OFFERING PLAN

# THIS PLAN HAS BEEN AMENDED

This Offering Relates Solely To Membership In The

# Audubon Association, Inc.

and to the

Declaration of Protective Covenants,
Conditions and Restrictions — Audubon
Applicable to all Lots and Homes Sold in

## Association Area 1

Located at

## Millersport Highway at Campbell Boulevard
## Town of Amherst, Erie County, New York

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NAME AND ADDRESS OF SPONSOR: NEW YORK STATE URBAN DEVELOPMENT CORPORATION
1515 Broadway
New York, New York 10036
and

2222 MILLERSPORT HIGHWAY
GETZVILLE, NEW YORK 14068
(AUDUBON OFFICE)

THE DATE OF 1st OFFERING IS JUNE 7, 1975

THIS PLAN MAY NOT BE USED AFTER JANUARY 7, 1976

DUE TO THE NATURE OF UDC'S FINANCIAL DIFFICULTIES AND THE POSSIBLE EFFECT ON THE INVESTMENT BY PURCHASERS, PROSPECTIVE PURCHASERS ARE DIRECTED TO CAREFULLY EXAMINE THE "RISK FACTORS" AND "UDC AND ITS FINANCIAL CONDITION" SECTIONS OF THIS OFFERING PLAN.

NEW YORK STATE URBAN DEVELOPMENT CORPORATION WILL CONTROL THE AUDUBON ASSOCIATION, INC. THROUGH ITS RIGHT TO APPOINT A MAJORITY OF THE DIRECTORS UNTIL JANUARY 1, 1985.

THE FILING OF THIS PLAN WITH THE DEPARTMENT OF LAW OF THE STATE OF NEW YORK DOES NOT CONSTITUTE APPROVAL OF THE ISSUE OR THE SALE THEREOF BY THE DEPARTMENT OF LAW OR THE ATTORNEY GENERAL OF THE STATE OF NEW YORK. ANY REPRESENTATION TO THE CONTRARY IS UNLAWFUL.

## OFFERING PLAN OF
## AUDUBON ASSOCIATION, INC.

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# OFFERING PLAN
# AUDUBON ASSOCIATION, INC.
## RISK FACTORS

**Based on UDC's financial difficulties, described in Exhibit H, prospective purchasers should note:**

- **UDC has established a Development Trust Fund of $1,270,000 to complete facilities and common areas in Association Area 1. UDC believes this amount to be sufficient. If the Trust Fund is not sufficient or if it is impaired in any way, the completion of such facilities and common areas will be subject to UDC's then existing financial condition. (See Item 2 below.)**
- **UDC has established a Deficit Trust Fund of $65,000 to provide financial assistance to the Association for support of the Association's facilities and common areas. If the Trust Fund is not sufficient or if it is impaired in any way, UDC's support of the Association's facilities and common areas will be subject to UDC's then existing financial condition. (See Item 4 below.)**
- **To the extent funds are not available in the Association Deficit Trust Fund, the Association may have to do one or more of the following: increase the assessments, sell memberships to non-residents for use of the recreational facilities, reduce the use of recreational facilities, or reduce the level of maintenance services.**
- **Failure to pay assessments constitutes a lien on purchaser's residence which may result in foreclosure.**

1. UDC, in accordance with the provisions of the "Declaration", will retain the power to appoint a majority of the Board of Directors of the Audubon Association until January 1, 1985. Since the Board of Directors is responsible for managing the affairs of the Association, UDC will be in a position to exercise control over the operations of the Association until 1985, after which time the resident-members will elect a majority of the Board of Directors.

2. UDC is obligated under this Offering Plan to develop only that portion of Audubon (known as Association Area 1) including facilities to be dedicated to the Audubon Association, to the extent set forth in Part II of this Offering Plan. Due to the uncertainty of UDC's financial future as described below and in Exhibit H attached to this Offering Plan, UDC has created a $1,270,000 Development Trust Fund to assure the availability of funds to complete UDC's development obligations in Association Area 1 as described in Part II of this Offering Plan. The Development Trust Fund is described in further detail in Section 2.6. Based on UDC's present estimates, this amount should be sufficient to cover such UDC development obligations as described in Part II, although UDC cannot represent or warrant that it will actually be sufficient. If actual costs exceed $1,270,000, plus accrued interest, due to the uncertainty of its financial future, UDC cannot assure the availability of these additional funds.

3. Due to the uncertainty of UDC's future and to the long term nature of the Audubon development period, the precise number and types of additional facilities to be built by UDC and turned over to the Association cannot now be determined. Although UDC has prepared long-range development plans for the total development of Audubon, it cannot and does not make any representation or warranty as to facilities to be turned over to the Association other than those facilities to be provided in Association Area 1. UDC has the right to change its long-range development plans from time to time to reflect progress in the development of Audubon or changed conditions affecting such development. Any substantial modifications increasing the scope of the new community with respect to area or numbers of dwelling units, or affecting the types of dwelling units permitted or the open space ratio, would require approval of the Town of Amherst under UDC's contract with the town. However, UDC's contract with the Town does not impose an affirmative obligation on UDC to proceed with development of the new community.

4. UDC is obligated to meet the deficits of the Association through May 31, 1979. To assure the availability of funds to meet these anticipated deficits, UDC has created a $65,000 Association Deficit Trust Fund. The Association Deficit Trust Fund is described in greater detail in Section 3.6. Based on UDC's present estimates of projected revenues and expenses for the Association through May 31, 1979, this $65,000 amount should be sufficient to cover the projected deficits during this period, although UDC cannot represent or warrant that it will actually be sufficient. If the deficit for any reason exceeds $65,000, plus accrued interest, due to the uncertainty of its financial future, UDC cannot assure the availability of funds to meet this excess. This could result in an increase in the Association's assessments. UDC's obligation to meet the deficits of the Association terminates on June 1, 1979, after which time the Association and its members will be responsible for meeting all the Association's expenses without assistance from UDC. If there are not sufficient families living in Audubon at that time, this could result in an increase in the Association's assessments. The number of families may be affected by UDC's financial condition, as explained in paragraph 6 below.

5. UDC makes no representations as to the pace and scope of the total development of Audubon. Continued development will depend primarily on UDC's financial condition and other matters as well as on economic and marketing conditions beyond UDC's control. As is explained in greater detail in Exhibit H attached to this Offering Plan, UDC does not presently have the funds it needs to complete its current projects now under construction, nor does it have any assurance that it will obtain such funds. This includes Audubon except for UDC's obligations in Association Area 1 to the extent secured by the Trust Funds described above. If additional funding is not obtained very soon, UDC will most likely be required to seek the protection of a court under the federal bankruptcy laws. In such event, UDC can give no assurance that the development of Audubon would continue nor can it give any assurance that it would be permitted to fulfill all of its obligations under this Offering Plan.

   Even if UDC obtains the funds it requires, UDC can give no assurance that it would be permitted to continue with the development of Audubon as planned. As described in further detail in Exhibit H, UDC is presently restricted in various ways from entering into new contracts or undertaking new projects. UDC can give no assurance at this time that some or all of these existing restrictions may not be deemed to affect UDC's present ability to proceed, in whole or part, with the overall development of Audubon, nor can UDC predict how long these restrictions will continue or whether there may not be other or additional restrictions imposed by the New York State Legislature or other sources of financing which could affect UDC's ability, either in the short or long run, to proceed with the development of Audubon. Moreover, due to the uncertainty of UDC's financial future, UDC can give no assurance that it will continue to be the Sponsor of the new community. Under the Declaration, UDC has the right to assign its rights and obligations in connection with the development of the new community. Although it has no present intention to make such an assignment, it cannot preclude the possibility that such an assignment might occur either to a private entity, another public entity or a combination of the two.

   UDC will amend this Offering Plan from time to time as may be appropriate to reflect any material changes in its financial condition as well as any other factors which will affect its ability to continue the development of the new community.

6. With respect to dwelling units planned for Association Area 1, UDC cannot represent or warrant that these dwelling units will all be built or at what time. Further, UDC cannot warrant or represent that the exact mix of sales and rental units as set forth herein may not change; market conditions or the availability of financing may dictate that some units planned as rentals be converted to sales, or vice-versa. UDC cannot now predict what effect its present or future financial condition may have on the marketing of land or dwelling units. UDC's estimate of the amount of the Association's deficit assumes development at a certain pace. A substantial reduction in this pace could affect the adequacy of the amount in the Association Deficit Trust Fund. In addition, the completion of certain of the common areas and their dedication to the Association is dependent on completion of adjacent dwelling units, and therefore, UDC cannot represent or warrant exactly when these common areas will be completed and dedicated to the Association.

7. Due to the scope of the new community and the diversity of uses and facilities, the interests of single family and attached homeowners, tenants, landlords, commercial tenants and owners, may be in conflict. Any disputes among these parties will be resolved pursuant to the Declaration, the By-Laws of the Audubon Association, and any other relevant laws, ordinances, regulations or documentation including this Plan.

   Prospective purchasers should take all of the above specified factors into consideration in evaluating this Offering.

## PART I:

## BACKGROUND: THE PLAN FOR THE AUDUBON NEW COMMUNITY

*THIS PART I IS PRESENTED AS BACKGROUND INFORMATION ONLY; SEE PART II FOR A DESCRIPTION OF SPONSOR'S DEVELOPMENT OBLIGATIONS, INCLUDING COMMON AREAS, AND PART III FOR AN EXPLANATION OF THE AUDUBON ASSOCIATION AND HOW IT WILL WORK.*

### 1.1. THE NEW COMMUNITY OF AUDUBON

The New York State Urban Development Corporation ("UDC") presently owns 1800 acres of a 2000 acre tract of land it is in the process of acquiring in the Town of Amherst, County of Erie, New York. Subject to the limitations described in the Risk Factors, UDC plans, with the cooperation and assistance of the Corporation for Urban Development and Research of New York ("UDR"), and with the cooperation of the Town of Amherst, and the Sweet Home and Williamsville Central School Districts, as well as with private builders and developers, to develop this land over the next 10 or more years as a planned community known as "Audubon". The plans for the first area which is being developed by UDC, UDR and others are set forth in Part II below.

The primary reason for the development of Audubon is to help the Town of Amherst meet the impact of the new Amherst Campus of the State University of New York at Buffalo ("SUNYAB").

### 1.2 LOCATION OF AUDUBON

The site for the new community (the "Audubon Site") is located in the Town of Amherst 4.1 miles northeast of the boundary of the City of Buffalo and it bounded on the east by Stahl Road and Campbell Boulevard, on the north by a line north of a western extension of Schoelles Road, on the west by Sweet Home Road and on the south by the southern boundary of the Amherst Campus of SUNYAB. A map showing the Audubon Site and its location is attached as Exhibit A.

Amherst is a growing suburban area. According to the Town of Amherst, its population in 1972 was 100,000, a 37,000 increase over its 1960 population of 63,000. Audubon, located in the northwestern sector of the Town of Amherst, as shown on Exhibit A, is near existing shopping, schools, hospitals, places of worship and public recreation facilities.

Several major retail shopping centers are within a 10 to 15 minute drive from Audubon: Boulevard Mall, on Niagara Falls Boulevard, 3.2 miles; Northtown Plaza, on Sheridan Drive near Niagara Falls Boulevard, 3.5 miles; Evanstown and Georgetown Plazas, on Evans Road at Sheridan Drive, 3.9 miles, and Eastern Hills Mall on Transit Road, 6.1 miles. Getzville Plaza, a small neighborhood shopping center, is located directly across Millersport Highway from Audubon.

Existing public elementary, middle and high schools in the Williamsville Central School District (which includes the eastern portion of the Audubon Site) and in the Sweet Home Central School District (which includes the western portion of the Audubon Site) are shown on Exhibit A. Both the Williamsville and Sweet Home school districts provide, according to district regulations, bus service for pupils who live too far to walk to school. A further description of the public schools which will serve the pupils living in the portions of Audubon covered by this Offering Plan is set forth in Section 2.1 below.

Approximately 250 physicians, surgeons and dentists have offices in the Town of Amherst and approximately 1450 additional physicians and dentists have offices in the City of Buffalo only 4.1 miles southeast of Audubon. In August, 1974, Millard Fillmore Hospital of Buffalo opened a 150-bed full-service suburban hospital in Amherst 3.5 miles from Audubon. This private voluntary hospital has surgical, X-ray and laboratory facilities, an outpatient clinic and an emergency room. Ambulance service is provided by private companies. In addition there are 12 hospitals located in the City of Buffalo.

Houses of worship located within a mile of Audubon include A<sup>-</sup>avas Achim-Lubavitz Synagogue (Orthodox), All Saints Episcopal Church, Amherst Baptist Church, Bethel Baptist Church, Friendship Lutheran Church, Getzville Community Church of God, St. James Lutheran Church LCA, St. Pius the X Roman Catholic Church and Sweet Home United Methodist Church. A local League of Women Voters publication lists a total of 56 houses of worship in the Town of Amherst.

The Town of Amherst's Audubon Recreation facilities are located 1.8 miles south of the Audubon New Community on Millersport Highway. They consist of a public golf course and a field house with a variety of indoor and outdoor facilities for hockey and figure skating, swimming, tennis, basketball, baseball and football. The Town's Clearfield Recreation Center with a swimming pool, ice skating rink and tennis courts is 2 miles east of Audubon. These and other Town recreation facilities are available to all residents of Amherst at a small charge.

### 1.3 UDC & UDR

UDC, the sponsor, is a corporate governmental agency and public benefit corporation created by the New York State Urban Development Corporation Act of 1968 (Chapter 174, Section 1, Laws of 1968, McKinney's Unconsolidated Laws, Sections 6251-6285 as amended). A more detailed description of UDC and its present financial situation is set forth in Exhibit H entitled "UDC and Its Financial Condition". UDC's most recent Annual Report describing its activities and achievements is available for inspection at the UDC Audubon Office.

UDR is a not-for-profit corporation created by the New York State Urban Development and Research Corporation Act of 1968 (Chapter 173, Laws of 1968, McKinney's Unconsolidated Laws, Sections 6301 – 6305). Its Directors and principal officers are the same as UDC's.

The principal offices of UDC and UDR are at 1345 Avenue of the Americas, New York, New York 10019. In additions, UDC maintains a local office in Audubon.

UDC, as sponsor, is acquiring the Audubon Site, has provided the overall planning for the New Community, and has commissioned the preparation of detailed site, architectural, engineering, and landscape plans. Subject to the limitations described in the Risk Factors and Exhibit H, UDC will provide for or oversee the development of all streets and utilities, major recreational and other civic facilities, as well as government-assisted housing. UDR is assisting UDC in the development of the new community. Specifically, UDR will acquire from UDC certain sites designated for the development of conventionally financed housing and commercial development for resale to private builders who will construct the improvements under UDR's supervision. (See Part II for further discussion of the responsibilities of UDC, UDR and private builders.)

### 1.4. THE DEVELOPMENT PLAN FOR AUDUBON

The comprehensive long range development plan for the entire Audubon New Community envisions a wide range of housing and commercial facilities together with community service facilities such as a library, health clinic, schools, day care centers and places of worship, parks and open spaces. More than 9,000 new dwelling units are planned to house about 27,500 persons.

UDC IS ONLY OBLIGATED TO DEVELOP THOSE PORTIONS OF THE AUDUBON NEW COMMUNITY SPECIFICALLY COVERED BY THIS OFFERING PLAN TO THE EXTENT SET FORTH HEREIN. A detailed description of the portions of the Audubon site covered by this Offering Plan, the development therein to date and now being undertaken, including the number and types of dwelling units to be built, is set forth in Part II below.

### 1.5. CONTRACT WITH TOWN OF AMHERST

On June 22, 1972, UDC and the Town of Amherst entered into a contract with respect to the development of Audubon (the "Town Contract"). The Town Contract, as amended on February 14, 1973, sets forth the respective right, duties, obligations and responsibilities of UDC and the Town in the development of Audubon and imposes certain important limitations on such development – such as the total number of dwelling units which may be built (9,400), the acreage which may be devoted to various uses in each section of Audubon, and the number and ratio of conventionally-financed housing to certain types of government-assisted housing (4 to 1).

The Town contract provides that the boundaries of Audubon are the same as the "Audubon Site" shown on Exhibit A attached. The approval of the Town would be required to include additional lands in Audubon. The Town Contract also provides that prior to January 1, 1977, no construction is permitted north of North French Road (see Exhibit A) except for streets, utilities and similar facilities.

Because lands owned by UDC are exempt from real property taxes, the Town Contract provides for UDC to make certain payments in lieu of taxes to the Town. However, homeowners in Audubon will pay normal town, county, school and special district taxes on their property. UDC's obligation to make certain payments in lieu of taxes under the Town Contract (and under its contracts with the School Districts as provided below) will impose no extra liability on homeowners in Audubon.

The Town contract contemplates the creation of the New Community District zoning, described in Section 1.8 hereof, and the creation of the Audubon Development Corporation, as described in Section 1.7 hereof, both of which have since been created in accordance with the terms of the Town Contract. It provides for the construction of recreational facilities and public roads, sewers and storm drainage and other utilities, many of which are to be constructed by UDC on lands within Audubon which UDC will dedicate to the Town (or Special Districts).

All development in Audubon must be in accordance with and must not violate the terms of the Town Contract; however, no representation or warranty may be implied from the Town Contract that any or all such development will occur.

The 48-page Town Contract is available for inspection by the public at the Amherst Town Hall (Town Clerk's office) and at the UDC Audubon office.

### 1.6. CONTRACTS WITH SCHOOL DISTRICTS

In 1973 UDC entered into separate contracts with both the Sweet Home Central School District (No. 7), and the Williamsville Central School District (No. 3), the two independent School Districts in which the Audubon Site is located. These contracts require UDC to donate sites for new schools if requested by the School Districts, to make payment in lieu of taxes on UDC-owned tax-exempt land, and to make other "Tax Revenue Impact Payments" in accordance with formulas set forth in the Contracts, all to assist the School Districts in providing facilities to meet Audubon's anticipated needs. Copies of these contracts also are available for inspection by the public at the UDC Audubon office.

As stated in Section 1.5 above, UDC's contracts with the School Districts do not impose any other liability on Audubon homeowners than for normal tax payments. Although UDC is obligated under the contracts to make "Tax Revenue Impact Payments" to both School Districts for seventeen years, UDC cannot represent or warrant that current tax rates will continue in effect for such period or that School District tax rates will not change at the conclusion of such period.

### 1.7. THE AUDUBON DEVELOPMENT CORPORATION

Pursuant to the Town Contract, UDC has created a subsidiary corporation, the Audubon Development Corporation, to provide UDC with policy guidance, advice and local reviews in carrying out the planning goals of Audubon.

More specifically, the Corporation's functions include acting as liaison with the Town of Amherst and the School

Districts; assisting in coordinating the interrelated activities of Federal, state and local agencies which affect the development of Audubon (such as highway planning or sewer improvements); advising UDC on issues of concern to Town residents; overseeing the detailed planning for the new community; reviewing designs and plans for dwelling units and community facilities proposed for construction in Audubon; reviewing and assisting in formulating major Audubon policy and financial matters which may impact on local taxing jurisdictions and assessing the impact of such policy decisions on the comprehensive long range development plan for the new community.

A majority of the directors of the Audubon Development Corporation are Town of Amherst officials, local School Board officials and Town residents.

### 1.8 ZONING AND OPINION OF COUNSEL

As contemplated in the Town Contract, the Town of Amherst amended its zoning ordinance to provide a New Community District ("NCD") zone. NCD zoning provides five permitted Use Classifications – "Major Open Space," "Neighborhood," "Local Center," "General Commercial" and "Restricted Industrial." Many different but related uses are allowed within each Use Classification. Before land can be rezoned as NCD, the Town of Amherst must approve a Development Plan showing, among other things, the Use Classifications proposed for the land. After the rezoning, the Town must approve a detailed site plan covering each portion of the New Community District before actual development can take place.

On February 12, 1973 the Audubon Site was rezoned as a New Community District. The Town-approved Audubon Development Plan shows only three Use Classifications for Audubon – Major Open Space, Neighborhood and Local Center.

The Use Classifications for the portions of Audubon covered by this Offering Plan are described in Part II. *(See opinion of UDC's Counsel, on the following page for a statement on compliance with Town zoning requirements.)*

Uses permitted in the Major Open Space Use Classification include recreation areas, parks and wooded areas, conservation areas, pedestrian and bicycle circulation systems and special limited commercial services compatible with the permitted uses, i.e., a snack bar in an active recreation area. Uses permitted in the Neighborhood Use Classification include all types of residences and dwelling units, except hotels and motels, community facilities (such as schools, churches and day care centers), recreation facilities and areas, and convenience retail and service facilities (except for drive-in restaurants). Uses permitted in the Local Center Use Classification include retail sales and service facilities, business, professional and community service office facilities, hotels and motels, restaurants, clinics, nursing homes and movie theaters.

An amendment to the Development Plan would have to be approved by the Town in order to develop in Audubon any uses not permitted in these three Use Classifications. However, UDC represents that there will be no amendment to the Development Plan with respect to the portions of the Audubon Site specifically covered by this Offering Plan as described in Part II.

NDC zoning permits a new flexibility and opportunity in planning for a wide range of uses to best serve a community which would not be available under a conventional zoning ordinance. For instance, it permits "cluster planning" in which small groups of homes are "clustered" on relatively small lots around a "cul-de-sac" or other "dead end" non-through street. "Clustering" leaves large amounts of open space available for all types of recreation. Most residential development in Audubon is planned as cluster housing.

### 1.9. OPEN SPACE AND COMMON AREAS

More than one-fourth of the entire Audubon Site is planned for recreation or as open space common areas. As explained below, some of these lands are planned for dedication to the Town or a Special District; the remainder, for dedication to the "Audubon Association." For a discussion of the open space and common areas in the portions of Audubon covered by this Offering Plan, see Part II.

Pursuant to the terms of the Town Contract, parks of 25 acres or more in Audubon will be dedicated to and maintained by the Town of Amherst for use as Town parks, as may four additional parks between 10 to 25 acres in size. The use of these Town parks will not be specifically restricted to residents of Audubon but will be open to all residents of the Town of Amherst. The Town Contract also provides that the Town of Amherst will own and maintain those "pedestrian pathways" that will link major facilities in Audubon (such as the Town parks, commercial centers, recreational centers, schools and other key facilities).

Special Districts can be created by the Town of Amherst pursuant to the Town Law of the State of New York to provide services to defined areas within the Town. A Special District obtains the funds necessary to carry out its functions by special assessments to be paid by the individual property owners of all properties within the District. These assessments are billed and payable with the annual County and Town tax. The entire Audubon site is presently within Storm Drainage District No. 16, Sanitary Sewer District No. 16, and Water District No. 9, all of which also cover other lands in the Town of Amherst. The Town Contract permits the creation of other Special Districts for Audubon which may or may not include other lands outside of the Audubon Site. Certain portions of the open space in Audubon may be dedicated to one or more of these Special Districts. Any lands within the portion of the Audubon site covered by this Offering Plan

*1.9. Continued on page 6*

New York State
Urban Development Corporation

1345 Avenue of the Americas, New York, New York 10019 / (212) 974-7000

May 29 , 1975

David F. Parker
General Manager
Audubon New Community
2222 Millersport Highway
Amherst, New York 13027

Dear Mr. Parker:

This is to acknowledge your request for an opinion of the Office of General Counsel relative to a certain Offering Plan filed with the New York State Department of Law pursuant to Section 352 (e) of the General Business Law. The Offering Plan will offer interests in certain lands within the Audubon New Community through membership in the proposed Audubon Association, Inc. (the "Association").

I have reviewed the Certificate of Incorporation and By-Laws of the Association; the Declaration of Protective Covenants, Conditions and Restrictions for Audubon recorded in the Erie County Clerk's Office; the provisions of the New York State Urban Development Corporation Act of 1968, as amended, (the "UDC Act"); the proceedings of the Town Board of the Town of Amherst; and all other pertinent documents relative to the contemplated filing of such Offering Plan. Based upon such examination, it is my opinion:

1. That under existing law and Administrative regulations, property owners within Audubon who own property subject to the Declaration of Protective Covenants, Conditions and Restrictions -- Audubon (the "Declaration") will not be entitled to take as deductions for Federal or State income tax purposes, any portion of the Assessments paid by them to the Association;

*SPONSOR IS OBLIGATED ONLY TO DEVELOP THOSE PORTIONS OF THE NEW COMMUNITY, INCLUDING THE COMMON AREAS, TO THE EXTENT DESCRIBED BELOW. THE MATERIAL IN PART I OF THIS OFFERING PLAN IS PRESENTED AS BACKGROUND INFORMATION ONLY.*

# PART II:

# DEVELOPMENT PLANS FOR THE PROPERTY AND AUDUBON FACILITIES COVERED BY THIS OFFERING PLAN

## 2.1. A BRIEF DESCRIPTION OF ASSOCIATION AREA 1

Association Area 1 consists of 95.36 acres, as shown on Exhibits A and B. It is located in the south-eastern sector of the Audubon Site and represents, in area, approximately 1/20th of the Audubon Site.

Association Area 1 is generally bounded on the east by Campbell Boulevard and on the southeast by Millersport Highway. However, along the west side of Campbell Boulevard are several properties adjoining Association Area 1 which are not to be acquired by UDC for the new community. Five single family houses adjoin Audubon Clusters 6 and 9 as shown on Exhibits B & C. These lots are zoned "Suburban Agricultural". Just north of the intersection of Campbell Boulevard with Millersport Highway, is located Muck Motors, an automobile dealership, and a two-story frame house belonging to the Muck family (also shown on Exhibit B). The Muck property is zoned commercial. The single family homes, as well as Muck Motors and the Muck home, are screened from Association Area 1 by landscaping, rees and fencing. Across Campbell Boulevard from Association Area 1 is a parcel of land, currently undeveloped, which is zoned for commercial use. This property, which UDC does not own and which UDC does not intend to acquire because it is outside the Audubon site, will most likely be developed for commercial retail or office use.

Across Millersport Highway from Association Area 1 are three short-order restaurants, including a Burger King Restaurant, and Getzville Plaza – a small convenience shopping area which contains a small grocery store, drug store, barber shop, liquor store, post office and other shops. This area is all zoned commerical. To the south of Getzville Plaza on the east side of Millersport Highway is land owned by UDC as part of the Audubon site and planned for office space or residential development. Millersport Highway is also screened from Association Area 1 by landscaping and trees.

Association Area 1 is in the Williamsville School District. Pursuant to its contract with the Williamsville District, UDC has offered a 12 acre site west of Association Area 1 as shown

Pursuant to its contract with the Town of Amherst, UDC will offer for dedication to the Town 57.5 acres of land to the west of Association Area 1 (including Walton Pond as shown on Exhibit B) as part of an overall storm drainage and recreation system. (UDC makes no representation as to when this dedication will take place.) In the western portion of this area (to be known as Walton Wood) a 15 acre lake to be known as Lake Audubon is now under construction. To the west of the lake, UDC is planning Audubon Center – the first major commercial center in the new community. (Audubon Center is still in the early planning stage. UDC makes no representations as to Audubon Center – its size, the specific uses therein, or when, if ever, it will be developed.)

Land in the Audubon site to the southwest of Association Area 1 (west of Millersport Highway) – including a tract between Clusters 12 and 19 – is planned for residential development, as is a small tract of land between Cluster 7 and the Niagara Mohawk right-of-way.

The northern boundary of Association Area 1 is the "Peanut Line" – a 66 foot wide abandoned railroad right-of-way which has been dedicated to the Town of Amherst. The Town is planning to construct a roadway (New Dodge Road) and a major underground sanitary sewer line along this right-of-way which is part of the expansion of Sanitary Sewer District #16 facilities.

Immediately to the north of the Peanut Line is land within the Audubon New Community boundary, some of which UDC has acquired and is vacant and some of which is presently developed with homes and antique/craft shops, which UDC does not plan to acquire. UDC has no firm plans for development of this area.

Association Area 1 is in the Williamsville School District. Pursuant to its contract with the Williamsville District, UDC has offered a 12 acre site west of Association Area 1 as shown on Exhibit B to the District for construction of an elementary school (grades K to 5). The District has indicated its acceptance of this site, but has not determined the size of the school, the number of pupils it will serve, or when it will be built. Children in the K-5 age group who live in Association Area 1 will most likely attend this new school when it is built. When requested by the District, UDC will donate the site to the District. The District will then be responsible for designing, financing and constructing the school. At present, children in Association Area 1 will attend Heim Road Elementary School (grades K to 5) and the Heim Road Middle School (grades 6 to 8), both 1.1 miles from the intersection of Campbell Boulevard and Millersport Highway, and Williamsville High School North, 2.1 miles from that intersection. The School District presently provides bus service to all these schools.

There is no property zoned for or planned for industrial use near Association Area 1, either within or without the Audubon site. The closest industrially zoned land, which is for light industrial use only, is University Center Park, 1.9 miles to the west of the Property, and outside the Audubon site.

The Town-approved Audubon Development Plan designates all of Association Area 1 for Neighborhood Use. Based on detailed site plans submitted by UDC pursuant to the NCD zoning, 587 dwelling units have been approved by the Town of Amherst for development in Association Area 1. The number, type, and locations of the dwelling units are described in Section 2.2 below.

Walton Pond Center, described in detail in Section 2.3(b) below, will be dedicated to the Audubon Association by UDC. In addition, within housing clusters, landscaped common areas, pathways, tot lots, roadways and parking areas will be developed and dedicated to the Audubon Association as described in further detail in Section 2.3(a) below.

Except for possible development of a small-scale convenience commercial facility adjacent to Walton Pond Center (as described in Section 2.3(b) below) no commercial facilities will be developed in Association Area 1. The convenience commercial facility will only be developed if one or more private entrepreneurs decides there is a sufficient market to support such facilities. UDC neither represents nor warrants when such facilities will be developed, if ever. No industrial facilities will be built in Association Area 1.

As shown on Exhibit B, certain streets are to be dedicated to the Town as public streets. On February 18, 1975 the Town accepted dedication of Little Robin Road, the cul de sacs in Cluster 12, and a major portion of Robin Road. The Town also accepted an easement for public highway purposes over Walton Way. The remaining public streets in Association Area 1 are now under construction. Over $400,000 has been included in the Development Trust Fund described in the Risk Factors and Section 2.6 hereof to assure completion of these streets. Based on UDC's current estimates this amount should be sufficient, although UDC cannot warrant or represent that it will be. UDC anticipates that these streets will be completed during the 1975 construction season and plans to dedicate the streets to the Town not later than May 31, 1976. UDC has constructed these streets to standards and specifications approved by the Town. After dedication, the Town will own, maintain, snow plow and repair these streets. The Town will also own and maintain certain Town pathways, shown on Exhibit B, which UDC will construct and dedicate to the Town. Based on UDC's present estimates, there are sufficient funds in the Development Trust Fund to assure completion of these Town pathways although UDC cannot represent or warrant that this amount will be adequate.

As shown on Exhibits B and C, the Niagara Mohawk Power Corporation owns property which divides Association Area 1. This land is the right-of-way for major above ground transmission lines. These lines are suspended between towers 76 feet high and at their low point the wires are 32 feet above the ground. Niagara Mohawk has permitted UDC to construct pathways and roadways to be dedicated to the Town across this right-of-way. Niagara Mohawk presently maintains the right-of-way, primarily keeping its facilities free from trees and large bushes, but is willing to permit the Association to mow, clean or even landscape the right-of-way if the Association chooses to do so. UDC makes no representation at this time as to what the Association will choose to do in this regard.

### 2.2. DWELLING UNITS

Dwelling units to be developed on the Property will be of a variety of styles and types, attached and detached, in a variety of price ranges, both for sale and for rent.

As discussed in Section 2.1 immediately above, the Town of Amherst has approved the development of 587 dwelling units for Association Area 1. In implementing the Town-approved site plans for Association Area 1, the total number of dwelling units planned has been reduced to 585 with the following mix: 81 single family detached houses for sale; 136 rental garden apartments; 100 rental townhouses; 88 condominium garden apartments; 52 for-sale patio houses (semi-attached one-story houses); and 128 for-sale townhouses. The estimated total population of these 585 dwelling units is 1,340. (It should be noted that UDC has asked the Town to approve an amendment to the Site Plans for Association Area 1 changing Cluster 11 from 40 for-sale patio houses and townhouses to 72 rental apartments; this change if approved would increase the total number of dwelling units planned for Association Area 1 from 585 to 617, housing an estimated population of 1,353.)

All dwelling units will be built by private builders and developers according to plans which UDC or UDR approve. A homebuyer will buy his or her dwelling unit from a private builder and a tenant will rent his or her dwelling unit from a private landlord.

The dwelling units will be designed in clusters. The size of each cluster will vary. The locations of the clusters and the number and type of units planned for each cluster are shown on Exhibit C attached. Those Clusters for which plans have been completed and approved by UDC or UDR are depicted on more detailed "Cluster Maps" attached as Exhibit D. Each of these Cluster Maps attached shows a site plan of the units in the cluster, the number and types of dwelling units, and other pertinent information. More detailed plans and other information on the dwelling units constructed or to be constructed in these clusters may be obtained from UDC or from the builder of such units. As plans for the remaining clusters to be developed on the Property are finalized and approved by UDC or UDR, detailed "Cluster Maps" for those clusters will also be attached to this Offering Plan by way of an amendment. The Cluster Maps for these remaining clusters planned for development on the Property will look very similar to the attached Cluster Maps for similar types of units.

As the Cluster Maps attached indicate, the clusters will contain relatively little privately owner property. In the single-family housing clusters, homeowners will maintain their own lots, which will be generally adjacent to "common areas" to be owned and maintained by the Association. Homeowners in attached housing clusters will own and maintain smaller patios or "gardens" with most of the property outside of the actual building plots to be owned and maintained by the Association as "common areas." Additional information with respect to the development of these "common areas" is set forth in Section 2.3 of this Offering Plan.

UDC CANNOT REPRESENT OR WARRANT THAT THE DWELLING UNITS PLANNED FOR ASSOCIATION described in Section 2.3(b) below. In Cluster 7 and between Clusters 16 and 18, as shown on Exhibit F, there will be full regulation-size courts (with a minimum paved area of 46' by 85 These courts are to be paved with a 3" stone base and a 1" blacktop surface. The two cluster courts are to have backboard structures permanently mounted in concrete. All backboard structures will be Model #541-614 manufactured by SportsPlay Products.

(4) **Lawns and Landscaping.** All unpaved common areas within clusters will be landscaped in accordance with common area development plans approved by UDC and UDR. All areas to be landscaped will have a topsoil surface sufficient to support the vegetation planned for the area as described below. This vegetation will vary depending on the terrain, water run off conditions, the uses planned for the area and the amounts and types of existing vegetation.

Level lawn areas (as opposed to playfields) will be seeded with a blend of Kentucky blue grass and Kentucky 31 fescue with some rye (or a comparable blend) to provide a fine and verdant permanent lawn. Playfields and sledding slopes will be seeded with a mixture of coarser grasses. However, in lawn areas which are gently sloped so that water run-off may be of concern, grasses and bank stabilants appropriate to preserve the slopes will be planted.

In shaded areas where grass will not grow, or as an attractive alternative in selected areas, ground covers (such as crown vetch, pachysandra or periwinkle) or mulches (such as pine bark or coco chips) will be provided.

screen housing units both visually and acoustically earthen berms (sloped and landscaped mounds of earth 3-8 feet high) have been provided in Association Area 1 along Millersport Highway, Campbell Boulevard and in back of Muck Motors. These berms as well as the play hills will be seeded with a mixture of wildflower and field grasses, so that these areas will require only infrequent cutting.

UDC will oversee the seeding of these areas and, if necessary, will require reseeding until the vegetation "takes". (Again, UDC will look first to its contractors to reseed where necessary. UDC estimates that funds in the Development Trust Fund should be adequate to meet the cost of any seeding it might have to undertake but has no assurance that it will be.) After the vegetation "takes" and an area is dedicated to the Association, the Association will be responsible for maintenance. Homeowners with private yards fronting on Association-owned streets will be expected to maintain the small amount of common land area between their lot lines and the edge of the street.

The numbers and types of trees to be planted in the housing clusters will depend initially on the numbers and types of existing trees. Additional trees will be planted where necessary so that there will be overall not less than three trees per dwelling unit in a cluster. (In many cases, there will be more.) Some of these will be in the common areas; some in private yards. All new trees to be planted will be at least 2" in diameter as measured 12" above the ground. Trees will not be planted in a regular pattern but instead will be planted to screen, shade or act as a focal point.

UDC has prepared a list of over 100 trees — both evergreen and deciduous — which are well-suited to the Audubon climate. (UDC has also prepared a list of 20 trees — including, for instance, the American Elm — which may not be planted in any common areas because they are disease prone, short lived, weak limbed, or have other undesirable characteristics.) These lists are available for inspection at the UDC Audubon office.

Shrubs will also be provided in housing clusters both in the common areas and in private yards (to be selected from a list which UDC has prepared of over 100 shrubs and bushes, most of which require only infrequent pruning or shaping). This list is available at the UDC-Audubon office. UDC has established criteria for the placement of shrubbery: to act as a focal point and to screen certain views, such as parking lots and bare walls. Overall in each cluster there will be not less than 1 shrub per dwelling unit. Shrubs will be not less than two years old when planted.

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The Cluster Maps attached as Exhibit D depict the common areas to be developed within each of these clusters. In addition, more detailed drawings and plans for development of those common areas are available for inspection at the UDC Audubon Office. These plans have all been approved by UDC or UDR and follow the standards and criteria listed above. The exact location, size or configuration of the areas and facilities may vary slightly when they are completed, but will be substantially as depicted on the Cluster Maps and in the additional drawings and plans.

Common Areas to be developed within the remaining clusters planned for development on the Property but not shown at this time on a Cluster Map will also follow the standards and criteria listed above and will be generally similar to the common areas shown on the Cluster Maps attached for similar types of dwelling units. Where facilities such as basketball courts and playfields as depicted on Exhibit F are planned for one of these clusters for which no Cluster Map is attached, such facilities will be provided within the cluster as described above and as shown on Exhibit F, although the exact location within the Cluster may vary as final plans are prepared. The only exception to the foregoing might be the tot lots planned for these remaining clusters. Plans for the tot lots in such a cluster might change if the number or type of units planned for that cluster changes substantially. For instance, if a cluster planned for two and three bedroom townhouses were changed to zero and one bedroom garden apartments, the tot lot might end up smaller because the number of children would be less. If that same garden apartment cluster were reserved for the elderly, the tot lot might be omitted altogether. Likewise, if the number of children projected for a cluster increases because of a change to larger family size units, the size of the tot lot may also increase.

The timing of development of the common areas within a cluster will vary from cluster to cluster with the type of units in the cluster. Within the single family housing clusters, Clusters 1, 2, 3, 4, 5, 6 and 12, where the less extensive common areas are not directly adjacent to the dwelling units to be constructed, the common areas will be completed not later than May 31, 1977, whether or not the dwelling units in those clusters are completed by that time.

However, within an attached housing cluster, timing of development of the more extensive common areas is more directly tied to completion of the dwelling units in the cluster. For instance, the cluster roadway will be installed prior to or simultaneously with construction of the dwelling units in the cluster. It will be completed at least up to each dwelling unit (except possibly for the final road paving surface) when such dwelling unit is otherwise ready for occupancy. (Otherwise, the Town of Amherst will not issue a Certificate of Occupancy for the dwelling unit.) As the construction site for the dwelling units must of necessity cover an area larger than the area of the dwelling units, and will thus cover some of the proposed common areas, improvement of most of the common areas in an attached housing cluster must await completion of the dwelling units, removal of construction equipment and materials from the area, and final grading of the construction site. In addition, timing of such work as landscaping, tree planting and paving may be affected by weather conditions.

In an attached rental housing cluster, the dwelling units will be constructed more or less at the same time and it is thus possible to predict with reasonable certainty when the common areas in the cluster can be completed. THE COMMON AREAS IN CLUSTERS 8, 9, 14, 19 AND 21 (RENTAL GARDEN APARTMENTS AND TOWNHOUSES) WILL BE COMPLETED NOT LATER THAN OCTOBER 31, 1975. Cluster 7 is also planned for rental garden apartments, but neither UDC nor UDR know when construction will commence (a builder has not been selected) SO A FIRM DATE FOR COMPLETION OF THE COMMON AREAS IN CLUSTER 7 CANNOT BE SET. Barring unforeseen problems, however, Cluster 7 common areas should be completed within two years after the construction of the dwelling units in Cluster 7 commences. (The foregoing will also hold true for Cluster 11 if there is a change to rental housing as proposed.)

In housing clusters – both attached and detached – where units are to be sold (rather than rented), the units are generally not built all at one time. The builder, for economic reasons, will usually build a few "models" and will build additional units only when prospective purchasers "order" a home to be built. Because it is impossible to predict, therefore, when all the units in the cluster will be completed and because completion of the common areas in an attached housing cluster must await completion of the units for the reasons set forth above, UDC CANNOT REPRESENT OR WARRANT AS TO WHEN ALL THE PROPOSED COMMON AREAS WITHIN CLUSTERS 10, 15, 16, 17, 18 AND 20 WILL BE COMPLETED. The foregoing holds true for Cluster 11 if there is no change to rental housing.

AS SOON AS THE COMMON AREAS WITHIN A CLUSTER ARE COMPLETED, THEY WILL BE DEDICATED AT NO COST TO THE ASSOCIATION BUT ONLY IF AT LEAST 2/3 OF THE TOTAL UNITS PLANNED FOR THE CLUSTER ARE CONSTRUCTED AND OCCUPIED. This restriction is so that there will be sufficient residents in the cluster paying the "Maintenance Assessments" (See Section 3.4 below) to offset the cost to the Association of maintaining the cluster's common areas.

This restriction could affect the dedication of completed common areas in the single family and attached rental clusters – where the common areas may be completed before 2/3 of the units in the cluster are occupied. (This restriction will not likely affect the attached for sale clusters because, as explained above, the common areas in such clusters can not be completed until all the units are constructed and most likely occupied.) However, UDC and UDR will allow the owners and occupants of the dwelling units in the cluster, as well as other residents and owners of the Property, to use and enjoy the common areas as they are completed, before they are dedicated to the Association (subject, of course, to reasonable rules and regulations to protect the health and safety of the users and prevent destruction or damage to property). UDC will also be responsible for maintenance of these completed common areas prior to their dedication to the Association.

It is presently projected that the first of the common areas will be dedicated to the Association around June 1, 1975. Estimates of the Association's expenses through the period ending May 31, 1976 and based on this projection are set forth in Section 3.5.

UDC will provide or cause to be provided (and pay for) title insurance for the common areas when they are dedicated to the Association.

Over $600,000 has been included in the Development Trust Fund described in Section 2.6 to assure the timely completion and dedication of the common areas in housing clusters. Much of the work has already been completed – particularly in those clusters for which Exhibit D Cluster Maps are attached. Of the remaining work, most is to be financed directly by UDC – approximately $550,000 based on UDC's current estimates and this has been included in the Development Trust Fund. Some of the remaining work is to be financed by the private builders through their own banks or financing sources and not by UDC. The presently estimated cost of this work, excluding cluster roadways and parking lots, but including certain tot lots, pathways, landscaping and planting, is $108,000. To assure completion of these common area facilities by the builders, UDC has included one-half of the estimated cost of this work or $54,000 in the Development Trust Fund.

In addition to the funds for development of common areas as set forth above, $69,000 has been included to cover UDC's maintenance obligations prior to dedication of facilities to the Audubon Association, the Town of Amherst or a special district (as may be appropriate) and to cover any defects in common area facilities which UDC may be forced to correct. Although UDC estimates that these various amounts should be adequate to cover such costs, UDC can make no representation or warranty that these allocations will in fact be adequate.

An additional $1,400 has been included for title insurance based on cost estimates from a title company.

**(b) Walton Pond Center**

A Community Center to be known as Walton Pond Center is now under construction by UDC on a 2.9 acre tract along the east side of a pond as shown on Exhibit B. Walton Pond Center will include a community building, swimming and wading pools, four tennis courts, parking for 80 cars, and basketball courts (on a portion of the parking lot). A detailed site plan of the Center is shown in Exhibit E. When it is completed, it will be dedicated, at no cost, to the Audubon Association. The dedication is presently projected to take place around June 1, 1975, but shall in no event be later than September, 1975.

Detailed plans and specifications for Walton Pond Center which is estimated to cost $580,000, are available at the UDC Audubon Office. Approximately $115,000 of the Development Trust Fund is allocated for completion of Walton Pond Center. UDC's present estimates indicate that this amount should be sufficient but cannot warrant that it will be.

The Audubon Association will then own, operate and maintain Walton Pond Center for the benefit of the residents and owners of the Property. All residents of the Property as members of the Audubon Association will be entitled to use the facilities in the Center, subject to rules and regulations which the Association may adopt.

As is described in further detail in Sections 3.5 and 3.6 hereof, the Association is projected to run a deficit through fiscal year 1976-1977. As is more fully described in Section 3.6, UDC has agreed to make up these deficits and has established the $65,000 Association Deficit Trust Fund to assure the availability of funds to meet these projected deficits. UDC's obligation to meet any deficits continues until June 1, 1979, although the Association is expected to operate without a deficit beginning in fiscal year 1977-78.

Walton Pond Center has been designed to accommodate up to 1,500 families – many more than the 585 to 617 families who will live in Association Area 1. It has been designed to serve other areas of Audubon planned for future development. To help defray maintenance and operating costs and to reduce the Association's deficit during the next few years, the Association will most likely permit nonresidents of Audubon to use the Walton Pond Center facilities on a fee-paying membership basis. Memberships may be made available for the pools and tennis courts separately or on a combined basis. The number of such memberships to be sold and the fees to be charged therefor would be determined each year by the Association. As explained in Section 3.2 hereof, UDC controls the Board of Directors of the Association until January 1, 1985. In this capacity, UDC represents that prior to June 1, 1979, the maximum number of annual individual and family memberships for use of the swimming pool will not exceed 350. In addition, any membership plan for the tennis facilities will in some manner give a preference to Audubon residents.

The Directors of the Association have voted to make available during summer 1975 up to 350 pool-only individual and family memberships, at the following rates:

| | |
|---|---|
| $40 | individual membership |
| $65 | family |

(It is not expected that more than 100 of such memberships will actually be sold for 1975.)

The Association has not decided at this time whether to make tennis memberships available for summer, 1975 or on what basis.

The Declaration also permits the Association to charge fees to Audubon residents for the use of its facilities. UDC represents that prior to June, 1979, no fees will be charged by the Association for use by residents of facilities in Association Area 1, although the Association may charge guest fees. Moreover, at the present time, UDC has no plans for the Association to charge such fees even after June, 1979, but might support a fee system if there seems to be a consensus among the residents to establish one at that time.

The community building is a one-story frame structure with a clerestory roof, constructed on a spread footing foundation with reinforced concrete foundation walls. Its exterior finish is stained rough-sawn textured "T-111" plywood with an asphalt shingled roof. The overall dimensions of the building are approximately 103' by 52'. On the west side of the community building is a wooden deck, measuring 17' by 77', overlooking the lake.

The community building contains a 31' by 51' community room, plus one 17' by 26' meeting room, a kitchen, dressing rooms, a room which may be used for first aid, six restrooms, and storage and mechanical rooms. The community building (except for the dressing rooms) will be heated by a gas fired hot air system. (See below for make and model number of furnace.) The dressing rooms are unheated. The community building will not be air-conditioned.

The ceiling/roof over the community room and lobby is exposed wood planking, topped with 1½" rigid insulation and asphalt shingles. The rest of the community building has dropped ceilings: "T-111" plywood in the dressing room area and ½" gypsum wall board in the remainder. The roof over these portions is ½" plywood sheathing with 15 pound felt paper, 6" insulation in the ceiling, and 235 pound asphalt shingles.

All exterior walls in the community building (except those in the unheated dressing room area) have 3½" fiberglass insulation, as will the wall separating the unheated dressing room area from the rest of the building. The exterior walls in the dressing room area are not insulated. Interiors in the community building are faced with stained "T-111" plywood and painted ½" gypsum wall board, except that the shower room and restroom in the dressing room area each have 1 wall of glaze-coated concrete block.

Floors in the community room and meeting room have carpeting (Lees, "Credential" coppertone #4095-12 tufted nylon with padding); in the entry lobby – quarry tile; in the kitchen and corridor – vinyl asbestos tile (Armstrong #51858, Sandrift white), and in the dressing room area – concrete with hardener.

All windows in the community building (except the one in the unheated dressing room area), as well as the sliding glass doors opening out to the deck, have insulated glass.

The kitchen has walnut colored vinyl coated pressboard cabinets manufactured by Villa Manufacturing Company and "suede" finish formica counters, and includes a sink, a 13.5 cu. ft. refrigerator, a 30" gas range and a dishwasher. (The make and model numbers of the appliances are set forth below).

The community building contains the following fixtures and appliances (including make and model number):

125 gallon gas hot water heater

Glashield 40-GA-125-G manufactured by Pressure Vessels, Inc.

400,000 B.Y.U.H.: 336 gal/hr. recovery.

Hot air gas furnace

Tjernlend 437,500 B.T.U. input; 350,000 B.T.U. output; 3035 CFM.

**Kitchen:**

13.5 cu. ft. refrigerator

General Electric TB-14SL

Sink

Kohler 12522-4-stainless steel single bowl

30" gas rangeTappan 30-1004

Sink

Kohler 12522-4-stainless steel single bowl

30" gas range

Tappan 30-1004

Range Hood

General Electric JV-31

Dishwasher

General Electric GSD-281

**Restrooms:**

9 toilets

Kohler-Kingston Line – K4430ET

4 urinals

Kohler-Bardon Line – K4980-T

10 lavatories

8 Kohler-Farmingdale Line-enameled cast iron vanity-mounted – K2900

2 Kohler-Jamestown Line-enameled cast iron wall-mounted – K-2054

1 mop sink

Cutler MSB32T

**Drinking Fountains:**

2 exterior

1 wall-mounted (on front of building) – Hawes 2000

1 free-standing pedestal (in swimming pool area) – Hawes 3100-HFP

The main swimming pool is an L-shaped pool with a 25-meter competition area 42' wide and a separate shallow teaching area approximately 32' by 32'. The competition pool is 3'-0" at the shallow end, 5'-0" at transition and 11'-0" at the deepest point. There are two 1 meter diving boards. The teaching area is 2'-6" at the shallow end and 3'-6" at its deepest point. In addition to the main pool, there is a separate 250 square foot wading pool with depths varying from 6" to 1'-6". The main swimming pool, in accordance with standards established by the Erie County Health Department, is designed for a capacity of 166 persons. The entire fenced-in deck area around the two pools measures approximately 16,300 square feet. The plans and specifications for the pools have been approved by the Erie County Health Department and no further approvals by the Department will be required before the pools can be opened. The pools will be opened not later than June 30, 1975.

The four tennis courts will each be regulation-size (36' by 78') in an overall enclosed paved area of approximately 230' by 108' as shown on Exhibit E. The all-weather playing surface will have an 8" stone base course on a compacted subgrade, with a 1½" bituminous binder course and a 1½" bituminous top course, topped with "Multisurf" color sealer acrylic coating manufactured by Playtime U.S.A. The tennis courts will be opened not later than June 30, 1975.

If Walton Pond Center has not been dedicated to the Association by the time the pools and/or tennis courts are ready for use UDC will permit the Association to use the facilities until they are dedicated.

The Walton Pond Center parking lot can accommodate a maximum of 80 cars. The paving section for the Walton Pond Center parking lot is an 8" stone base, a 4" base stone with oil penetration course, a 2" asphalt binder course and a 1" blacktop wearing surface. Four cast aluminum 400-watt mercury vapor lighting fixtures (Moldcast #2200) illuminate the parking lot. On the northern third of this parking lot (using 29 parking spaces), there are three "junior size basketball courts, each of which will measure 35' by 63'. Each "junior" court will have two baskets and a gross play area of 37' by 65'. A full regulation-size court will overlay the three junior courts; there will be sockets in the paved surface to accommodate portable backboard structures for the full size court. The "junior size" basketball courts have backboard structures permanently mounted in concrete. All backboards will be Model #541-614 manufactured by SportsPlay Products). A sign will be erected in the parking lot directing drivers to park in the other portions of the lot first; however, when the lot is crowded, basketball enthusiasts will have to play on the courts in Clusters 7 or 16/18.

Detailed plans and specifications for Walton Pond Center which is estimated to cost $580,000, are available at the UDC Audubon Office.

Until completion of its permanent visitors center planned for construction elsewhere on the Audubon Site (but in no event later than June 1, 1979), UDC will lease from the Association for use as its Visitors Center all of the community building (except the dressing rooms, adjacent restrooms and first aid room). During the term of this lease, the areas occupied will not be open to use by residents, except with UDC's consent. However, residents will be able to use the unleased portions – dressing rooms, restrooms, and first aid room – and the deck, as well as the tennis courts, swimming pools and basketball courts. UDC's lease will also permit visitors to the Visitors Center to park in the Walton Pond Center parking lot, but the parking lot will remain open to residents as well. UDC's use of the parking lot, however, may impair the use of the basketball court built on the parking lot, especially on weekends when visitor traffic may be heavy. UDC's lease will not allow for use of the tennis courts or swimming pools by visitors to the Visitors Center.

UDC and UDR will pay no rent, but will pay all maintenance and utility expenses associated with the community building, (including the areas still open to residents), the grounds and parking lot, but not the tennis courts and pools. The expenses to be paid by UDC include all heating, lighting and gas for the community building, janitorial and maintenance expenses for the community building, grounds and parking lots, telephone, and lighting for the parking lot. Expenses associated directly with operation and maintenance of the tennis courts and pools, including personnel, will be the Association's responsibility. An outline of the lease arrangements is available for inspection at the UDC Audubon office.

During the period that UDC leases the community building from the Association, UDC will provide to the Association space for offices, supplies and equipment at no cost (except utility charges) in one or more buildings owned by UDC within Audubon, but outside Association Area 1. After UDC vacates the community building, the Association can set up all or some of its offices in a portion of the community building – or make such other arrangements as it wishes at that time.

As indicated in Section 2.1 above, possible plans for development of one-half acre owned by UDC in front and to the north of the Community Center, as shown on Exhibit E, are still being considered by UDC and UDR. Until a decision is made with respect to this development, this half acre parcel will be retained by UDC. In the meantime, a small tot lot and a small ampitheater will be constructed on portions of this area, to be owned and maintained by UDC, but open to residents as well as visitors to the Visitors Center.

The two-unit tot lot will be built to the same standards described in Section 2.2(a) above. It will contain a wooden climbing structure of 3" x 12" and 12" x 12" timbers designed by UDC staff. Attached to the structure will be a metal slide, a swing and a 34" diameter round concrete pipe. Adjacent to the structure will be three 4' by 4' concrete mounted wooden springboards (wooden platforms on double metal springs).

The three-sided amphitheater which faces Walton Pond has been created of sodded earth and will have a wooden deck stage. It will accommodate about 40 people (who will sit on the grass or can bring their own blankets).

In addition, a "Corten" steel sculpture depicting birds in flight by Larry Griffis, has been installed by UDC near the amphitheater on this half-acre parcel.

If this land is developed, the tot lot and/or the amphitheater may be eliminated. The Larry Griffis sculpture will be relocated to another site within Audubon. Types of uses being considered for development on the half acre include a day care center, a convenience food store, a restaurant or additional recreational facilities. As indicated in Section 2.1, UDC can make no representation or warranty when this development will occur, if ever. If some or all of the facilities developed are of a recreational or civic nature – such as a day care center – that portion of this land and the facilities may be dedicated to the Association. Any commercial facilities will most likely be owned by a private entrepreneur. If UDC eventually decides not to develop this land at all, then most likely it will be dedicated, with tot lot and amphitheater, to the Association.

The projected costs for the first full year of operation of the Center, assuming dedication to the Association by June 1, 1975, assuming UDC's lease of the portions described above, and assuming some additional income from outside memberships during the summer, are included in Section 3.5 of this Offering Plan.

## 2.4. STREETS UTILITIES AND OTHER SERVICES

### (a) Streets and Pathways.

UDC will construct or cause to be constructed all streets, parking lots and pathways to serve the Property.

The streets and major pedestrian pathways shown on Exhibit B have been or will be dedicated to the Town of Amherst. Pursuant to the Town Contract, these public streets, to be built in accordance with standards and specifications approved by the Town, include the "major" collector streets – Robin Road, Little Robin Road and Robin Ridge Road – as well as the cul de sacs serving the single family detached housing clusters (Clusters 1-6 and 12). After dedication to the Town, the Town will be responsible for all maintenance and snow plowing, the cost thereof to be borne through normal Town taxes. Until dedication, UDC will be responsible for maintenance and snow plowing at no cost to residents of the Property. In addition, UDC has constructed a temporary road – Walton Way – connecting Campbell Boulevard with Robin Road as shown on Exhibit B, to serve as an entry road until a permanent entry road from Millersport Highway is completed. The Town agreed to maintain Walton Way when it accepted dedication of the public streets and until the new entry road onto Millersport Highway is completed and dedicated to the Town. After such dedication, "Walton Way" may be dedicated to the Association for recreational use. UDC has not yet determined the exact nature of the recreational facilities to be developed thereon, but present thinking is to preserve much of the present pavement for hard-surface play areas.

The blacktopped pedestrian pathway to be dedicated to the Town, which links Walton Pond Center with housing clusters as shown on Exhibit B, will be at least 10' wide.

Streets, cul-de-sacs and parking areas serving multi-family and attached housing clusters and the pathways within clusters will be dedicated to the Association in accordance with the criteria and procedures described in Section 2.3(a) above.

### (b) Storm Drainage and Sanitary Sewers.

As indicated in Section 1.9 above, the Property is part of

Storm Drainage District #16 and Sanitary Sewer District #16. Except as provided below, most of the storm drainage and sanitary sewer lines and major open ditches serving the Property (except service connections to buildings) – will be dedicated to and thereafter maintained by these Special Districts. The cost of these Special District facilities will be borne by the property owners in the District through standard Town assessment procedures. Many of these Special District lines will cross Association property. Service connections to a dwelling unit or other improvement (or several dwelling units under common ownership) will be owned and maintained by the individual property owner. However, in certain for-sale attached housing clusters, there will be a few small lines (less than 10" in diameter) which must be owned and maintained by the Association: these "lateral" lines generally serve a few dwelling units under separate ownership and link a larger special district collector with the individual service connections. Because they serve only a few units, they are too small to be accepted for dedication by the appropriate Special District. The cost to the Association of maintaining these facilities is expected to be negligible. Easements will be provided across Association-owned common areas as necessary for the District-owned or privately-owned facilities.

**(c) Water.**

Water for all of the Town of Amherst, including the Property, is supplied by the Erie County Water Authority. "Major" water distribution lines serving large numbers of dwelling units installed along the public streets on the Property or installed under the common areas will be dedicated to Special Water District #9 which presently serves the Property, and will thereafter be maintained by the Erie County Water Authority pursuant to its contract with the Water District. The cost of maintaining these lines will be borne by the property owners in the District through annual charges based on actual usage. Service connections to one dwelling unit or other improvement (or several dwelling units under common ownership) will be owned and maintained by the individual property owner served by the line. However, there are a few small distribution lines – mostly in for-sale attached housing clusters, which must be owned and maintained by the Association. These lines generally serve only a few dwelling units under separate ownership and link the larger water district distribution lines with the individual service connections. The cost of the Association of maintaining these lines will be negligible. Easements will be provided across Association-owned common areas as necessary for district-owned or privately-owned lines. The materials and methods of construction of all water lines, the distribution system and the water pressure to be furnished thereby serving the Property will comply with codes and regulations of the Town of Amherst, the Erie County Health Department and the Erie County Water Authority. The sizes of all lines will be in accordance with standards of the National Board of Fire Underwriters for the size, type and numbers of facilities served.

**(d) Gas, Electricity, Telephone and CATV.**

Natural gas will be supplied by National Fuel Gas Distribution Corporation, electricity by Niagara Mohawk Power Corporation, telephone service by New York Telephone Company, and cable television (CATV) by Amherst Cablevision, Inc. All lines will be underground (except the overhead transmission lines in the Niagara Mohawk right-of-way shown on Exhibits B and C and, possibly, some temporary overhead lines in areas still under construction), and will be owned, operated and maintained by the respective suppliers by virtue of easements to be granted by UDC or UDR prior to conveyance of common areas to the Association. The cost of monthly utility services will be the responsibility of the individual property owners and residents who use the services.

**(e) Lighting.**

UDC has made application to the Town of create a Special Lighting District for the Property. Lighting along the streets to be dedicated to the Town (as shown on Exhibit B) will be provided by this Special Lighting District. The District will assume all costs for the acquisition, installation, maintenance and operation of these lights and will assess property owners within the district in accordance with standard Town procedures. As Audubon grows, application will be made to the Town to expand this Special Lighting District accordingly. Lights along public streets will be located at all intersections and in between at a frequency of not less than one fixture every 200 feet.

Lighting fixtures for Association-owned streets and parking areas (including Walton Pond Center) will be installed or caused to be installed by UDC or UDR and will be dedicated at no cost to the Association. The Association will then own, maintain and pay utility charges for the lighting. The amount of illumination in common areas will conform to the accepted lighting standards of the National Illuminating Engineering Society, which standards specify intensities of lighting for varying uses.

**(f) Refuse Disposal.**

As is customary for residences in the Town of Amherst, refuse collection for dwelling units will be performed on a once-a-week basis by the private contractor(s) permitted to service the area by the Town of Amherst. UDC has arranged that the cost of such service shall be billed to the Association after June 1, 1975, and included in the annual Maintenance Assessments described in Section 3.4 below. The Association however may elect at any time in the future to ask the private contractor to bill the units directly. Owners and occupants of non-dwelling units will be required to make their own arrangements for refuse disposal.

The services of private refuse collection contractors is supplemented by the Town of Amherst which collects inert materials such as discarded furniture and appliances and leaves, pruned shrubbery and construction materials on a weekly basis, at no charge.

## 2.5. FIRE AND POLICE SERVICES

### (a) Fire.

Association Area 1 is in the Getzville Fire Protection District. Two Fire stations within 1 mile of the intersection of Campbell Boulevard and Millersport Highway are shown on Exhibit A. The fire station at Dodge Road and Campbell Boulevard has the following equipment: two 750 gallon-per-minute pumpers, one 1000 gallon-per-minute pumper and two fully equipped emergency rescue vehicles. The fire station at Heim and North Forest Roads has one 1000 gallon-per-minute pumper, one 75 aerial truck and one emergency rescue vehicle.

Plans for development for Association Area 1 were approved by the Fire District as to access and hydrant locations. In addition, the frequency of fire hydrant placement in Association Area 1 exceeds the standards of the National Fire Underwriters. There are no fire alarm call boxes planned for installation on the Property. Although the District's existing facilities are sufficient to meet Audubon's needs during the next several years, agreements between UDC and the Fire District provide that if Audubon grows as planned, one or more sites for new substations will be provided within Audubon at some date in the future.

### (b) Police.

Association Area 1, being part of the Town of Amherst, is served by the Town of Amherst Police Department with a staff of 128 police officers. The Town has one police station located on Main Street in the Village of Williamsville, approximately 5.5 miles from the Property. No police call boxes are planned for the Property. There are no plans to retain a private security force for Audubon.

## 2.6 THE DEVELOPMENT TRUST FUND

Due to the uncertainty of UDC's future as explained in the Risk Factors and in Exhibit H of the Offering Plan, to assure the availability of funds to fulfill its obligations as described in this Part II of this Offering Plan, UDC has placed $1,270,000 in trust with George R. Grasser, David L. Landy and Frederick M. Lavin as Trustees. Each of the Trustees is a member of the Buffalo, New York law firm of Moot, Sprague, Marcy, Landy, Fernbach & Smythe. Based on UDC's present estimates as described previously in this Part II, this $1,270,000 amount should be adequate to assure completion of construction of the roads and pathways to be dedicated to the Town, Walton Pond Center, the common areas within housing clusters, as well as provide for UDC's maintenance of roads and common areas before dedication, correction of defects and title insurance upon dedication. UDC cannot warrant or represent that it will in fact be sufficient to cover all of its costs and due to the uncertainty of its future, UDC cannot at this time assure the availability of any additional funds beyond the amount in the Trust Fund, plus interest. Funds in the Development Trust Fund account may be released from time to time to UDC, UDC's contractors or other designees by the Trustees on written certification to the Trustees by UDC and approved by any two of the Trustees that funds have been expended, work completed, or other obligations incurred in fulfillment or partial fulfillment of UDC's obligations.

On completion of all of UDC's obligations as described in Part II, the Trustees shall release any remaining funds in the Development Trust Fund account, including interest, to UDC.

AREA 1 WILL ALL BE BUILT OR AT WHAT TIME, OR THAT THE NUMBER OF UNITS PLANNED FOR A CLUSTER MAY NOT CHANGE OR THAT THE UNITS IF BUILT WILL LOOK LIKE THOSE DEPICTED ON THE MAPS OR IN ANY ADDITIONAL PLANS WHICH MAY BE FURNISHED BY THE BUILDERS. FURTHER, UDC CANNOT WARRANT OR REPRESENT THAT THE EXACT MIX OF SALES AND RENTAL UNITS AS SET FORTH ABOVE MAY NOT CHANGE: MARKET CONDITIONS OR THE AVAILABILITY OF FINANCING MAY DICTATE THAT SOME UNITS PLANNED AS RENTALS BE CONVERTED TO SALES, OR VICE-VERSA. The impact, if any, of the foregoing on the completion of the common areas and the operation of the Association is set forth in the next section. UDC warrants that if and when each of the dwelling units is completed and ready for occupancy, necessary utility connections will be available and a street or streets necessary to provide access to an existing public street will be completed.

## 2.3. AUDUBON FACILITIES

### (a) Common Areas Within Housing Clusters

As indicated in Section 2.2 above and as shown on the Cluster Maps attached as Exhibit D, certain areas within housing clusters will not be conveyed to private builders, but will be retained by UDC or UDR, improved, and on completion of the improvements, dedicated to the Audubon Association to be held "in common" for the benefit of the residents and owners of the Property. These "common areas" will include such facilities as streets and parking areas serving multi-family housing clusters, tot lots, play areas, basketball courts, pathways, and landscaped open space and lawn areas and certain utilities serving clusters. The types, sizes and design of the common areas will vary from cluster to cluster, generally as shown on the Cluster Maps in Exhibit D.

UDC, with the cooperation and assistance of UDR, will be responsible for the development of all these common areas. Actual development of these common areas, including such items as construction of the cluster streets and parking areas, installation of utilities, paving of pathways, construction of tot lots and playfields, grading, landscaping and tree planting will be undertaken by one or more private builders under contract with UDR or UDC. UDC or UDR will coordinate the efforts of these private builders, will review and approve all plans, and will carefully supervise all common area development to assure that it is completed on time, in accordance with the approved plans, and is of an acceptable quality. (UDC will cause defects in workmanship and materials to be corrected for a year after construction or installation of a facility is completed. UDC would normally look to the contractor who constructed the facility for correction of a defect and would only use its own funds to do so if the contractor failed to make the correction. Due to the uncertainty of UDC's financial future as described in the Risk Factors and in Exhibit H hereof, UDC cannot assure the availability of its own funds outside of the Development Trust Fund to correct any such defects, nor can it assure that the Development Trust Fund would be adequate for all corrections that UDC could conceivably have to make.) All plans for and all construction of the common areas must be in accordance with the following general standards and criteria adopted by UDC and UDR, as set forth below:

(1) **Association Streets and Parking Areas.** As shown on Exhibit B, the major collector roads – Robin Road, Little Robin Road and Robin Ridge Road – as well as the cul de sacs serving the seven single-family housing clusters, have been or will be dedicated to the Town of Amherst. The Town of Amherst has also been granted an easement for Walton Way, the initial entry road into Audubon, until a permanent entry road south of Association Area 1 is completed. The permanent entry road is planned to connect with an extension of Little Robin Road. (Although both the permanent entry road and the Little Robin Road extension are presently under construction by UDC, UDC makes no representation or warranty as to when or if this permanent entry road of the extension will be completed; there are no funds in the Development Trust Fund allocated to assure completion of these two roads.)

The remaining streets, cul de sacs and parking areas serving the 13 multi-family housing clusters will be dedicated to the Association. (See Exhibit D.)

The streets to be dedicated to the Town have been or will be built to Town of Amherst standards, requiring a minimum 28' curb-to-curb paved surface (or an additional 5' paved shoulder on each side if there are no curbs), and a minimum paving section of an 8" stone base, a 4" stone with oil penetration course, a 2" asphalt binder course and a 1" blacktop wear surface. The streets to be dedicated to the Association will have only a 25' paving surface leaving more room for dwelling units and open space; all these Association owned streets, cul de sacs and parking areas serving the clusters will have a minimum paving section of a 6" stone base, with a 2" asphalt binder course and a 1" blacktop wearing surface.

Association streets will be open to all traffic, including commercial vehicles, to the same extent as all public streets in the Town of Amherst.

Parking in certain attached housing clusters (primarily rental units) will be provided in Association-owner parking areas, as shown on Exhibit D, rather than in private garages. The ratio of parking spaces to number of units in the cluster varies with the size and type of units in the cluster, from a low of 1.59 spaces/unit to a high of 1.75 spaces/unit in the Clusters shown in Exhibit D. The exact number of spaces is shown on the Cluster Maps attached as Exhibit D. These parking areas will be for the use of the cluster residents and their visitors. The Association (in cooperation with the landlord if the units are rental) may assign spaces to residents, but will most likely not do so unless problems arise and the residents (or their landlord) request it. The Association will not charge any fees for use of these parking areas. Certain rental housing clusters may provide privately owned garages in lieu of or in addition to open parking areas. Rental of the garages would be on terms and conditions established by the landlord.

In other attached housing clusters (primarily sales units) dwelling units have private garages and driveways adjacent to

units sufficient to allow additional off-street
king in a driveway (and the garages, of course)
ricted to residents of the dwelling unit, even
all portion of the driveway may be on Associ-
ty. However, the residents of these dwelling units
cted to maintain and snowplow their driveways —
e portion on Association property. As shown on
Maps attached as Exhibit D, a few extra parking
lso provided in some of these clusters, separate
iveways and garages, for additional vistitor park-
xtra spaces will be owned and maintained by the
and will most likely not be assigned unless prob-

cated in Section 4.2, under the Declaration, no
age of vehicles such as campers, boats and trailers
wed in housing clusters. Although UDC plans to
s for parking of such vehicles — probably outside
on Area 1 — no such area has been provided at this

ys. Paving for all Association pathways will be at
e and will have, at a minimum, a 3" stone base
acktop or a 3" concrete surface (with wire mesh).

**ts, Playfields, Play Hills and Basketball Courts.** A
a play area for pre-school children. A total of 18
re planned within housing clusters in Association
own on Exhibit F.

s have been designed so that every child in Associ-
l will be able to go to a tot lot near his or her home
along Association pathways and without crossing
The number of pieces of major play equipment in
vary from one to three pieces (see Exhibit F). The
l have a minimum area of 600 square feet. The
all tot lots will be clean mason's sand ASTM, a
" deep over compacted clay. The play equipment
ill be sturdy; the designs, types of materials and
used will be varied. At least one fixed, wooden
ng 3 adults will be provided next to each tot lot.
nent to be installed in Clusters 8, 9, 10, 12, 14, 17,
1 are as follows:

**ter 8** — The three pieces of major play equipment
re a Mexico Forge, Inc. Space Spinner (Model
), a Game Time Inc. Rainbow Climber (Model
a Game Time, Inc. Muscle Man (Model #950). One
the following may also be included: Tree Climber
, cut down and anchored in concrete, stripped of
nd suitable for climbing), Wooden Sculpture/
6" x 8" timbers), and a Tire Pile (automobile tires
gether with heavy duty chains, anchored to a con-
g).

**ter 9** — The two pieces of major play equipment
are a Game Time, Inc. Slide (Model #5617) and a
, Inc. Swing (Model #802). In addition, there will
more lengths of 36" diameter concrete pipe for
crawl in, on and through.

**ter 10** — The two pieces of major play equipment
will be a Game Time, Inc. Swing (Model #803) (steel) or a Timberform Swing (Model #940) (wood), and a 10' long framework three-passenger antique limousine of ½" by ½" square tubular painted steel, designed for Audubon by Larry Griffis.

• **Cluster 12** — The two pieces of major play equipment will be a Game Time, Inc. Swing (Model #805) (steel) or a Timberform Swing (Model #940) (wood), and a framework construction turtle made of ½" by ½" square tubular painted steel, designed for Audubon by Larry Griffis.

• **Cluster 14** — The two pieces of major play equipment (steel) are a Game Time, Inc. Slide (Model #5617) and a Game Time, Inc. Swing (Model #803). There will also be one or more lengths of 36" diameter pipe.

• **Cluster 17** — There are two tot lots — one with two pieces of major play equipment, the other with one. The bigger tot lot will have a Game Time, Inc. Slide (Model #5617) (steel) or a Timberform Slide (Model #920) (wood and metal), and a Game Time, Inc. Swing (Model #803) (steel) or a Timberform Swing (Model #940) (wood). In the smaller tot lot the single piece of play equipment will be an abstract climbing sculpture of 6" by 6" timbers connected by colored steel plates, designed for Audubon by Larry Griffis.

• **Cluster 19** — The two pieces of major play equipment are a Game Time Inc. Slide (Model #5617) and a Game Time Inc. Swing (Model #805). There may be one or more of the following — a tree climber, wooden sculpture/climber and/or a tire pile. In addition there will be one or more lengths of 36" diameter concrete pipe.

• **Cluster 20** — The two pieces of major play equipment will be Game Time, Inc. Swing (Model #803) (steel) or a Timberform Swing (Model #940) (wood), and an abstract climbing sculpture (similar to Cluster 17, but of a different design) also made of 6" by 6" timber connected by colored steel plates, designed for Audubon by Larry Griffis.

• **Cluster 21** — The two pieces of major play equipment are a Game Time, Inc. Slide (Model #5617) and a Game Time, Inc. Swing (Model #804). If the budget allows, there may be one or more of the following — a tree climber, wooden sculpture/climber and/or a tire pile.

The play equipment for the remaining clusters has not yet been selected. Before any lots or homes in these clusters are offered for sale, this Offering Plan will be amended to list the play equipment to be installed in these clusters.

A playfield" is an open grassy area not less than 65' wide by 110' long, planned especially for active use by school-age children, but will of course be available to all. Five playfields are planned for Association Area 1 as shown on Exhibit F.

Next to four of the playfields, as shown on Exhibit F, "play" or "sledding hills" will be provided. Each play hill will be 12' to 16' high and 100 to 150' wide, opening into the adjacent playfield.

Three basketball courts will also be provided on property in Association Area 1: two in housing clusters and a large basketball area in the parking lot at Walton Pond Center as

2. That the voting scheme of the Association is valid under the New York State Not-For-Profit Corporation Law;

3. That the Declaration has been properly executed and delivered by the Association and the New York State Urban Development Corporation ("UDC") and duly recorded in the Erie County Clerk's Office, and is legal, valid and binding with respect to the parties thereto and the lands as described therein;

4. That development of the lands within Audubon to date is in conformity with the provisions of the UDC Act and with all applicable local codes and ordinances.

The undersigned understands that this Opinion of Counsel is part of the Offering Plan of the Association filed with the Attorney General's Office.

Very truly yours,

Frederic J. Truslow
Acting General Counsel

which are to be dedicated to a Special District are described in Part II below.

Other than those recreational facilities to be owned by the Town, a Special District or a private commercial operation, recreational facilities and open space areas in Audubon will be owned, operated and maintained for the benefit of Audubon residents and property owners by the Audubon Association, Inc. described briefly in Section 1.10 below and in considerable detail in Parts II and III of this Offering Plan. Such facilities and areas planned for the new community — known as "Audubon Facilities" — will include one or more swimming pools, tennis courts, one or more community centers, green areas, parking lots, pathways, private roadways and utilities.

### 1.10. THE DECLARATION, THE AUDUBON ASSOCIATION AND ASSOCIATION AREA 1

To assure the efficient preservation of the values and amenities planned for Audubon, most land within Audubon will be subject to certain protective covenants, conditions and restrictions set forth in a written and recorded "Declaration." The only land in Audubon which most likely will not be subject at any time to the Declaration will be certain tracts of land to be dedicated to the Town (such as a town park), a Special District (such as a storm water retention basin) or a School District (such as an elementary school). In addition, the Town of Amherst, Special Districts and School Districts will not be bound by the provisions of the Declaration, even though property which they may own is covered by the Declaration (such as a Town pathway or street, as shown on Exhibit B).

The Declaration was filed in the Erie County Clerk's Office on May 27, 1975 and a copy is attached as Exhibit I. The portion of the Audubon Site covered by the Declaration and this Offering Plan is the area selected for the first phase of development, as shown on Exhibits A and B, and is referred to as "Association Area 1" or simply, the "Property." The Property, all of which has been acquired by UDC, contains 95.36 acres. Any person or other entity (except the Town of Amherst or a Special District) who buys or acquires any interest in or occupies any portion of the Property, or any home or other structure constructed on it for any purpose shall be bound by the terms of this Declaration. Lands and facilities in Association Area 1 to be dedicated to the Town of Amherst or a Special District and which will not be subject to the terms of the Declaration are shown on Exhibit B. No land in Association Area 1 will be dedicated to a School District.

The Declaration provides that UDC or UDR may from time to time (but not after January 1, 1985) bring additional property it owns under the Declaration by recording Supplemental Declarations describing the additional property. UDC and UDR presently intend to bring additional property in the Audubon Site under the Declaration when such property is ready for development, but neither UDC nor UDR makes any representations or warranties that they will actually do so, or when. UDC or UDR may also bring additional property outside the Audubon Site under the Declaration but under the Town Contract, neither UDC nor UDR can do so without the Town's consent.

As indicated above and explained in greater detail in Parts II, III, and IV below, the Declaration provides for creation of the Audubon Association, Inc., a New York not-for-profit corporation and a subsidiary of UDC, to own and maintain certain recreational facilities and open space common areas (the "Audubon Facilities"), to administer and enforce the provisions of the Declaration, to collect and disburse certain assessments and charges which the Association may impose under the terms of the Declaration in order to carry out its functions, and to do other things for the benefit of Audubon's residents and property owners. The Audubon Association, Inc. (generally called the "Audubon Association" or simply, the "Association") was incorporated on November 18, 1974. Only residents of property covered by the Declaration can be members of the Association. All residents of Association Area 1, renters as well as homeowners, automatically become members of the Association as soon as they move in. If and when additional property is brought under and made subject to the Declaration, residents of that property also will automatically become Association members when they move in. The Certificate of Incorporation of the Association is attached as Exhibit J and the By-Laws of the Association are attached as Exhibit K.

*PART II OF THIS OFFERING PLAN DESCRIBES THE PRESENT PLANS FOR DEVELOPMENT OF ASSOCIATION AREA 1 – INCLUDING THE "AUDUBON FACILITIES" TO BE OWNED AND MAINTAINED BY THE ASSOCIATION.*

*PART III DESCRIBES IN MORE DETAIL HOW THE ASSOCIATION WILL WORK, THE ASSESSMENTS IT WILL COLLECT AND ITS BUDGET FOR THE CURRENT YEAR.*

*PART IV SUMMARIZES OTHER IMPORTANT PROVISIONS OF THE DECLARATION.*

# PART III.
# HOW THE ASSOCIATION WILL WORK

### 3.1. PROVISIONS OF THE DECLARATION

The Declaration described in Section 1.10 above, sets forth the structure of the Audubon Association, as well as its rights, duties, functions, obligations and limitations. Neither its Certificate of Incorporation nor its By-Laws can be amended in any way which conflicts with the provisions of the Declaration, nor may the Association do anything or take any action which conflicts with the provisions of the Declaration, unless the Declaration is amended in accordance with its terms.

### 3.2 STRUCTURE OF THE ASSOCIATION (ARTICLE IV)

Article IV of the Declaration provides that all residents of the property covered by and subject to the Declaration are automatically members of the Association (hereinafter referred to as the "Resident Members" or just "Members") as soon as they move in. Owners of property subject to the Declaration ("Owners") are not members of the Association unless they are also residents.

UDC is also a member of the Association, but only until January 1, 1985. UDC has no voting rights in the Association. However, to assure the development of Audubon in accordance with its comprehensive long-range development plans, UDC will control the Association through its right to appoint a majority of the Association's Board of Directors until January 1, 1985.

Any Resident Member 18 years of age or older who has been a resident for not less than 30 days has one vote in the Audubon Association. Such members are called "Voting Members."

The business and affairs of the Audubon Association shall be managed by its Board of Directors. In accordance with the Declaration, five initial Directors were designated in the Association's Certificate of Incorporation.

The initial Directors (or replacements designated by UDC) serve until the first annual meeting of Members after there are 100 Voting Members living in Audubon. At that meeting and thereafter until January 1, 1985, six Directors shall be appointed by UDC (the "Appointed Directors") and three shall be elected by the Voting Members (the "Elected Directors"). Pursuant to the By-Laws of the Association (attached as Exhibit K), the annual meeting of the Association is held on the first Wednesday of May of each year. It is estimated that there will be 100 Voting members by May, 1975; if so the first elected Directors will be elected at this annual meeting. The Directors shall serve two year terms. After January 1, 1985 all Directors shall be elected by the Voting Members. The present Directors of the Association are set forth in Exhibit G.

### 3.3. PROPERTY RIGHTS OF THE ASSOCIATION — AUDUBON FACILITIES (ARTICLE V)

The Declaration provides that certain properties and facilities will from time to time be conveyed or leased to the Association. Members as well as Owners have the right and easement of enjoyment to such Audubon Facilities subject to the right of the Board of Directors of the Association to:

- Adopt reasonable rules and regulations pertaining to the use of the Audubon Facilities (by Members, non-Members, guests of Members, employees in Audubon and Owners who are not members, and others) and the operation and maintenance of the Audubon Facilities.
- Establish reasonable admission and other fees for such use. In this connection, the Board of Directors may establish reasonable classifications of Members, non-Members and Owners.
- Enter into agreements with other homeowners' and residents' associations for the use of or sharing of facilities.

The Association has the right to borrow funds and mortgage its properties and to pledge current and projected revenues.

The Association also has the right, as necessary, to use water and electricity from outdoor spigots and electric sockets (including private spigots and sockets attached to dwelling units), but it must reimburse the owner or tenant for the cost of this use.

The Declaration requires the Board of Directors to hold a public hearing open to all Members and Owners before it can authorize a sale of an Audubon Facility or before it can substantially change the existing use of an Audubon Facility, if the sale will deprive Owners or Members of the use of the Facility or substantially limit that use. Notice of the hearing must be posted in several conspicuous places on the Property and also must be mailed or delivered to all Voting Members living within 300 feet of the Audubon Facility in question, and to all Owners within 300 feet of the Facility. After the hearing, a three-fourths vote of the entire Association Board in favor of the proposal is necessary to authorize the transaction.

### 3.4. ASSESSMENTS (ARTICLE VI)

The Association's main sources of funds are "assessments" which, pursuant to the Declaration, it collects from owners of properties subject to the Declaration. Each Owner, when he or she takes title to any property subject to the Declaration (including a condominium), automatically covenants and agrees to pay these assessments. The only

Owners that are exempt are charitable institutions, political subdivisions, governmental entities and agencies (including UDC), and other entities exempt from taxes by virtue of law (including UDR). Such institutions and agencies are "Assessment Exempt" in order to encourage their participation in Audubon as a service to Audubon residents. Their presence does not impose any additional significant burdens on the Association. For example, the presence of a church does not increase the use of tot lots, recreation facilities or community buildings. To the extent "Assessment Exempt" users are provided services by or use facilities of the Association such services and use of facilities are supported by assessment-paying Property Owners. The only "Assessment Exempt" property in Association Area I will be the as-yet undeveloped property owned by UDC or UDR, the streets and pathways to be owned by the Town and the drainage ditch owned by Storm Drainage District #16 next to the Niagara Mohawk Power Company Transmission line as shown on Exhibit B.

There are two types of assessments: annual "Maintenance Assessments" and "Special Assessments".

The annual Maintenance Assessments enable the Association to perform its day-to-day functions, such as maintaining the Audubon Facilities.

A Special Assessment, to be paid only in the year when it is authorized or the following year, may be authorized by the Board of Directors to help pay for capital improvements. Before levying a Special Assessment, the Board of Directors first must hold a public hearing and then approve the Special Assessment by a three-fourths vote of the entire Board of Directors.

The amount of the annual Maintenance Assessment is based on the "Useable Floor Area" of a dwelling unit or other structure as defined in the Declaration, multiplied by the Annual Rate applicable to that unit for that year. Useable Floor Area of a dwelling unit is the area of all floors of the unit as measured between the exterior faces of exterior walls or from the center line of interior walls, subject to such additions or exclusions as the Association may from time to time determine by regulation. The Association has adopted regulations providing for Useable Floor Area of Residential Units to include the following:

a. Single Family Detached Units: Bedrooms, living rooms, dining rooms, family rooms and dens, bathrooms, lavatories, mudrooms, kitchens, hallways, closets, storage areas and rooms, finished basements and other spaces not specifically stated herein to be excluded: areas to be excluded are outbuildings, unfinished garages, unfinished basements, unfinished attics and unheated porch and balcony areas only.

b. Patio Houses, Townhouses and Garden Apartments: Bedrooms, living rooms, dining rooms, family rooms and dens, bathrooms, lavatories, mudrooms, kitchens, hallways, closets, storage areas and rooms, finished basements, and other spaces not specifically stated herein to be excluded; areas to be excluded include unfinished basement and garage areas, outbuildings, unfinished attics, unheated porch and balcony areas, as well as any common areas such as hallways, stairwells, lobbies, laundry rooms, storage areas, common basement and utility areas and elevator shafts.

Vacant land is not subject to assessment. Each year, the Board of Directors shall determine the Annual Rates of assessment for "Residential" and for "Non-Residential Units". The Declaration provides for two categories of "Non-Residential Units": "Non-Residential-I" which will include such facilities as most retail stores and offices, and "Non-Residential-II" which will include such facilities as manufacturing concerns, warehouses and large indoor recreational facilities. The Annual Rate for "Non-Residential-I" Units shall at no time be greater than 1/2 of the Annual Rate for "Residential" Units and the Annual Rate for "Non-Residential-II" Units shall at no time be greater than 1/3 of the

The Annual Rate to be established by the Board of Directors for the first full year of operation of the Audubon Association from June 1, 1975 to May 31, 1976 is to be 14¢ per square foot of Useable Floor Area for Residential Units, 7¢ per square foot of Useable Floor Area for Non-Residential-I Units, and 4¢ per square foot of Useable Floor Area for Non-Residential-II Units. However, until June 1, 1975, owners of Residential Units will pay an Annual Rate of only 7¢ per square foot of Useable Floor Area. There will be no Non-Residential Units paying assessments before June 1, 1976.

The Declaration provides an initial Maximum Rate which increases automatically each year by 6 percent of the prior year's Maximum Rate or by the percentage increase of the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the U.S. Bureau of Labor Statistics if that is higher than 6%. The Directors may not set the Annual Rate greater than the Maximum Rate in any year. The initial Maximum Rate in effect until May 31, 1975 is 20¢ per square foot of Useable Floor Area for Residential Units, 10¢ per square foot of Useable Floor Area for Non-Residential-I Units and 7¢ per square foot of Useable Floor Area for Non-Residential-II Units. The Board of Directors may increase the Maximum Rate of assessment (greater than its automatic increase each year), but a three-fourths vote of the entire Board is required to do so, after holding a public hearing generally as described in Section 3.3 above.

The Declaration provides that the obligation of the Owner of a Unit to pay the Maintenance Assessment on that unit begins on the first day of the month after the prospective occupant takes title if it is Owner-occupied, or on the commencement date for the payment of rent pursuant to the lease (or sublease) for occupancy of a rented unit, whichever comes first. The landlord of a rental unit has the obligation to pay the assessment, although he will undoubtedly include the amount of the assessment in the rent.

Each Unit shall pay in any fiscal year that portion of a Special Assessment which bears the same ratio to the total amount of the Special Assessment as that Unit's Maintenance Assessment for such fiscal year bears to the total of the Maintenance Assessments levied by the Association for such fiscal year. This ratio shall be determined for each Unit as of the date a Special Assessment is approved by the Board of Directors of the Association.

Certain dwelling units subsidized under government programs or partially or completely tax exempt or otherwise available to or occupied by persons of low income, may be unable to pay full assessments. Such units shall be assessed only up to the amount permitted by the controlling regulations. If this happens, the assessments paid by other Owners would be proportionately higher. For the current fiscal year, however, all subsidized units will be paying full assessments.

The Board of Directors sets the due date for Assessments. For the Association's current fiscal year ending May 31, 1975, the Assessments shall be due May 1. Assessments not paid by the due date shall, together with interest and collection costs, become a lien on the property assessed and the Owner may also be held personally liable for payment.

Owners, prospective buyers and other legitimately interested persons shall be entitled, upon request, to a written certificate from the Audubon Association setting forth with respect to any unit, as of the date of the certificate, the assessment payment status of such unit. The Association may charge a small fee for providing this certificate. The present fee set by the Association is $1.

All assessments collected by the Audubon Association shall be used exclusively for the benefit of the Members of the Audubon Association and the owners of the property subject to the Declaration.

## 3.5. ESTIMATED RECEIPTS AND EXPENSES FOR THE ASSOCIATION'S CURRENT YEAR OF OPERATION AND LETTER OF ADEQUACY.

The projected receipts and expenses for the current year of operation of the Audubon Association are set forth below along with a letter of adequacy from an independent property management expert.

NOTE: AS IS EXPLAINED IN GREATER DETAIL IN THE FOOTNOTES ATTACHED TO THE BUDGET, THE PROJECTED RECEIPTS AND EXPENSES SET FORTH BELOW FOR THE PERIOD ENDING MAY 31, 1976 DO NOT PRESENT A TRUE INDICATION OF THE TOTAL RECEIPTS WHICH THE ASSOCIATION WILL RECEIVE AND EXPENSES IT WILL INCUR OVER A 12 MONTH PERIOD WHEN IT IS FULLY OPERATIVE. THIS IS A START-UP PERIOD. LESS THAN ONE HALF OF THE DWELLING UNITS TO BE BUILT IN ASSOCIATION AREA 1 WILL BE OCCUPIED AND PAYING ASSESSMENTS DURING THIS FISCAL YEAR WHICH ENDS MAY 31, 1976. UDC WILL BE PAYING MOST OF THE MAINTENANCE EXPENSES FOR THE COMMUNITY BUILDING UNDER ITS PRESENT LEASE ARRANGEMENTS WITH THE ASSOCIATION.

## AUDUBON ASSOCIATION PROJECTED RECEIPTS AND EXPENSES FOR FIRST YEAR OF OPERATIONS, ENDING MAY 31, 1975

| | | | |
|---|---|---|---|
| RECEIPTS[1] | | | |
| | Prior to June 1, 1975 | $ 4,190 | |
| | June 1, 1975 to May 31, 1975 | 42,730 | |
| | Swimming Pool Fees[2] | 6,500 | |
| | TOTAL | | $53,420 |
| EXPENSES | | | |
| | General and Administrative Expenses[3] | | |
| | Staff (Manager of Operations) starting 6/75 salary including fringe benefits) | 21,250 | |
| | Office Utility Costs | 1,380 | |
| | Other Office Expenses | 3,700 | |
| | SUBTOTAL | 26,330 | |
| | Landscape and Maintenance Expenses | | |
| | Personnel salaries (part-time) and equipment shared with UDC[4] | 15,600 | |
| | Fuel and Equipment Maintenance and Repaid Allowance | 2,000 | |
| | Supplies for Landscaping and Maintenance (fertilizer, grass seed, ice control agents, herbicides, fungicides and other chemicals) | 3,000 | |
| | Garbage and Trash Collection[5] | 6,000 | |
| | Lighting[6] | 560 | |
| | SUBTOTAL | 27,160 | |
| | Walton Pond Center Expenses | | |
| | Swimming Pool/Locker Room/Tennis Courts[7] | | |
| | Staff | 7,830 | |
| | Utilities | 3,270 | |
| | Pool Chemicals | 1,000 | |
| | Miscellaneous (first aid and lifesaving equipment, signage, locks for locker room, furnishing for first aid room) | 1,500 | |
| | SUBTOTAL | $13,600 | |
| | Recreational Furniture | | |
| | (Deck chairs, tables, lounge chairs, locker room benches, tennis court and deck benches) | $ 3,576 | |
| | SUBTOTAL | $ 3,576 | |
| | Reserves for Replacement[8] | | |
| | SUBTOTAL | $ 5,000 | |
| | TOTAL | | $75,666 |
| DEFICIT TO BE PAID BY UDC[9] | | | ($22,246) |

### FOOTNOTES

1. Projected receipts for the period prior to June 1, 1975 are based on monthly estimates of the number of Residential Units occupied and paying assessments at an annual rate of 7¢ per square foot of Useable Floor Area ("UFA") and the estimated UFA of such units. The first Residential Units in Audubon were occupied in September 1974. It is estimated that 128 dwelling units will be occupied prior to June 1, 1975. For the 100 rental townhouses and 28 rental garden apartments occupied and paying assessments prior to June 1, 1975, the average annual assessments per unit at 7¢ per square foot are $72.00 for a 1,045 sq. ft. two-bedroom townhouse, $92.05 for a 1,305 sq. ft. three-bedroom townhouse, $101.15 for a 1,445 sq. ft. four-bedroom townhouse, $42.00 for a 600 sq. ft. one-bedroom apartment, and $54.75 for a 782 sq. ft. two-bedroom apartment.

Projected receipts for June 1, 1975 to May 31, 1976 are based on an assessment of 14¢ per square foot. By May 31, 1976, it is projected that a total of 388 Residential Units will be occupied and paying assessments as set forth below. These projections could be off by as much as 25 to 30% depending on actual construction progress, sales of the for-sale units, and occupancy of rental units:

| Number | Type of Unit | Estimated Average UFA per Unit | Average Annual Assessment/Unit at 14¢ per Sq. Ft. of UFA |
|---|---|---|---|
| 78 | single-family for-sale | 1750 | $245.00 |
| 8 | patio-houses for-sale | 1250 | $175.00 |
| 79 | townhouses for-sale | 1200 | $168.00 |
| 100 | townhouses rental | 1100 | $154.00 |
| 123 | garden apts. rental | 700 | $ 98.00 |
| 388 | | | |

2. During the estimated twelve-week 1975 swimming season (mid-June to Labor Day), the Association will sell seasonal swimming pool memberships to non-residents of Audubon to help defray maintenance and operating costs of Walton Pond Center. It is projected that 100 fee-paying swimming pool family memberships will be sold in 1975, although up to 350 individual and family memberships are authorized.

3. The Association plans to hire a full time Manager of Operations who would start work on or after June 1975, but not before. The Manager will supervise the work of the Association's employees and contractors and coordinate maintenance and related services for UDC. The budgeted salary for this position is $17,000 per year plus an additional 25% for fringe benefits, for a total estimated annual expense of $21,250. If the Manager is hired after June, 1975, the expense for the fiscal year would be less. It is proposed that during fiscal year 1976-1977, a secretary/bookkeeper would be hired at $7,500 a year plus 25% fringe benefits. When qualified persons are hired, the actual salaries could be slightly more or less than the budgeted amounts. Prior to filling any position, UDC staff will perform the functions of a Manager and clerk/bookkeeper as required at no charge to the Association.

During fiscal 1975-76 and thereafter until UDC vacates the community building, UDC will provide space for offices, supplies and equipment for the Association as well as office equipment and furniture at no cost (except utility charges) within one or more buildings owned by UDC within Audubon, but outside Association Area 1. A total of $1,380 has been allotted for utility services including telephones, electricity, heat and water for the office and storage space occupied by the Association. This as well as all other estimates of utility costs herein are based on present rates supplied by the utility companies and projected use of facilities. These costs are subject to increase based on the effects of inflation, special taxes on fuels and fuel shortages which could raise the cost of utilities substantially.

A lump sum allowance of $3,700 has been allocated for miscellaneous office expenses during the first fiscal year. This will cover such Association expenses as office supplies, the printing of brochures, newsletters and other informational materials, postage, accounting and legal services, personnel recruitment, dues for membership in professional organizations, publications and other miscellaneous expenses. It is estimated that when the Association moves to the Walton Pond Center Community Building or elsewhere, approximately $3,000 worth of office furniture and equipment will be required. If it chooses to lease space in addition to or instead of the community building, an additional $5,000-$10,000 would be required depending on the amount of space.

4. The Association will not take title to (or assume maintenance responsibility for) any Audubon Facilities prior to June 1, 1975.

It is proposed that during fiscal 1975-76, the Association and UDC will use the same personnel and equipment for maintenance of landscaped areas, streets and pathways. UDC will hire the personnel and purchase the equipment. For fiscal year 1975-76 it is projected that the Association will be responsible for maintaining one-third of the common areas or proposed common areas in Association Area 1. UDC will employ an estimated four groundskeepers and one maintenance supervisor and charge the Association the direct cost (including fringe benefits) of such employees for the time spent maintaining the Association's property. The Association will pay UDC quarterly for services such as lawn mowing, leaf collection, snow removal, ice control, insect and weed control, fertilizing lawns and shrubs, sweeping of parking areas (excluding Walton Pond Center which UDC maintains in connection with the Visitors Center), trash and garbage collection, and general debris removal. It is projected that the maintenance staff will spend approximately 3600 man hours in maintaining the Association's facilities, excluding Walton Pond Center. The estimated cost of this labor is $12,000.

In addition UDC has purchased and will purchase equipment which its employees will use in maintaining Association Area 1. The cost of the maintenance equipment (which includes a pickup truck with snowplowing equipment, a tractor with gangmower, sweeper and auger, a chipper, two power lawnmowers, one chain saw, one leaf blower, one power vacuum, one Gravely lawn tractor and trailer with attachments for sweeping, snowblowing and lawn mowing, and miscellaneous hand tools) is approximately $18,325. UDC has estimated an average five-year useful life for the equipment and will amortize its cost r that period. UDC will give the equipment to the ociation after the five years. UDC will charge the ociation during fiscal 1975-76 $1.00 per man hour rked for use of the equipment. The estimated cost of equipment for fiscal year 1975-76 is $3,600.

UDC will bill the Association separately for its pro share (on a man-hour basis) of actual fuel, main-ance and repair expenses for the equipment. UDC mates the cost to the Association for fiscal year 5-76 at $2,000.

)C estimates the cost for garbage and trash collection Association owned areas and for occupied residential ts for fiscal year 1975-76 at $6,000. This is based on prevailing rates of Town-approved refuse disposal npanies – $24.00 per dwelling unit. This rate may in-ase to reflect increases in costs of fuels and inflation.

proximately 28 exterior lights will be installed on perty scheduled for dedication to the Association this cal year. These lights will illuminate parking lots and hways in the common areas, including the parking lot the Walton Pond Center. The estimated cost of main-ning and operating the exterior lights (excluding the 4 nts for the Walton Pond Center parking lot, the cost of ich will be assumed entirely by UDC under its lease angements for the community building) is based upon lights at $23. 40 per light per year for maintenance, lacement, and electricity. Utility rates are subject to rease based on the effects of inflation, fuel shortages i other factors which may raise the cost of electricity stantially higher than current rates.

erational expenses for the pools and tennis courts at lton Pond Center for fiscal year 1975-76 are estimated $13.600. This includes the costs of staff: 3 lifeguards at proximately $3.40 per hour including fringes and a reation manager (also a lifeguard) at $6.60 per hour. e recreation manager will supervise the work of the ner employees. The lifeguards, when they are not on ol duty, will supervise the tennis courts and provide neral maintenance for the pool area and tennis courts.

The cost of utilities for the recreation facilities is imated at $3,270 – $2,200 for electricity, $120 for ephone, and $850 for water. Utility rates are subject to rease based on the effects of inflation, fuel shortages d other factors which may raise the cost of electricity bstantially higher than current rates.

As discussed in Section 2.3(b) UDC will be leasing most of the Community Building under arrangements which provide for complete assumption by UDC of all utility and maintenance costs attributable to the community building and grounds of Walton Pond Center but not including the maintenance and operation of the pools and tennis courts. If the Association were assuming all costs of maintenance of Walton Pond Center, both interior and exterior, including all utilities, grounds maintenance, parking lot snow plowing and lighting (but excluding the swimming pools and courts discussed above), present estimates are for a total annual expenditure of about $5,500. The estimate of utility costs ($2,500) is based on present rates supplied by the utility companies and projected use of the center. These costs are subject to increase based on the effects of inflation, special taxes on fuels and fuel shortages which could raise the cost of utilities substantially. Utility costs could also be greatly affected by the actual use of the center by the Association.

The Association will incur no expense for liability or comprehensive fire and property insurance as long as it is a subsidiary of UDC. (A corporation is a UDC subsidiary as long as UDC has the right to appoint a majority of the Directors and UDC has the right with respect to the Association until 1985). UDC carries blanket liability and property insurance covering all of its activities and properties and those of its subsidiaries. If the Association were to carry its own liability and property damage insurance with respect to Association Area 1, it would cost the Association about $1,350/year.

8. The Reserves for Replacement to be accumulated by the Association will cover the costs of repairing or replacing damaged equipment and facilities of the Association, including the replacement of damaged landscaping and other facilities not fully covered by insurance or by the manufacturer's or contractor's quarantee. These funds may also be used for future purchases of maintenance equipment. As discussed in footnote 4 above the Association will initially pay UDC for the use of UDC-owned equipment.

9. See Section 3.6 of this Offering Plan for UDC's undertaking with respect to deficits.

*3.6. Continued on page 9*

**wellborn management, inc.**
Lake Anne Village
1614 Washington Plaza
Reston, Virginia 22090
703-471-4741

wellborn

April 15, 1975

Audubon Association, Inc.
2222 Millersport Highway
Getzville, New York 14068

Gentlemen:

The staff of the New York State Urban Development Corporation ("UDC"), Developer of Audubon, in consultation with representatives of Wellborn Management, Inc., has prepared for inclusion in the offering Plan of the Audubon Association, Inc. (the "Association") the foregoing schedule of the estimated receipts and expenses of your corporation for the first year of operation.

In our opinion, the estimates are reasonable and adequate, under existing circumstances, and the estimated receipts shown herein, including payments of operating deficits by UDC, will be sufficient to meet the normal anticipated operating expenses for the first full year of operation. However, because of the possibility of unforseeable changes in the economy, or increase or decrease in expenses of operation, the estimates are not intended to be taken as representations, guarantees or warranties of any kind whatsoever or as any assurance that the actual expenses or income of the Association for any period of operation may not vary from the amounts shown, or that the Association may not incur additional expenses, or that your Board of Directors may not provide for reserves not reflected in such schedule or that the annual maintenance charges for any period may not vary from the amounts shown therein. It may be expected, based on current trends, that such items as labor, maintenance, repair, and related expenses will change in the future.

The estimates are based on an analysis of the proposed operations of the Association for its first full year of operation and our knowledge of existing conditions in Audubon based upon our role as consultant to the Urban Development Corporation.

Wellborn Management, Inc., is an Accredited Management Organization located in Reston, Virginia. Mr. Karl J. Ingebritsen, CPM, the undersigned, and the consultant on the Audubon Association, has extensive experience with the management and budgeting for large planned unit developments and new communities. He served as the first Executive Director, Reston Home Owners Association and, since leaving this position, has prepared community association budgets and served as a consultant on numerous projects including the following:

Sugarland Run, Loudoun County, Virginia
2,400 units, Boise Cascade

Lake Braddock, Fairfax County, Virginia
1,244 units, The Yeonas Company

Heritage Harbour, Anne Arundel County, Maryland
2,080 units, Ervin Atlantic

Seasons Four, Fairfax County, Virginia
690 units, National Homes Construction Corp.

Mr. Ingebritsen, a resident of Reston for the past nine years, maintains close ties with the Columbia Association, Columbia, Maryland and with the Montgomery Village Foundation, the management entity for the new community of Montgomery Village. His experience and knowledge of new community management has materially assisted the Urban Development Corporation's staff in furnishing the estimated receipts and expenses referred to herein.

Very truly yours,

Karl J. Ingebritsen

Karl J. Ingebritsen, CPM
Executive Vice President

KJI:em

### 3.6. UDC'S COMMITMENT WITH RESPECT TO DEFICITS; THE ASSOCIATION DEFICIT TRUST FUND

UDC has estimated the revenues and expenses of the Audubon Association through the period ending May 31, 1979. Based on UDC's estimates, the Association will have a deficit during fiscal years 1975-1976 and 1976-1977 but should operate in the black by 1977-78, depending on the number of units occupied.

UDC represents, however, that no Unit will be required to pay in any of the fiscal years ending May 31, 1979, a greater proportion of the expenses of the Association of each of said years than the ratio of said Unit's Useable Floor Area to the projected total Useable Floor Area of Units needed to cover the expenses in each of said years (assuming said units to be paying the Annual Rate for each of said years). In other words, UDC will make up the deficits during this period meet this deficit, UDC has placed $65,000 in trust with George R. Grasser, David L. Landy and Frederick M. Lavin as Trustees (the "Association Deficit Trust Fund"). Each of the Trustees is a member of the Buffalo, New York law firm of Moot, Sprague, Marcy, Landy, Fernbach & Smythe. The Trustees will release funds from the trust account from time to time to UDC or to the Association, as may be appropriate, on certification of UDC approved by any two of the Trustees that such funds are necessary to meet deficits or anticipated deficits of the Association.

UDC estimates that the amount in the trust fund should be adequate to meet the deficits; its present projections show a total deficit for 1975-76 and 1976-77 of $45,000, and thereafter the Association should operate in the black. However, it cannot assure that it will be adequate; if the total deficit is greater than the amount in the Trust Fund, plus interest, due to the present uncertainties, UDC cannot assure the availability of additional funds. Present projections are for 617 occupied units (all of Association Area 1) by June, 1977. UDC's projections indicate that the Association could be self-sustaining (operate without a deficit) at that time with an Annual Rate of 16¢ – 18¢/square foot, assuming that the Association continues to obtain some revenues from outside swimming or tennis memberships and assuming that it maintains offices in space provided by UDC or in the Walton Pond Center community building. Of course, UDC has no assurance that there will be 617 occupied Residential Units by that time – and if there aren't, the Association would continue to run a deficit.

If Audubon continues to grow, projections indicate that with 800-1,000 occupied units, the Association could operate without a deficit and without outside memberships. Although UDC can give no assurance as to Audubon's growth, particularly in light of its current financial situation, it should be noted that an additional 200-400 units could be developed in clusters adjacent to Association Area 1 using the same network of roads and utilities constructed for Association Area 1.

If on June 1, 1979, there are funds remaining in the Trust Fund account, they will be paid over, with any interest, to UDC.

### 3.7. MANAGEMENT

UDC has offered to provide management services to the Audubon Association for the first few years of the Association's operation. Although a Manager of Operations and a clerk-assistant will be hired during its first two years of operation, as explained in the footnotes attached to the budget, UDC has offered to provide from the staff of UDC or through outside consultants such additional assistance as the Association may request. This assistance may include providing persons to aid in the management, operation, repair and maintenance of Walton Pond Center and other Audubon facilities, the purchase or lease of equipment, tools, supplies, and materials as may be reasonably necessary for the performance by the Association of its functions; establishing and keeping books and records, and providing for annual audits of the Association's records. The terms of UDC's offer of management assistance are available for inspection in the Audubon office.

### 3.8. REPORTS TO MEMBERS OF ASSOCIATION

All members of the Association will be entitled to receive annually from the Association, at the expense of the Association, copies of the following:

(a) A statement prepared by the Treasurer of the Association and verified by the President of the Association or by a majority of the Directors, showing the uses which have been made of monies raised by assessments levied during the current fiscal year and containing such other matters as are required by Section 519 of the Not-For-Profit Corporation Law, together with a projected budget showing the uses which are proposed to be made of monies to be raised by Annual Assessments in the subsequent fiscal year.

(b) The Annual Balance Sheet and Profit and Loss Statement for the preceding fiscal year certified by an independent Certified Public Accountant.

(c) Notice of the holding of the Annual Meeting of Members for the purpose of electing the Elected Directors and transacting such other business as may come before the meeting to be held on the first Wednesday of May of each year. If such date is a legal holiday such Annual Meeting is to be held on the first business day thereafter or on such other date as may be designated by the Board of Directors. The notice of the Annual Meeting shall be made not less than ten (10) nor more than thirty (30) days from the date of such meeting, in person or by regular mail.

### 3.9. REAL ESTATE TAXES

Until 1985, the Association as a subsidiary of UDC will be exempt from all local real property taxes other than assessments for local improvements. The real property taxes which the Audubon Association would otherwise pay on its property will be assessed to the owners of residential units instead through their own real estate taxes. The unit owners in a cluster will share the taxes attributable to the common areas in that cluster. Taxes otherwise attributable to major Audubon Facilities – such as Walton Pond Center after its dedication to the Association – will be apportioned to residential unit owners based on the square footage of the unit relative to the estimated Useable Floor Area of the total number of units for which the facility or facilities are designed.

### 3.10. NO INCOME TAX DEDUCTION FOR OWNERS

UDC has been advised by its counsel that owners of the Property will not be entitled to any federal or state income tax deductions for any portion of their Maintenance of Special Assessments. (See Opinion of UDC's Counsel included in Part I).

### 3.11 TAX STATUS OF THE AUDUBON ASSOCIATION

The Internal Revenue Service by Revenue Ruling 74-99, dated March 6, 1974, ruled with respect to certain other residents associations which appear to have many characteristics similar to the Audubon Association, that such residents associations are presumed to be "essentially and primarily formed and operated for the individual business or personal beneift of their members, and, as such, do not qualify for [an income tax] exemption under Section 501(c) (4) of the [Internal Revenue] Code." Unless the Audubon Association can demonstrate to the Internal Revenue Service that it is different from the resident associations which were the subject of the ruling or it can overcome the presumption referred to above, the Audubon Association will not be exempted from paying federal income taxes.

### 3.12. CONTROL AND RESPONSIBILITY FOR DEVELOPMENT (ARTICLES VII AND VIII)

Article VII of the Declaration provides that the initial development of the Property shall be under the control of UDC and UDR (except any property owned by the Town, a Special District or a School District). Although most construction will be undertaken by private builders who purchase property from UDC or UDR, plans for all construction must be approved by either UDC or UDR before construction can begin.

Article VIII of the Declaration provides that after issuance of a Certificate of Compliance by UDC or UDR on a building or other new improvement, enforcement of the Declaration and control over any material-change in use or any addition, modification or alteration of that building is the responsibility of the Audubon Association acting through its Architectural Standards Committee. The Architectural Standards Committee shall have five or more members appointed to two year terms by the Board of Directors of the Audubon Association. At least one of the committee members must be an architect registered to practice in New York State. All members of the committee other than the architect member, must be residents of Audubon or employees of UDC.

Once a Certificate of Compliance is issued, an owner of a building or other improvement cannot change substantially the use of that building or improvement, or make an addition, modification or alteration to it which affects the outside appearance of the building or the land around it, without the consent of the architectural Standards Committee. Plans describing the proposed change must be submitted to and approved by the Committee.

The Architectural Standards Committee may authorize its staff, subcommittees or individual members of the Committee to perform any or all of the functions of the Committee, subject however to review of the Committee itself.

Upon request of any interested party, the Architectural Standards Committee shall issue a certificate stating whether as of the date of such certificate there are any violations of the Declaration respecting the exterior appearance, design, or maintenance of a particular Unit. A reasonable charge may be imposed for issuance of this certificate.

# PART V.
# CLUSTER ASSOCATIONS AND COMMON MAINTENANCE

Residents of Audubon who purchase attached dwelling units may take title subject to another Declaration known as a "Cluster Declaration" recorded in the Erie County Clerk's Office. Under the Cluster Declaration they will be members of a Cluster Association. There will be an Offering Plan for each Cluster Association.

Each Cluster Association will be a not-for-profit corporation, with its own by-laws. The owners of dwelling units in the cluster will be the members of the Cluster Association and the Members will elect a Board of Directors.

Under the Cluster Declaration, the primary purpose of each Cluster Association will be to arrange for exterior maintenance and casualty insurance for the dwelling units in the Cluster.

A Cluster Association can perform such other functions and undertake such other programs and activities as its Members and Directors choose. Initially, the Cluster Associations will not own any real property.

Pursuant to the Cluster Declaration the dwelling unit owners will be required to pay annual assessments to the Cluster Association to cover the cost of the exterior maintenance and insurance for the dwelling units in the Cluster. To support any activities other than exterior maintenance or insurance which the Cluster Association may elect to undertake, the Association would have to rely on voluntary contributions or fund raising activities to raise additional money.

The Cluster Maps attached as Exhibit D indicate the housing clusters which will have Cluster Associations. Prospective purchasers of dwelling units in these clusters should read their Cluster Declaration, a copy of which may be obtained at the UDC Audubon Office or from the builder of the units in the Cluster.

# PART IV.
# OTHER PROVISIONS IN THE DECLARATION

## 4.1. GENERAL COVENANTS AND RESTRICTIONS (ARTICLE IX)

The owners and residents of the Property are bound by certain general covenants set out in the Declaration, some of which are summarized as follows:

a. All property owners must keep their property in good order.

b. No signs may be erected without the consent of the Architectural Standards Committee, except for signs erected with the consent of UDC or UDR.

c. No animals, birds or insects may be kept without the consent of the Architectural Standards Committee, except for household pets.

d. Any activity reasonably considered to be a nuisance if performed outdoors must be performed indoors.

e. No fence or wall may be erected without the consent of the Architectural Standards Committee (unless initially approved by UDC or UDR).

f. Except for building materials during the course of construction or during the repair of approved improvements, no garbage or trash may be stored or allowed to accumulate except in sanitary containers screened from adjacent property. The Association may adopt rules and regulations as to the size, shape, color, type and manner of storage of garbage cans. Also, no garbage, trash or other material shall be placed or stored within 20 feet of the edge of a lake or other body of water, nor shall untreated liquid waste be discharged into any lake or open body of water or sewer.

g. There shall be no above-ground utility poles, wires or pipes except with the consent of the Architectural Standards Committee.

h. No noxious or offensive activity shall be carried out upon any portion of the Property.

i. A wall placed on the dividing line between two parcels is a "party wall" and the cost of repair and maintenance of such wall shall be shared by the owners of the parcels who share the wall.

j. No temporary building, trailer, basement, tent, shack, barn, outbuilding, shed, garage, or building under construction or any other structure not a dwelling house, shall be used, temporarily or permanently, as a residence except with the consent of the Architectural Standards Committee.

k. No outside television or radio antenna shall be erected except with the consent of UDC or UDR prior to issuance of a Certificate of Compliance, and by the Architectural Standards Committee thereafter.

l. Property owners and residents shall protect existing trees and bushes and shall not cut down a tree with a trunk more than 4" in diameter without the permission of the Architectural Standards Committee.

M. No snowmobiles or similar motor vehicles shall be operated on any open space areas owned by the Association without the consent of the Association.

n. No Owner or Resident shall discriminate against any person because of race, color, religion, sex, sexual orientation, or national origin in the sale, rental, use or occupancy of the Property.

The foregoing are merely summaries of the general covenants. Owners and Residents are advised to examine the complete text in the Declaration attached hereto as Exhibit I.

## 4.2 ADDITIONAL COVENANTS APPLICABLE TO RESIDENTIAL AREAS.

a. No portion of the Property used for a residential purpose shall be used for non-residential purposes except with the consent of the Architectural Standards Committee.

b. There shall be no outside storage of vehicles such as camper bodies, boats or trailers.

c. There shall be no extensive outdoor repair work of motor vehicles, boats or machines.

## 4.3 DURATION AND AMENDMENT OF DECLARATION

The Declaration shall remain in effect until terminated. The procedure for termination set forth in the Declaration provides that, starting in 2049, and each 20 years thereafter, the Association will hold hearings to consider terminating the Declaration. After each hearing, members of the Association and Audubon property owners who are not members of the Association will vote on the question. A majority vote is required to terminate the Declaration. If there is not a majority vote for termination, the Declaration shall remain in effect.

The Declaration may be amended after a hearing on any proposed amendment, by a two-thirds vote of Association members and Audubon property owners who are not members of the Association. The written consent of UDC is required for any amendment to the Declaration prior to January 1, 1985.

# PART VI.
# GENERAL

In accordance with Section 352-e(9) of the General Business Law, copies of this Offering Plan and all exhibits or documents referred to herein shall be available for inspection by prospective purchasers at the UDC Audubon office, 2222 Millersport Highway, Getzville, New York and shall remain available for such inspection for a period of six years.

All of the documents referred to in this Offering Plan are important. It is suggested that you review all of them, and that you consult with your attorney or financial advisor before signing any contracts and also provide him or her with a copy of this Offering Plan.

All conveyances of property by UDC, including conveyances to the Audubon Association, Inc., will be by warranty deed with lien covenant, the customary form of deed used in Erie County.

This Offering Plan does not knowingly omit any material fact or contain any untrue statement of any material fact. An exact copy of the Certificate of Incorporation and the By-Laws of the Audubon Association, Inc. is contained herein.

There are no lawsuits or other proceedings now pending, or any judgements outstanding, either against UDC or the Association or any person or persons which might become a lien against the Property or which materially affect this Offering.

This Plan is offered only to persons over 18 years of age resident in the State of New York.

UDC represents that UDC and the Association will not discriminate against any person because of race, creed, color, national origin, sex or sexual orientation in the sale of any portion of the Property or in the offering of memberships in the Association.

As of the date of first presentation of the Offering Plan, neither UDC nor any representative or agent of UDC has raised funds or made any preliminary offering or binding agreement to or with prospective homebuyers, except pursuant to Cooperative Policy Statement No. 1.

No person has been authorized to make any representation which is not expressly contained herein. This plan may not be changed or modified orally.

Dated June 4, 1975

NEW YORK STATE URBAN DEVELOPMENT CORPORATION

Sponsor

OFFERING PLAN

# Audubon Association, Inc.

# Exhibits

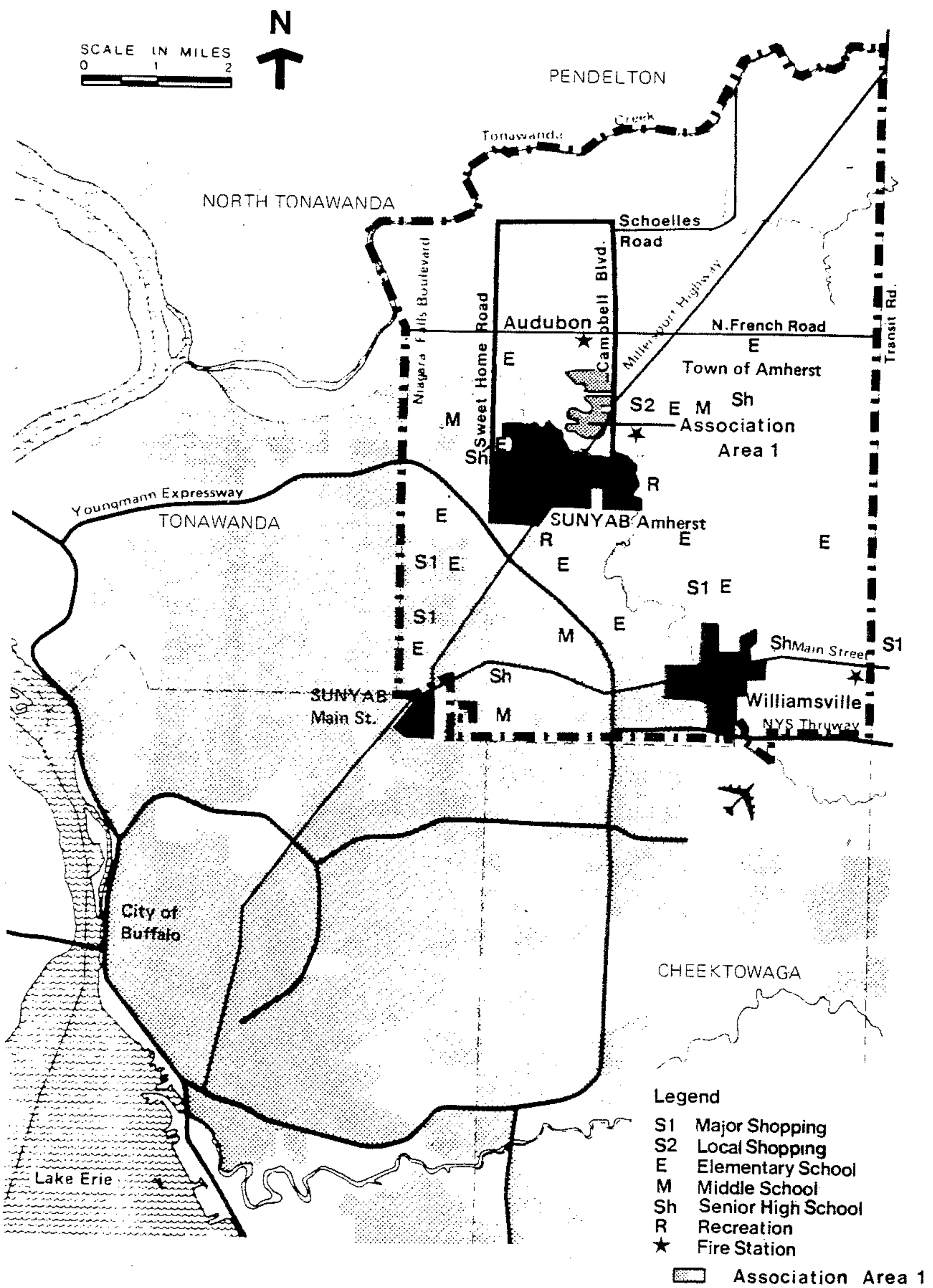



**Exhibit A** **Site Location Association Area 1**

11-14-74

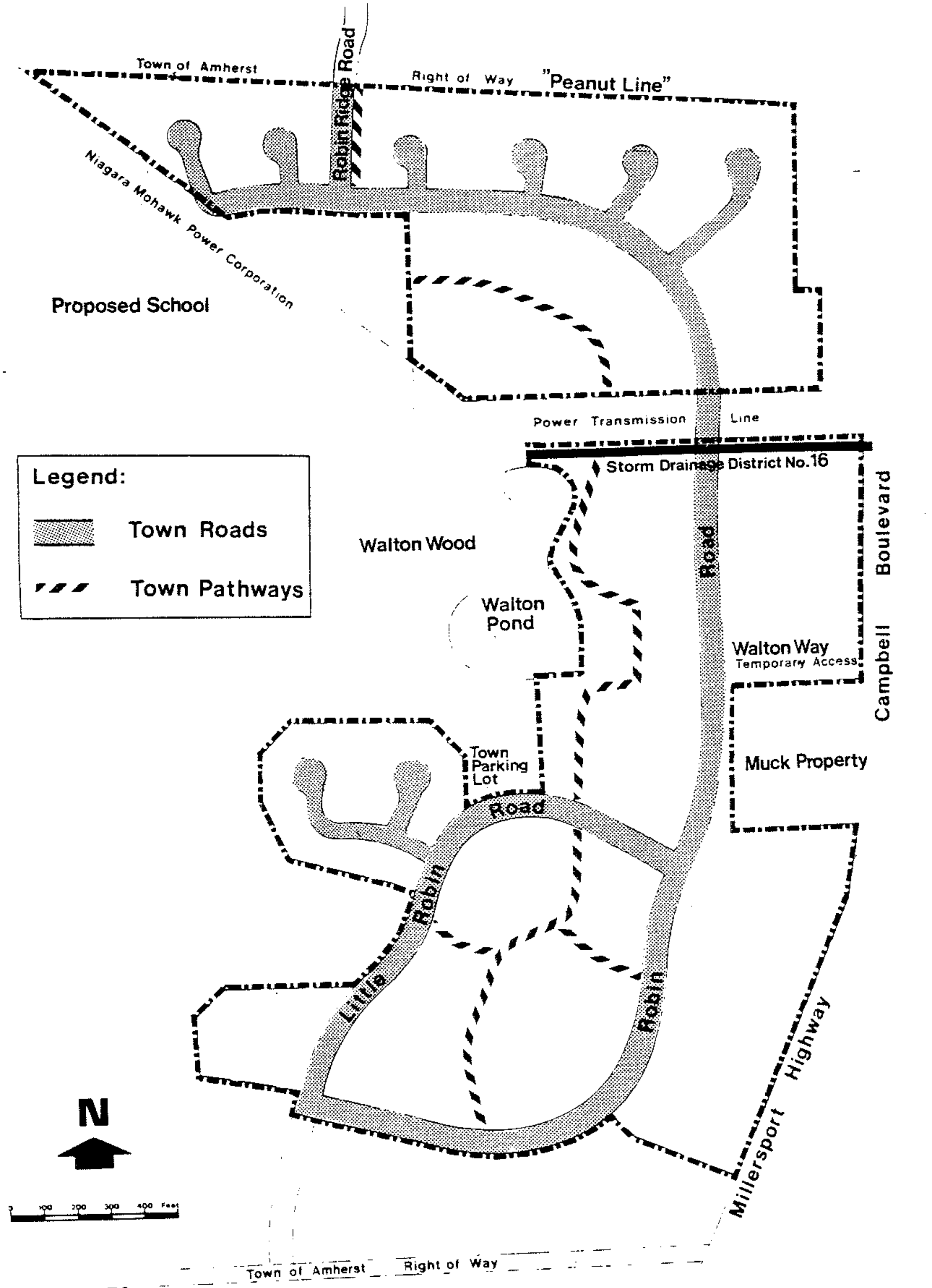
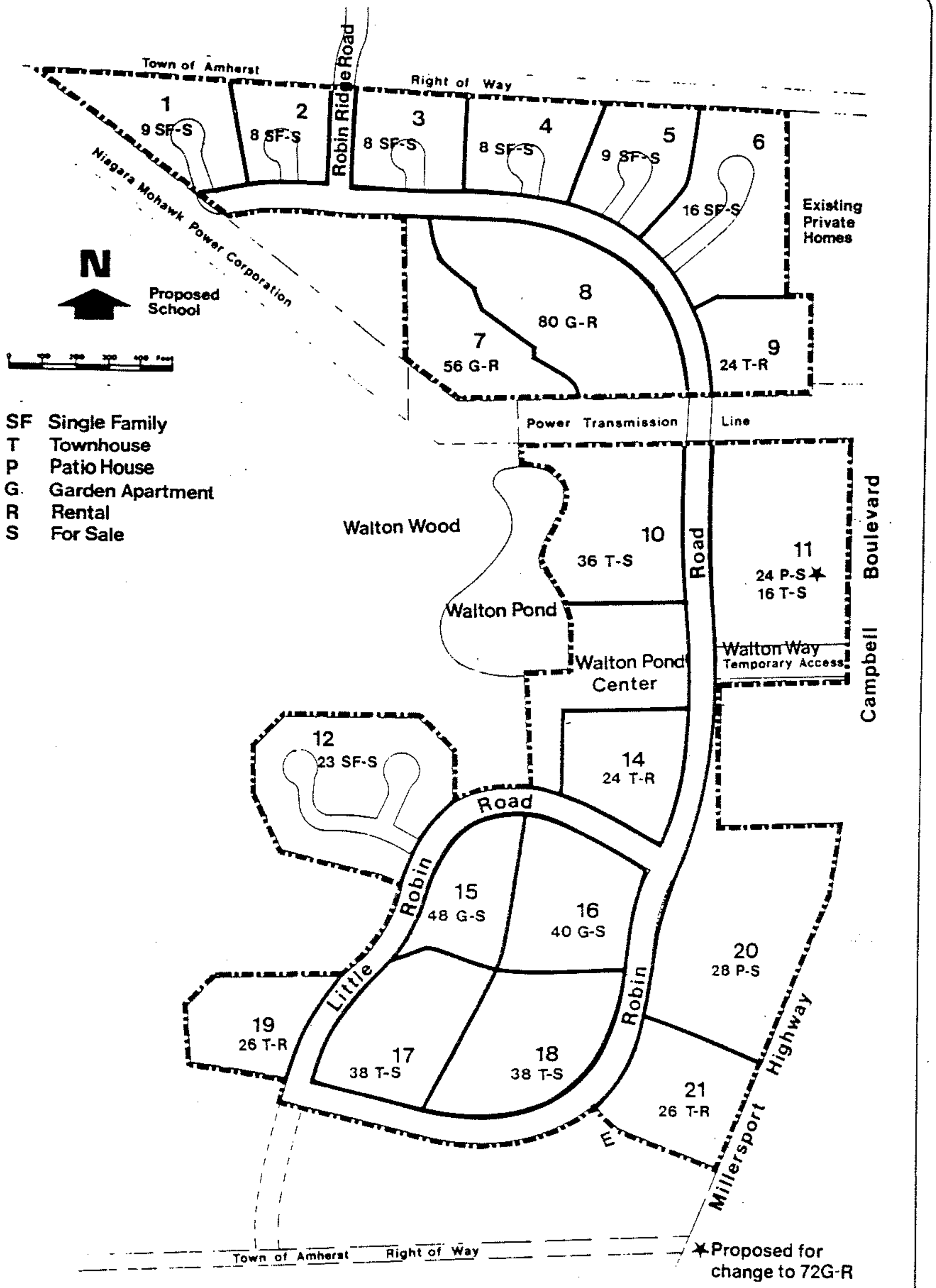


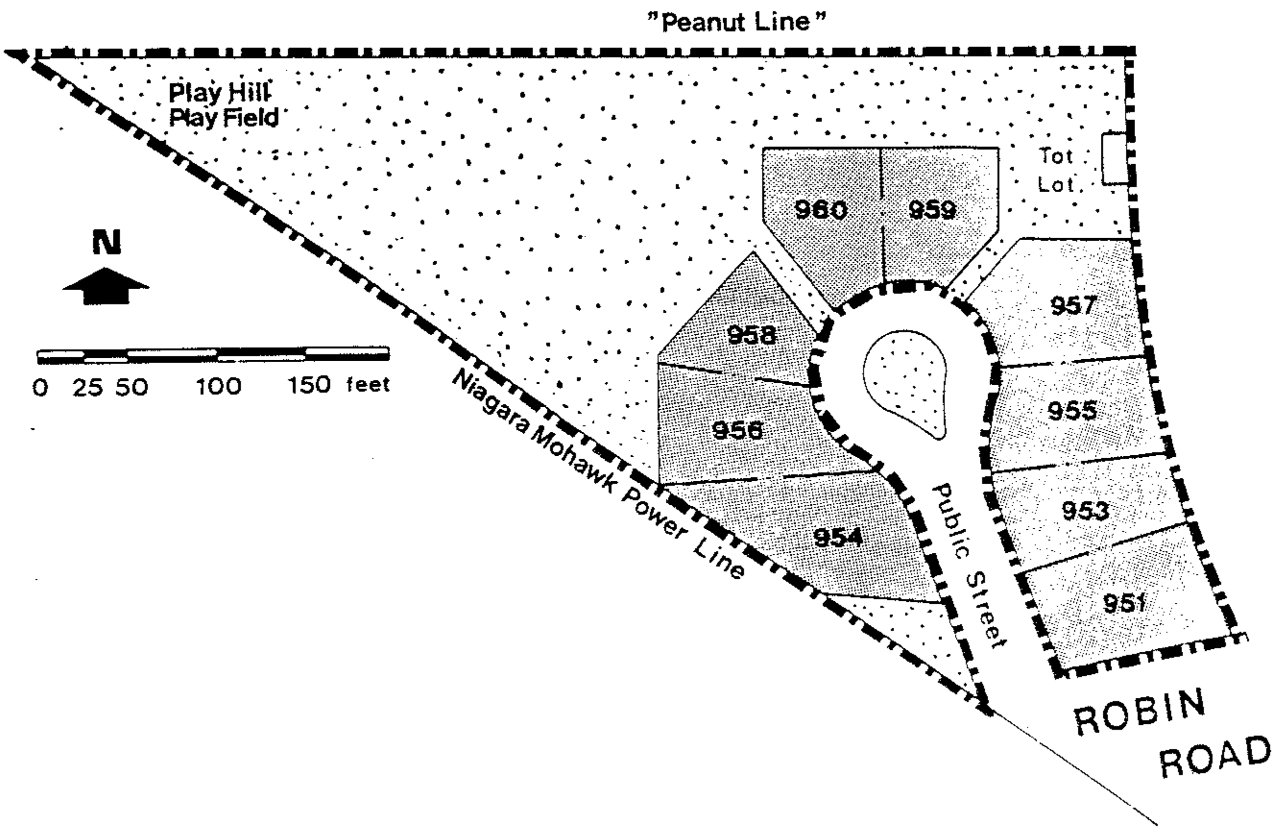

**Exhibit B** **Association Area 1**

11-14-74




# Exhibit C Development Clusters

11-14-74




Legend:

Area not maintained by Association

Cluster Boundary

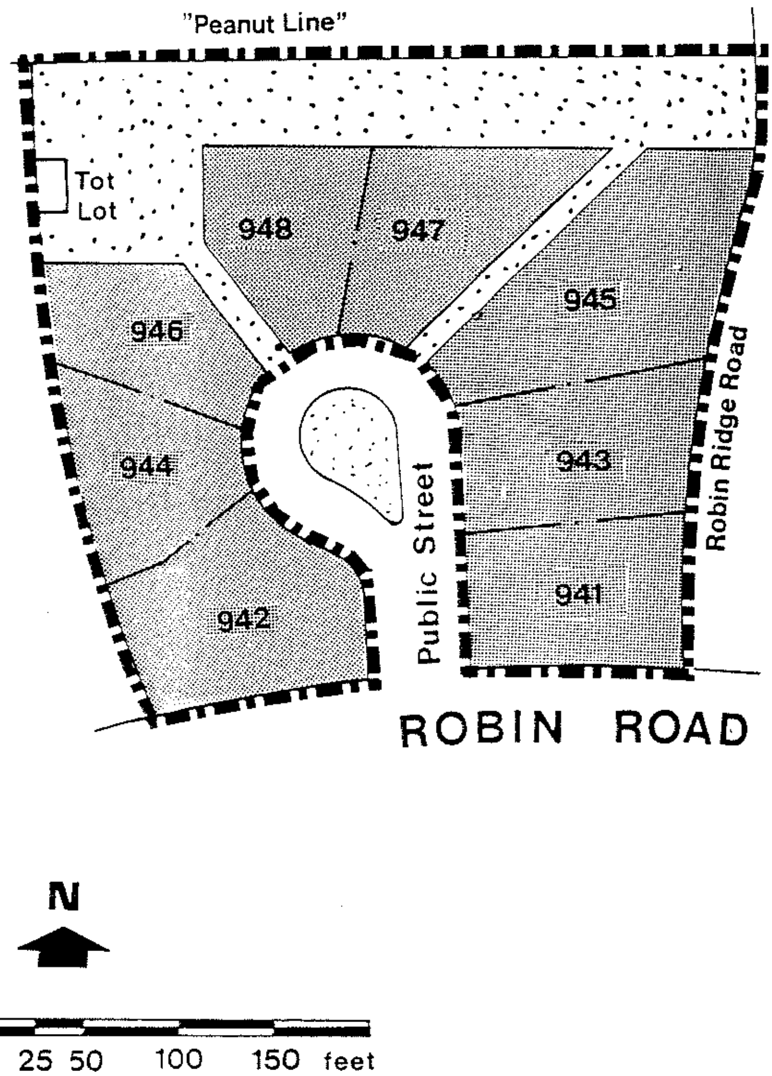
Exhibit D

## Cluster 1 - ROBIN RIDGE

951-960 Robin Road

9 Single Family Lots For Sale

11-14-74




Legend:

Area not maintained by Association

Cluster Boundary

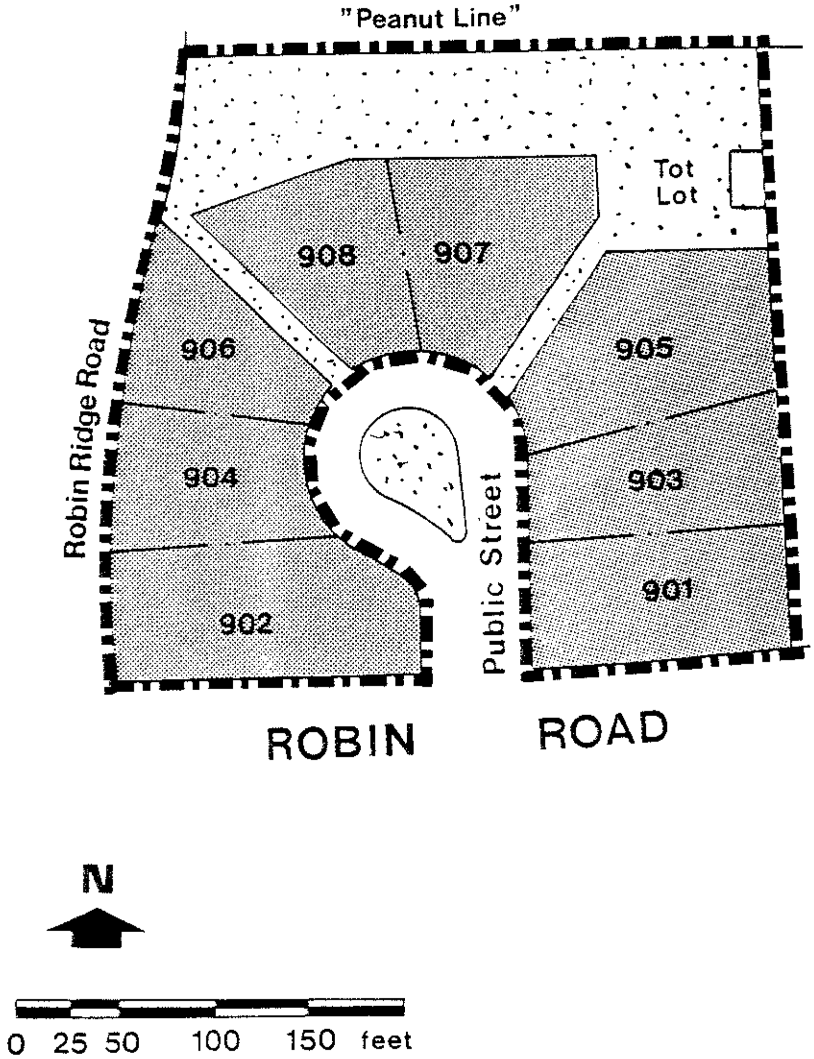
Exhibit D

Cluster 2 - ROBIN RIDGE

941 · 948 Robin Road

8 Single Family Lots For Sale

11-14-74




**Legend:**

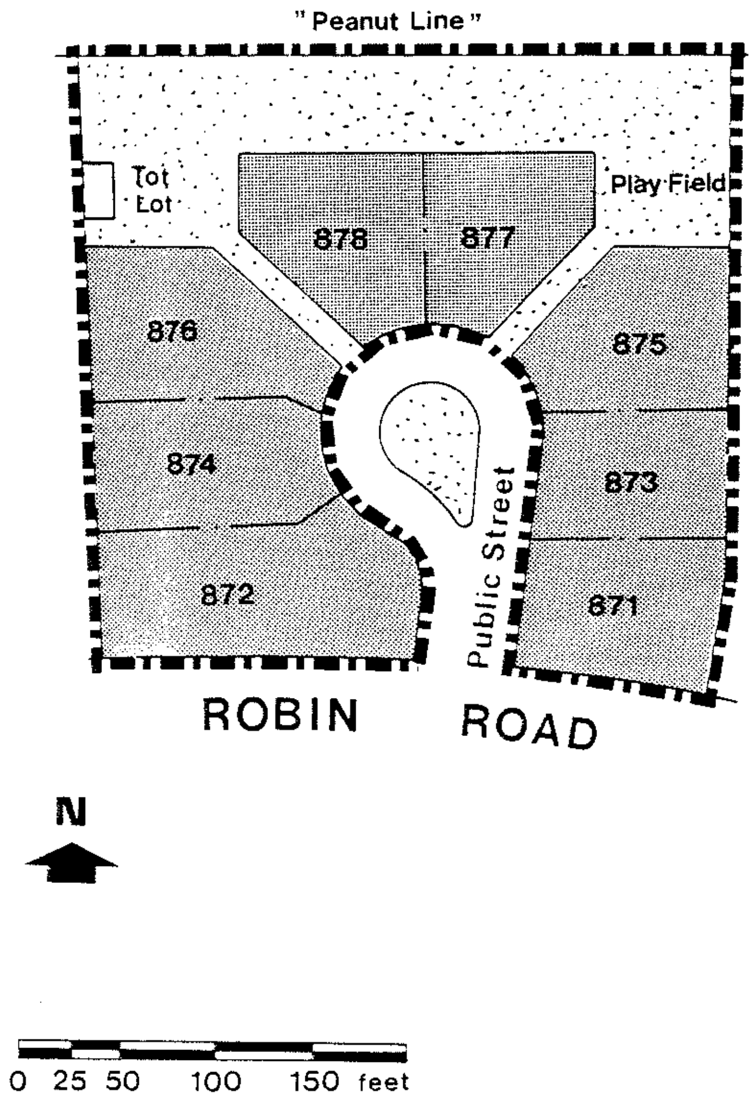
Area not maintained by Association

Cluster Boundary

**Exhibit D** **Cluster 3 - ROBIN RIDGE**

901·908 Robin Road

8 Single Family Lots For Sale 11-14-74




## Legend:

Area not maintained by Association

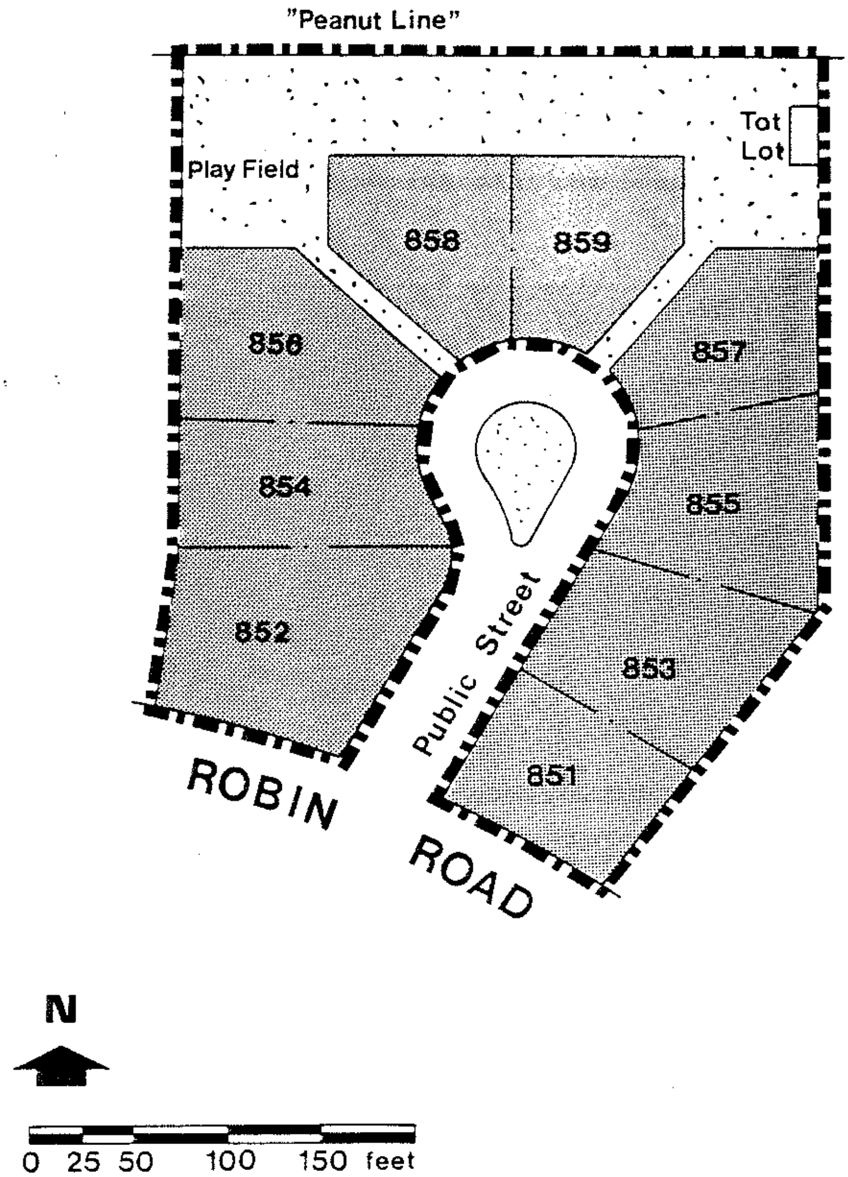
Cluster Boundary

**Exhibit D** **Cluster 4 - ROBIN RIDGE**

871 - 878 Robin Road

8 Single Family Lots For Sale

11-14-74




Legend:

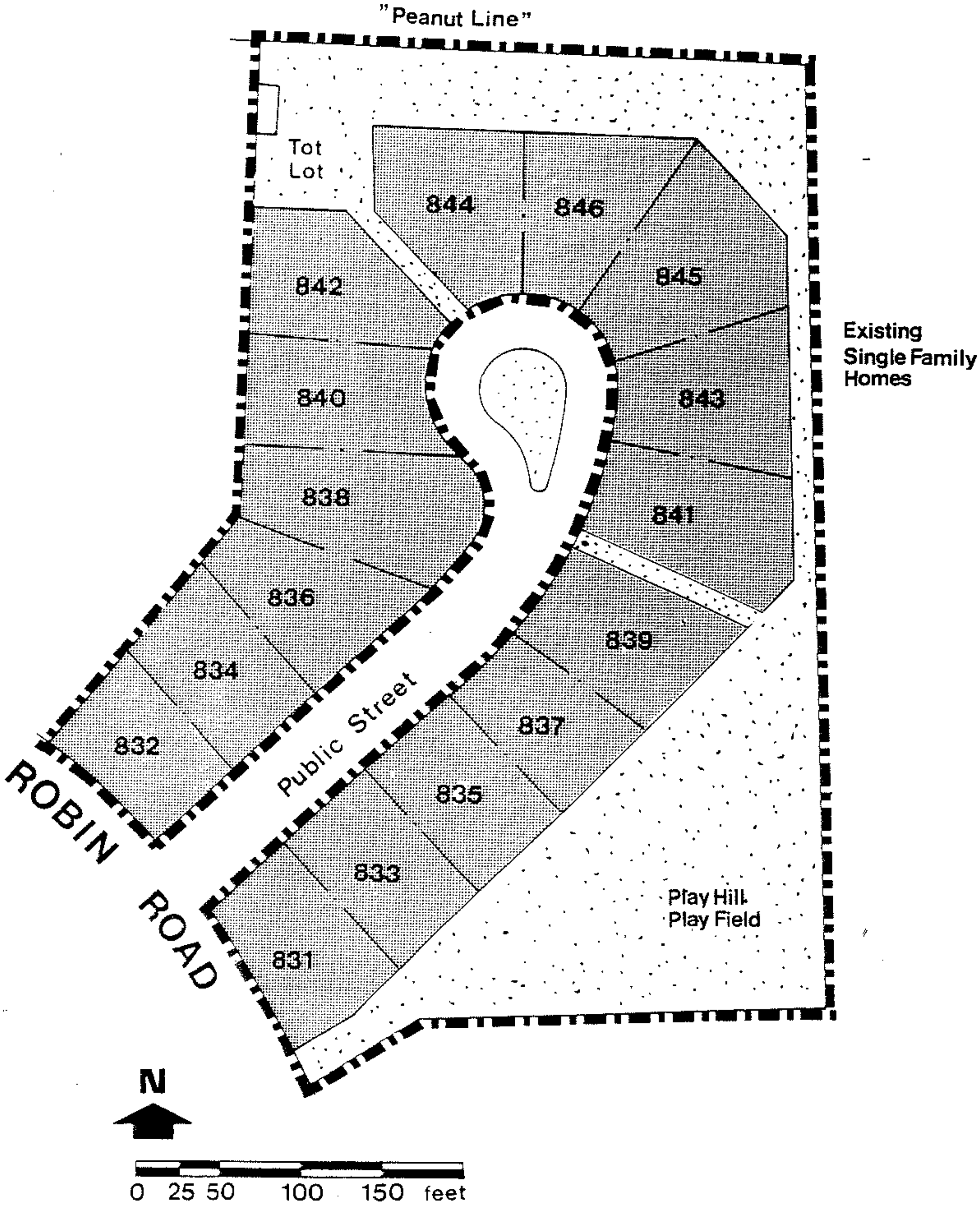
Area not maintained by Association

Cluster Boundary

**Exhibit D** **Cluster 5 - ROBIN RIDGE**

851-859 Robin Road

9 Single Family Lots For Sale 11-14-74




Legend:

Area not maintained by Association

Cluster Boundary

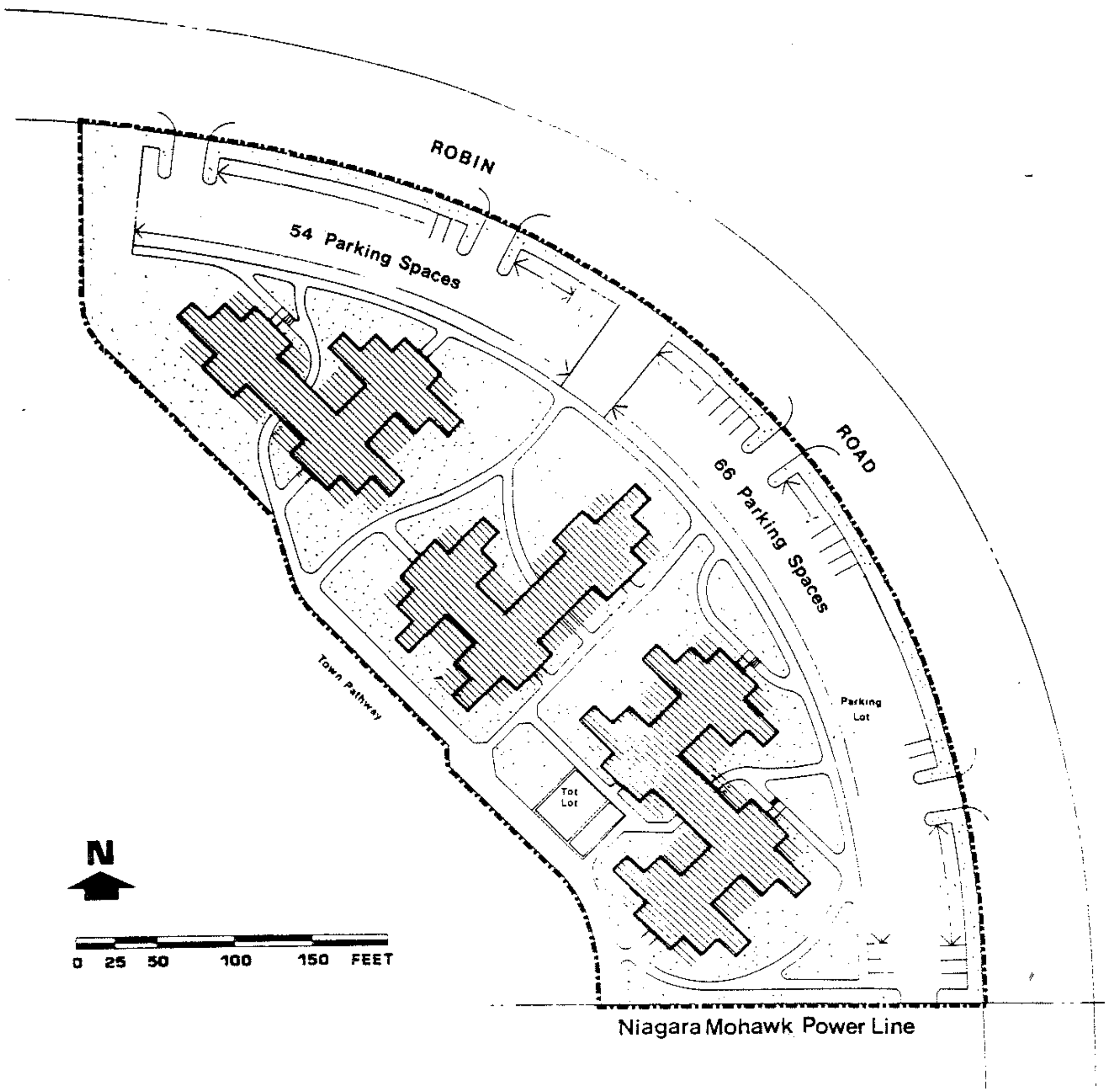
Exhibit D

Cluster 6 - ROBIN RIDGE

831 · 846 Robin Road

16 Single Family Lots For Sale

11-14-74




## Legend:

Area not maintained by Association

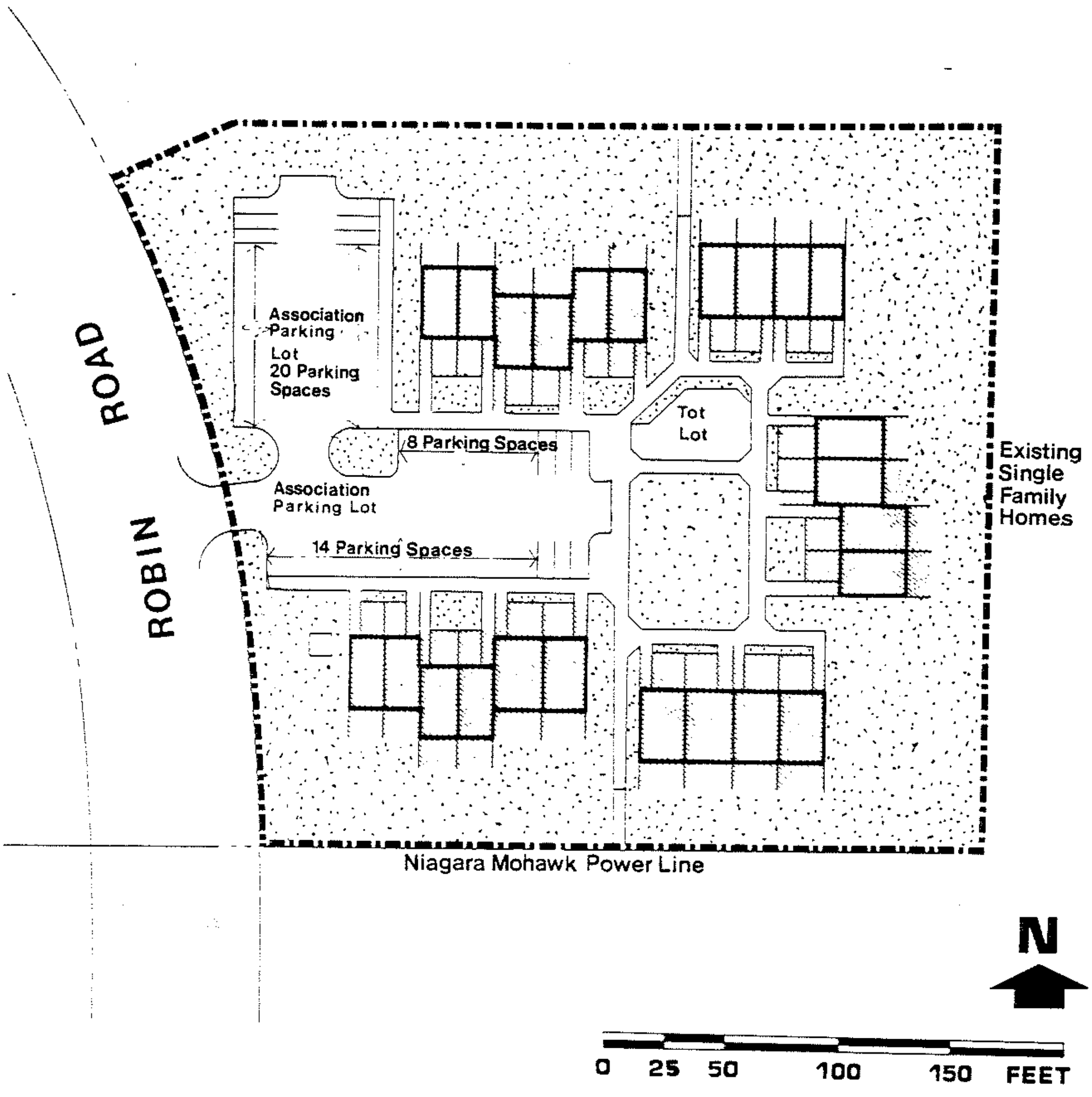
Cluster Boundary

**Exhibit D** — **Cluster 8 - PARKSIDE FIVE**

825-862 Robin Road

80 Garden Apartments - Rental

11-14-74




## Legend:

Area not maintained by Association

Cluster Boundary

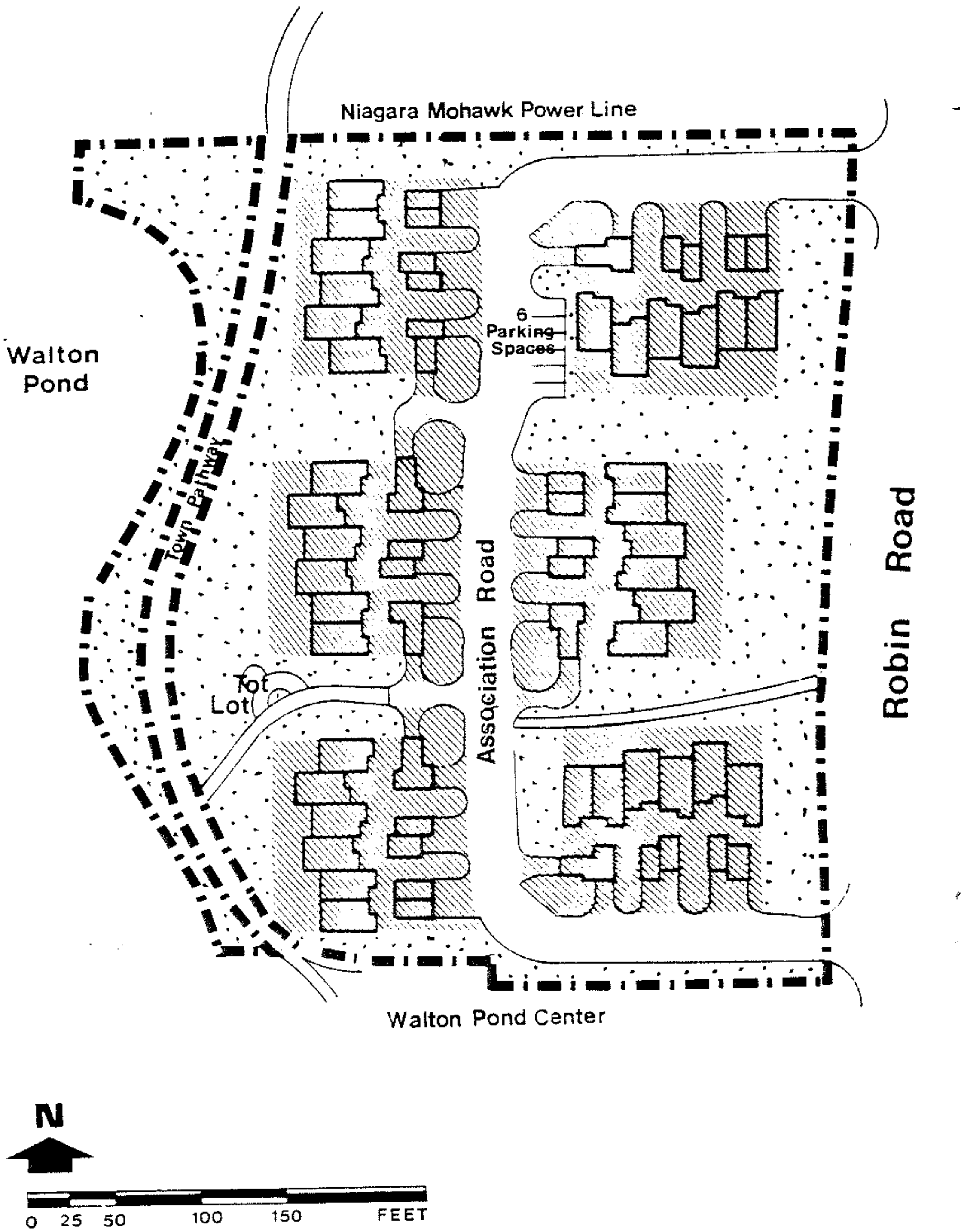
**Exhibit D**

**Cluster 9 - PARKSIDE FOUR**

801 - 824 Robin Road

24 Townhouse Rental Units

11-14-74




Legend:

Area not maintained by Association

Cluster Boundary

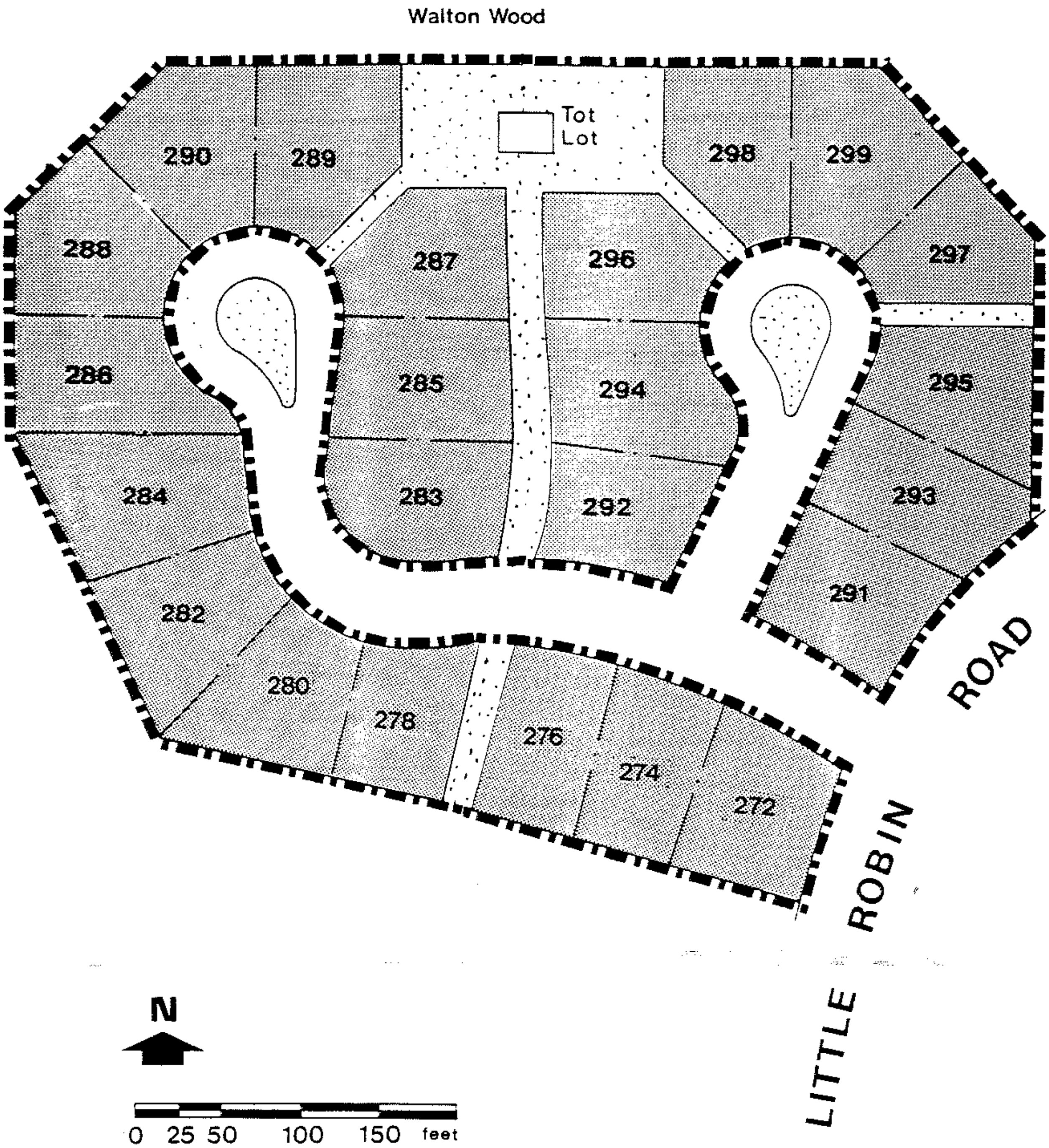
Exhibit D
To have Cluster Association

Cluster 10 - WILLOWVIEW

721 · 756 Robin Road

36 Townhouse Units - For Sale
With Garages

11-14-74




## Legend:

Area not maintained by Association

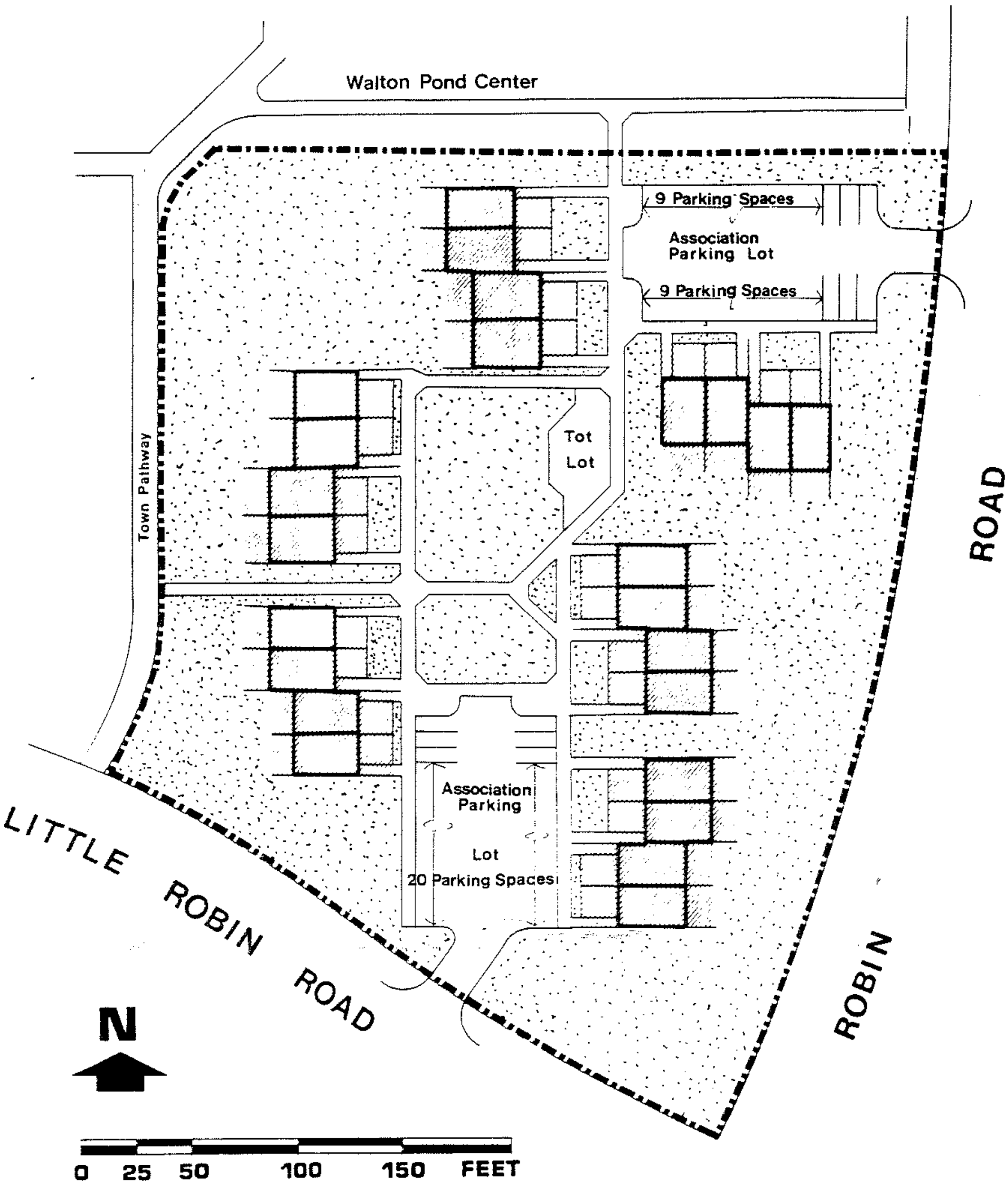
Cluster Boundary

**Exhibit D** | **Cluster 12 - ROBINWOOD**

272 - 299 Little Robin Road

23 Single Family Lots For Sale

11-14-74




Legend:

Area not maintained by Association

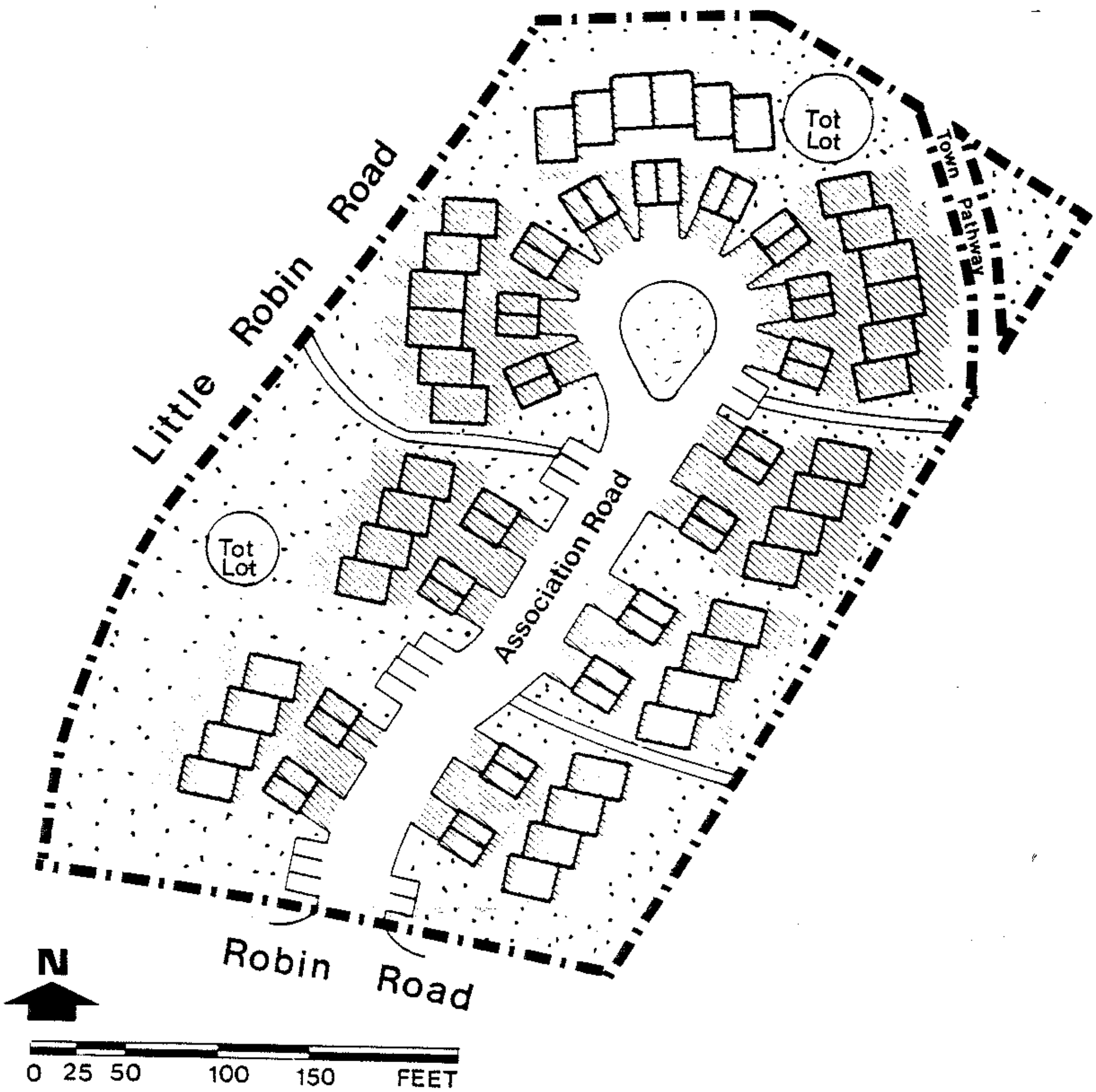
Cluster Boundary

**Exhibit D** **Cluster 14 - PARKSIDE ONE**

302-332 Little Robin Road 650-664 Robin Road

24 Townhouse Rental Units

11-14-74




Legend:

Area not maintained by Association

Cluster Boundary

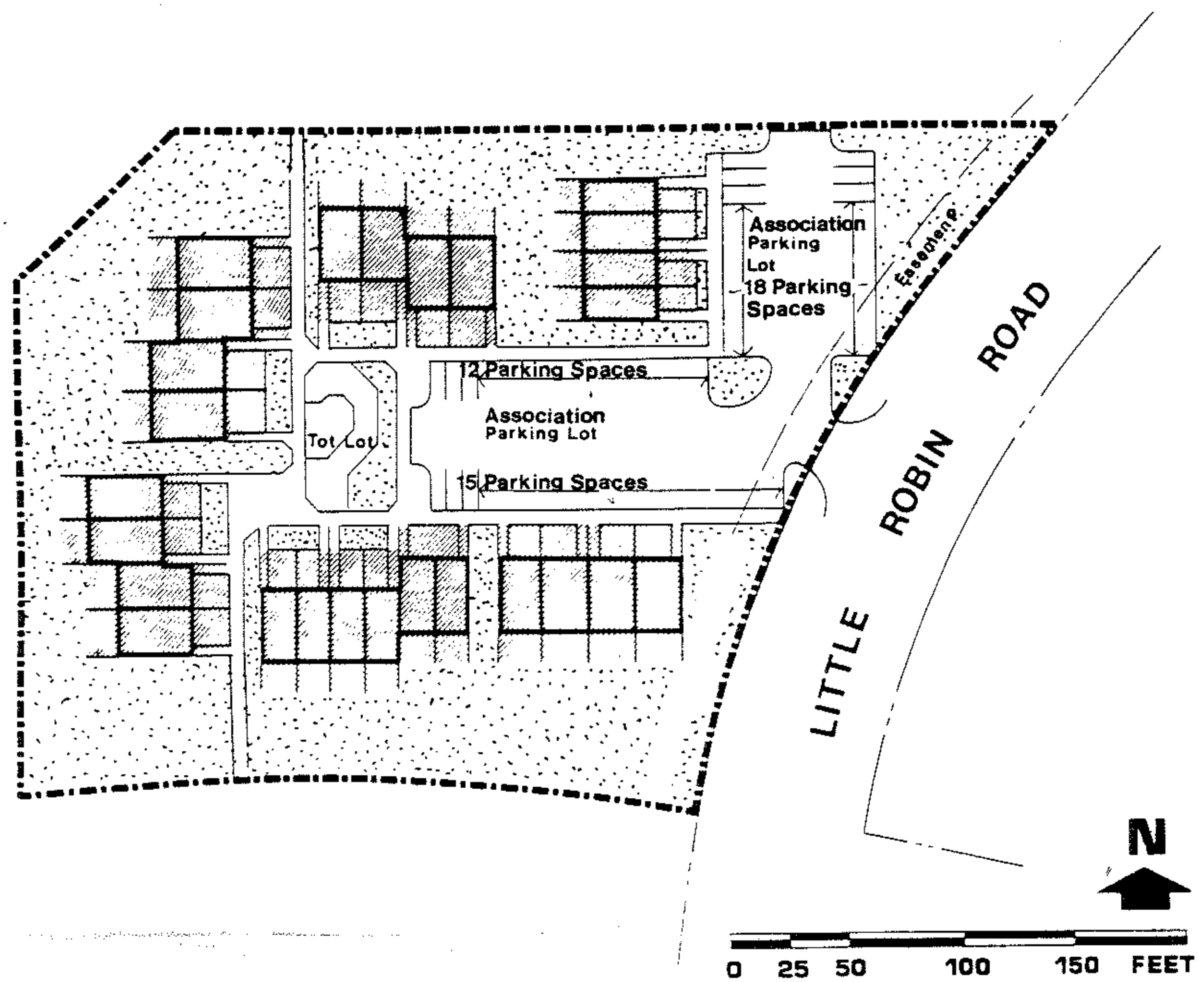
**Exhibit D**
To have Cluster Association

**Cluster 17-QUAIL HOLLOW ONE**

1-47 Robin Road

38 Townhouse Units – For Sale
With Garages

11-14-74




**Legend:**

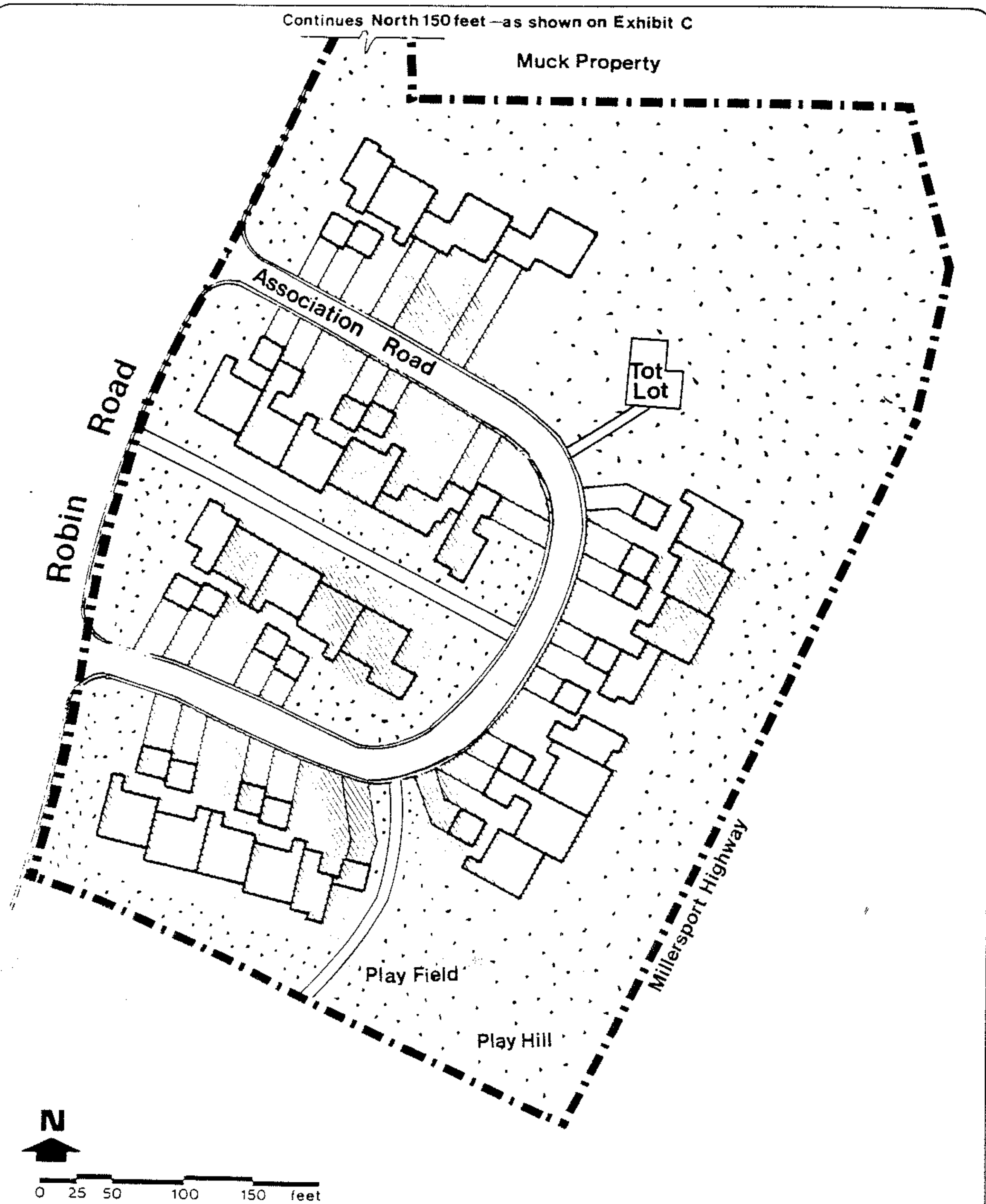
Area not maintained by Association

Cluster Boundary

**Exhibit D** **Cluster 19 - PARKSIDE THREE**

101 - 126 Little Robin Road

26 Townhouse Rental Units 11-14-74




## Legend:

- Area not maintained by Association
- Cluster Boundary

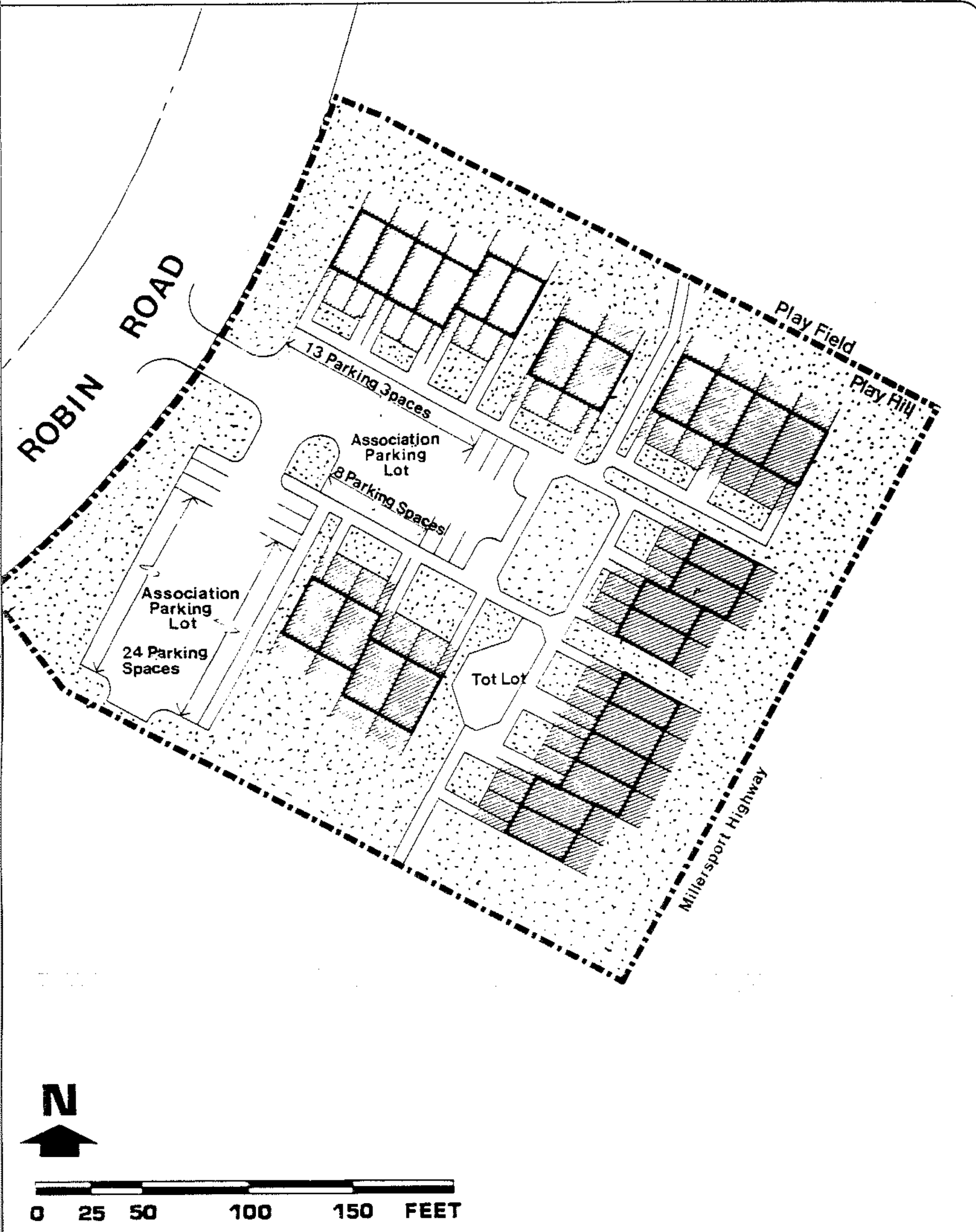
**Exhibit D**
To have Cluster Association

**Cluster 20-SPRUCEWOOD**

401-434 Robin Road

28 Patio Houses With Garages — For Sale

11-14-74




Legend:

Area not maintained by Association

Cluster Association Boundary

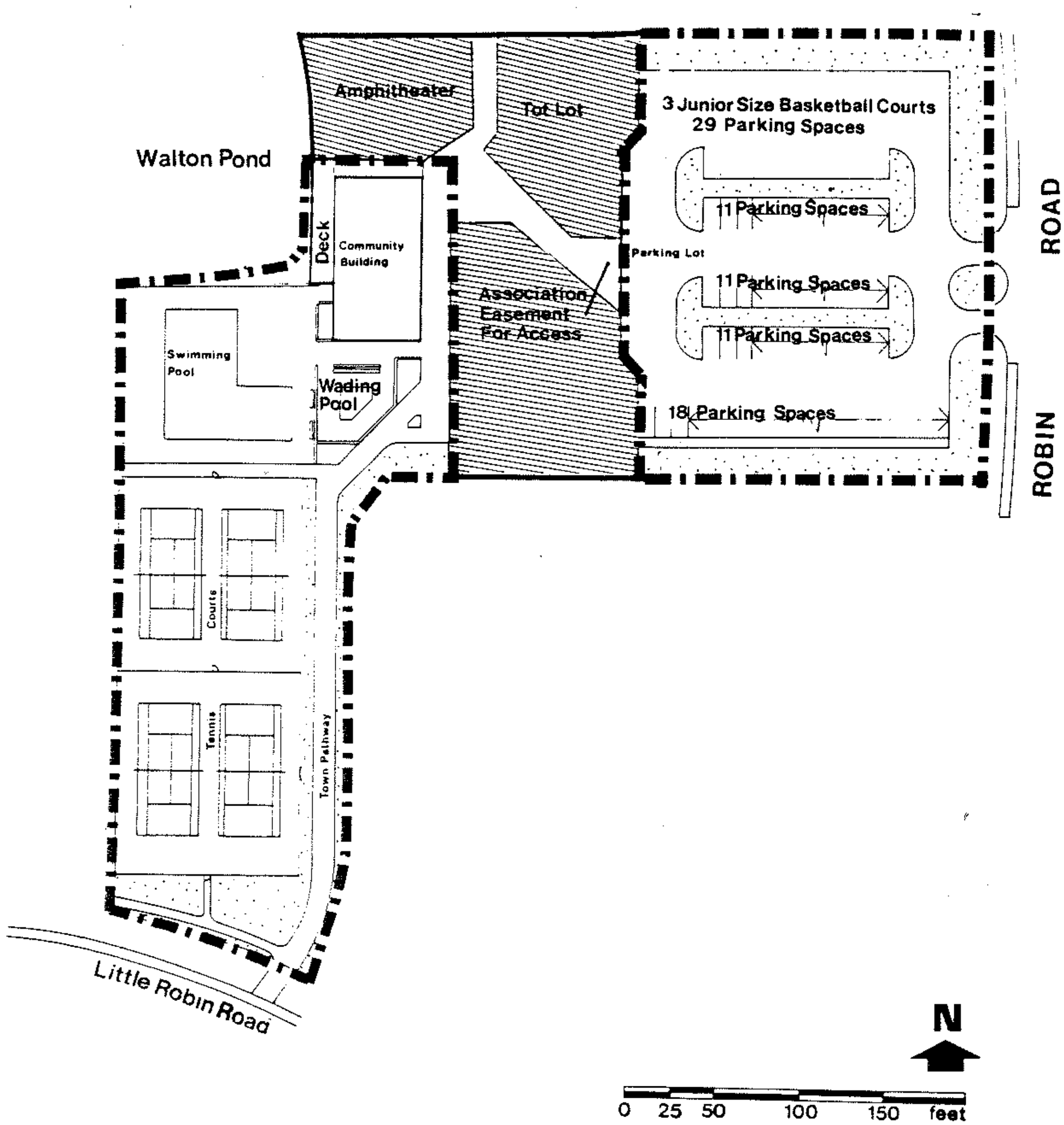
Exhibit D

Cluster 21 - PARKSIDE TWO

301-326 Robin Road

26 Townhouse Rental Units

11-14-74




## Legend:

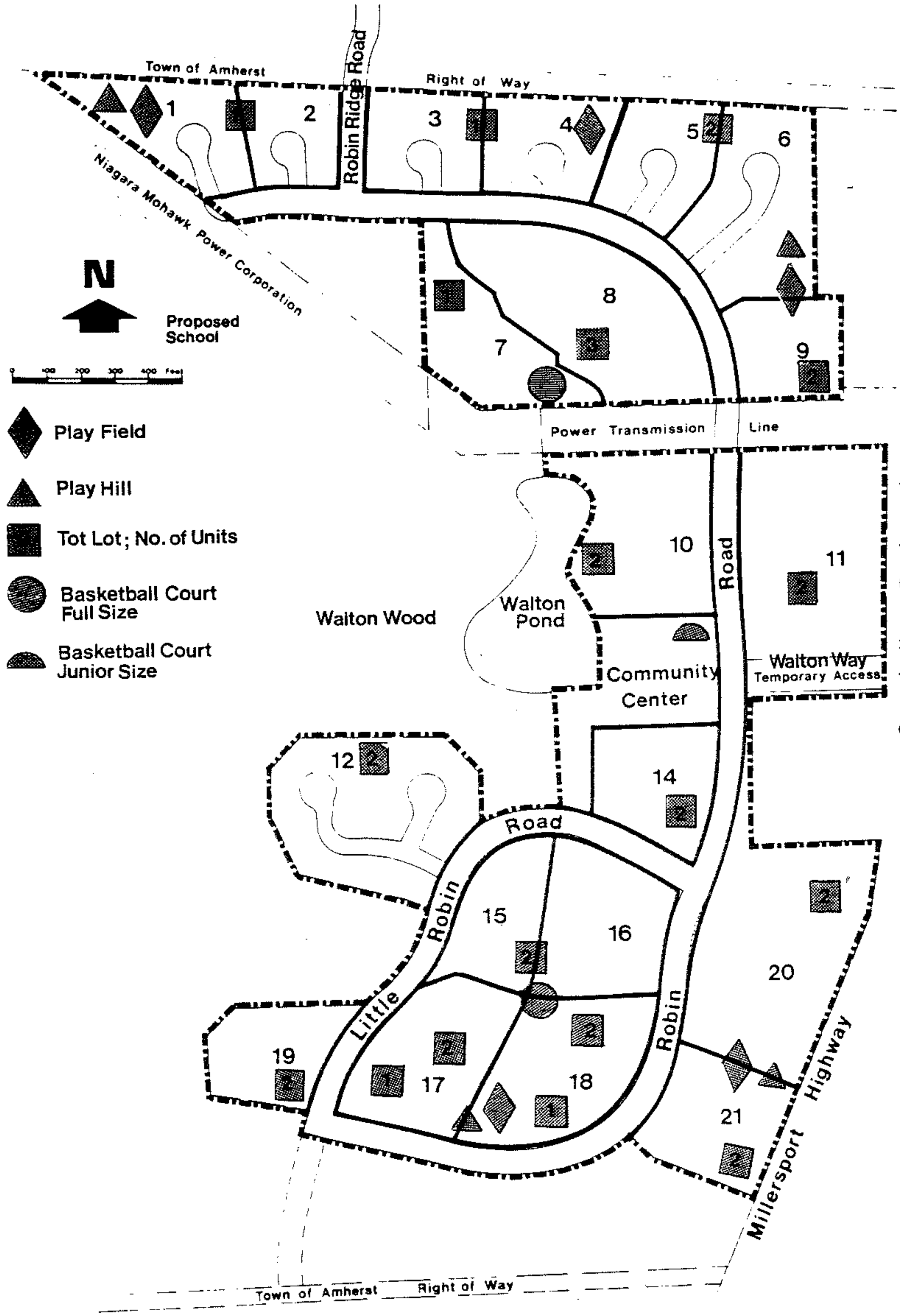
Area to be reserved for UDC future development

Association Boundary

# Exhibit E

Walton Pond Center

11-14-74




# Exhibit F

## Association Tot Lots, Play Areas, and Basketball Courts

11-14-74

**EXHIBIT G**

## DIRECTORS OF AUDUBON ASSOCIATION

The persons listed below are the Initial Directors of the Audubon Association. They are all employees of the New York State Urban Development Corporation and hold the positions set forth opposite their names in UDC's Audubon office:

David F. Parker, General Manager – Audubon
Joseph B. Lynch, Director of Development – Audubon
David W. Parry, Director of Planning and Programming – Audubon
Wolfgang H. Rosenberg, Director of Public Affiars – Audubon
F. William Gray, Staff Counsel

## UDC AND ITS FINANCIAL CONDITION (as of April 1, 1975)

**EXHIBIT H**

UDC is a public benefit corporation and governmental agency of the State of New York created by the New York State Urban Development Corporation Act of 1968 (Chapter 174 of the Laws of 1968 of the State of New York) (the "UDC Act").

The principal offices of the corporation are located at 1345 Avenue of the Americas, New York, New York 10019. Sponsor also has offices in Audubon at 2222 Millersport Highway, Getzville, New York 14068.

UDC has undertaken the planning, design, financing, development and construction of a wide variety of residential, industrial, commercial, civic and land use improvement developments throughout the State of New York, including the New Communities of Roosevelt Island in New York City and Radisson in the Syracuse area presently being developed.

UDC has financed its obligations to date primarily from the sales of General Purpose Bonds and Bond Anticipation Notes. UDC has also received direct appropriations from the State Legislature to finance certain activities and obligations. At present, however, UDC is unable to sell any new issues of Bonds or Notes to obtain the funds it requires to finance completion of its projects now under construction, or to undertake any new activities.

Over the past two months, negotiations have been and are presently being carried on with banks and other financial institutions directed towards arriving at agreement on a financing plan which will enable UDC to complete some or all of its current program. The State Legislature has authorized an appropriation to enable UDC to continue its day-to-day operations over a short period of time. However, UDC is presently in default on the repayment of principal and interest on $100,000,000 of Bond Anticipation Notes due February 25, 1975 and owes a group of banks $30,000,000 plus interest, in repayment of a short-term loan it obtained on January 13, 1975. UDC does not presently have the funds to repay these obligations. If no long-term financing solution is found very soon, UDC will likely be required to seek the protection of a court under the federal bankruptcy laws. In such event, UDC can give no assurance that the development of Audubon would continue nor can it give any assurance that it would be permitted to fulfill all of its obligations under this Offering Plan.

In such event, UDC can give no assurance that the development of Audubon would continue nor can it give any assurance that it would be permitted to fulfill all of its obligations under this Offering Plan, such as its obligation to convey property to the Association. It is particularly difficult to predict what the outcome of such proceedings might be because UDC has been advised by independent bankruptcy counsel that if it were to seek the protection of a court under the federal bankruptcy laws, as a public agency it would have to proceed under Chapter 9 of the Federal Bankruptcy Act entitled "Composition of Indebtedness of Local Taxing Agencies." The more familiar remedies available to a private corporation under the Bankruptcy Act would not be available to UDC.

Chapter 9 is very short and loosely drafted; it basically provides that an agency or instrumentality, under the supervision of a court and with the consent of a majority of the agency's "creditors", may effect a "plan of composition of indebtedness". The statute does not spell out in any detail what the "plan" should do except that it must be fair and equitable and for the best interests of the "creditors" and should not discriminate unfairly in favor of any "creditor" or "class of creditors". Under the statute, the court is given a great deal of flexibility and discretion in effecting the plan.

Not only are the provisions of Chapter 9 vague, but because Chapter 9 is only available to public agencies, political subdivisions, and other public instrumentalities, it has been seldom used – and then most frequently by small local improvement districts which have few assets or creditors. There is no precedent for an entity as large and complex as UDC.

Therefore neither the language of Chapter 9 nor its history provide any guidance as to what the outcome of such proceedings might be or how they might affect Audubon, the Association, its members and other owners of property in Association Area 1, or UDC's fulfillment of its obligations under this Offering Plan. Although the funds in the Development Trust Fund and Association Deficit Trust Fund would most likely be available for the various purposes for which the Trusts were created as described herein (although most likely after considerable delay), UDC can give no assurance that it would ever be permitted to convey any or all of the facilities not yet conveyed to the Association. Even if it were to be permitted to convey such facilities to the Association it would very likely be after a delay of months or even years. The Association, its members or other owners of property in Association Area 1 might wish to retain counsel to protect their interests as possible "creditors" and to have a say in the "plan of composition". This would undoubtedly cost money and the claimants would have to look to their own resources to provide these funds; they could not look to UDC or the Trust Funds.

Even if a long-term financing solution is found, UDC can give no assurance that it would be permitted to continue with the development of Audubon as planned. As of April 1, under the terms of the $30,000,000 short-term loan agreement referred to above, as long as any portion of the loan is outstanding, UDC is basically restricted from entering into any new contracts or making any new commitments to spend money. In addition, in the appropriation legislation referred to above, the New York State Legislature provided that this money could only be used to pay contractors or other firms or persons who have provided services or property to UDC or for any project of UDC or to owners of UDC projects, as well as to pay

UDC's salaries and overhead. A few days earlier, the Legislature amended the UDC Act to add a new Section 36 called "Limitation on New Projects," which basically provides that UDC cannot spend any of this money for the construction or development of any new project which on February 25, 1975 was not under construction by UDC or the subject of a contract or legally binding commitment for construction or financing by UDC. These various restrictions do not affect UDC's legal ability to carry out its development obligations as set forth in Part II of this Offering Plan or to make up the deficits of the Association as provided in Part III hereof, or to proceed with construction of facilities, such as the new access road, now under contract. However, UDC can give no assurance at this time that some or all of these existing restrictions may not be deemed to affect UDC's present ability to proceed, in whole or part, with the overall development of Audubon, nor can UDC predict how long these restrictions will continue or whether there may not be other or additional restrictions imposed by the New York State Legislature or other sources of financing which could affect UDC's ability, either in the short or long run, to proceed with the development of Audubon.

In addition to the foregoing, Governor Carey has publicly announced his intention to order a review of UDC's operations, including the feasibility of all of its present projects. No determination can presently be made as to how long such review will take or what the results may be, or what impact the results will have on the total development of Audubon.

The UDC Act presently provides for UDC to have nine Directors: five Directors appointed by the Governor with the advice and consent of the New York State Senate, and four Ex-Officio Directors: the Commissioner of Commerce, the Superintendent of Banks, the Superintendent of Insurance, and the Director of the Office of Planning Services within the State's Executive Department. The Chairman of UDC is designated by the Governor from the five Directors appointed by him and serves at the pleasure of the Governor.

Due to the recent change of administration in Albany as well as UDC's uncertain future, several Directors have resigned, including the Chairman, and some of these vacated positions are still vacant. Governor Carey has announced his intention to appoint Richard Ravitch, President of HRH Construction Corporation as the new Chairman of UDC. As of April 1, 1975, his appointment had not yet been submitted to the State Senate for confirmation, and Mr. Ravitch has been acting as an unpaid, full-time consultant to UDC.

As of April 1, 1975, the Directors of the Corporation were:

**Patrick J. Campbell**, Second General Vice-President, United Brotherhood of Carpenters

**Vito J. Castellano**, Acting New York State Commissioner of Commerce

**Eliot N. Vestner, Jr.**, Acting New York State Superintendent of Banks

**Lawrence G. Keepnews**, New York State Superintendent of Insurance

(It should be noted that there have been recent proposals to amend the UDC Act to change the composition of UDC's Board of Directors, although as of April 1, 1975, no such amendment had been adopted.)

UDC is currently undergoing a major staff reorganization. As of April 1, 1975, the position of President of UDC was vacant and Governor Carey has not announced an appointment to the position. As of April 1, 1975, officers and senior staff members of UDC included:

John G. Burnett, Acting Chief Executive Officer; formerly Executive Vice President and General Counsel, Development and Resources Corporation, before that General Counsel, United States International Cooperation Administration and Development Loan Fund;

Robert G. Hazen, General Manager; former Deputy Administrator, New York City Housing & Development Administration; Director of Downtown Renewal, Boston Redevelopment Authority;

Stephen A. Lefkowitz, General Counsel; former Special Assistant Counsel to former Governor Rockefeller and prior to that a practicing attorney in New York City;

Robert P. Adelman, Treasurer; former Vice President – Finance & Administration of Calina Industries Inc.; Assistant Treasurer of Celanese Corporation;

David F. Parker, Audubon General Manager; former Coordinator of the Buffalo-Amherst Corridor; Research Consultant with NYS Division of Budget; Urban Planner; and prior to that, a residential builder.