

It is proposed that a limit on an owner's appreciation be imposed to limit the value of their appreciation to an average of 10% a year. A cap is recommended so that if runaway inflation occurs in the real estate market far exceeding income growth at the same time, the price of the affordable homes will stay within reach of moderate income buyers. Ten percent is a fair balance between the public interest of maintaining 72 affordable units over time, and the homeowners' right to some equity appreciation.

C. Control Mechanisms

The control mechanism used to ensure affordability at resale will ensure that:

- 1) the price reduction is continued at resale
- 2) in the event of foreclosure, the defaulting borrower does not receive the difference between the affordable mortgage and the market price

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3) Fannie Mae requirements are not violated, so long as the requirements of continued affordability are met
 4) in the event that a unit is no longer subject to affordability restrictions, Lincoln will receive the difference between the last maximum affordable price and the market price.

We propose the following mechanisms for assuring affordability which are legally and administratively possible now. For the Very Affordable (low-HOP) units:

- a first mortgage to MHFA through lender
- a second mortgage to EOCD for the interest subsidy
- a third mortgage to EOCD/Town/Town's non-profit agent, incorporating the appreciation formula and cap protection, thus securing the price reduction gap between the market and the affordable price, and including a right of first refusal/option to purchase by the Town's nonprofit agency.

Since the buyers of the very affordable units are receiving the most benefit, it should not be a marketing problem to have three mortgages. However, these units will most likely not have deed restrictions, so that Fannie Mae rules are not violated. It may be possible to combine the second and third mortgages into one instrument.

For the Affordable (mod HOP, or MHFA) units:

- a first mortgage to MHFA through lender
- a second mortgage to EOCD/Town/Town's non-profit agent, incorporating the appreciation formula and cap protection securing the price reduction gap between the market and affordable price, and including a right of first refusal/option to purchase by the Town's non-profit agency.

The appreciation restrictions will be in deed restrictions, since only 30% of the units would then have deed restrictions.

For both types of units, the most subordinate mortgage could contain a renewable restriction after 40 years, so that in effect the affordability could be assured into perpetuity.

These are not elegant or simple solutions, but demonstrate that the program is workable at the present time even with FNMA encumbrances. EOCD has indicated that efforts are being made to remove FNMA restrictions, find other lenders who would provide conventional mortgages without FNMA requirements, and explore second mortgage and right of first refusal options which will work within the FNMA framework.

Lincoln House Associates and the Town of Lincoln recognize that consistency of affordability restrictions must exist within the Affordable (mod HOP or MHFA) units and within the Very Affordable (low HOP) units.

C. Absolute Protection for Affordability

The possible situations in which an affordable unit may be removed from affordability restrictions are very few. At foreclosure it is possible to envision a situation in which affordability restrictions enforced either through the deed or second mortgage would be wiped out. There are numerous legal protections that may be used to prevent this possibility. The Town nonprofit agent could be notified of an owner's default on mortgage payments and the ability to cure the default or purchase the unit could be secured by an option to purchase.

A second scenario in which a unit may be exposed to sale in the open market is one in which the nonprofit is unable to find a buyer for the unit. It should be clearly understood that this is an extremely unlikely event given the fact that these affordable homes will always be approximately half the market value. Normally, and to a far greater extent than at Lincoln Woods, hundreds of buyers will be waiting to purchase the affordable units. The nonprofit agent will merely assign purchase and sale agreements to new buyers. By requiring pre-qualifying financial applications, the transfer may take place expeditiously and with little risk of default.

In the improbable situation that a buyer is not to be found, the local nonprofit would still be able to preserve the affordability of the unit. It could be purchased and held for rental. These also is the possibility of purchase of the unit under the Chapter 705 or equivalent program just as it is proposed that the rental units will eventually be purchased by the Town.

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To further ensure that an affordable home is not sold in the open market and removed from further affordability restrictions the Town could require that the Selectmen and the Housing Commission be advised of the necessity for sale in the open market and certify that the sale would be made only after all reasonable efforts had been made to prevent the necessity of such a sale.

The mechanism for insuring continued affordability shall be included in the detailed program to be approved by Lincoln consistent with this memorandum.

D. Managing Entity

It is recommended that the town form a contractual relationship with a non-profit organization, such as the Lincoln Foundation, which would be responsible for managing the financial aspects of the resale process. Managing the lists of qualified potential buyers would be done by the Town, either directly by Town staff, or contracted to another company.

In order to fund the administrative costs to the non-profit, a transfer fee, similar to a real estate broker's commission, could be charged to the seller. Prior to the first sale of a unit, and therefore the first transfer fee, there should not be major administrative work to be done, so lack of up-front money should not be a large obstacle. If it is, funds may be available from EOCB.

If the Town retains the right to maintain the lists of potential buyers according to town-specified criteria, the minimal cost of maintaining this list could be covered by a portion of the transfer fee.

E. Resale Process

The resale process would be managed by the non-profit agency. When an owner wanted to sell a unit, they would notify the nonprofit agency, which would seek a qualified appraiser who could appraise the unit and establish the allowable sales price, and offer the unit to the next available buyer in the appropriate category.

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EOCD has proposed a 120-day process for buying the unit. It is recommended that the sale process be streamlined and the various risks of buyer default such as financing be eliminated as early as possible in the sale process. This will give the nonprofit agent an opportunity to seek other buyers in the 120-day period. Ideally, the sale process could be streamlined and secure enough so that the 120 day period need not be utilized.

IV. Rental Units

Six units will be set aside for rental to low or moderate income tenants. The Town of Lincoln will have a deeded option to purchase these units, and can notify Lincoln House Associates of their intention to purchase either before June 1, 1988 or after 15 years. Otherwise, they will be retained by the developer, and rented using the Chapter 707 or Section 8 programs, which have specific income limits and tenant selection procedures. Under Section 8 guidelines, a tenant pays 30% of their income for rent, while under the Chapter 707 program, a tenant pays 25% of their income.

V. Program Description

This memorandum constitutes a summary of the affordability, eligibility, marketing and rental units mechanisms. A more detailed program description, consistent with the program outlined in this memorandum shall be submitted to the Town and EOCD as financing, administration, legal and marketing considerations are resolved.