
CHAPTER 11. CONDOMINIUMS AND PLANNED UNIT DEVELOPMENTS

SECTION 1. CONDOMINIUMS

- 11-1. GENERAL. Section 234(c) of the National Housing Act provides authority to insure any mortgage covering a one-family unit in a project coupled with an undivided interest in the common areas and facilities which serve the project. The project may include dwelling units in detached, semi-detached, row, garden-type, low or high rise structures. Regulations governing this program are contained in Chapter II of Title 24 of the Code of Federal Regulations under Section 234. Also see HUD Handbook 4265.1.
- 11-2. DEFINITIONS.
- A. Mortgage. A first lien covering a fee interest or eligible leasehold interest in a one-family unit in a project, together, with an undivided interest in the common areas and facilities serving the project.
 - B. Family Unit. A one-family unit including the undivided interest in the common areas and facilities and such restricted common areas and facilities as may be designated.
 - C. Common Areas and Facilities. Areas that are for the use and enjoyment of the owners of family units located in the project. The areas may include the land, roof, main walls, elevators, staircases, lobbies, halls, parking spaces and community and commercial facilities.
 - D. Restricted or Limited Common Areas and Facilities. Those areas and facilities restricted for use by a particular family unit or number of family units.
 - E. Project. A structure or structures containing four or more units.
 - F. Conversion. The creation of the condominium as of the date on which all the documents necessary to create a condominium regime have been recorded in accordance with State and/or local law.
 - G. Tenant. The occupant named in the lease or rental agreement of a housing unit in a project as of the date the condominium conversion documents are properly filed for the project, or as of the date on which the occupants are notified by management of intent to convert the project to condominium, whichever is earlier.

(11-2) H. Bona fide Tenants' Organization. An association formed by the tenants to promote their interest in a particular project, with membership in the association open to each tenant and all requirements of the association applying equally to each tenant.

I. Condominium Fee: (Assessment). The apportionment of common expenses that are to be charged to a unit owner in a manner to be determined in the declaration or by-laws. The charge may include costs for utilities on individual units and on common use buildings, security requirements, salaries for employees of the association and repairs to common facilities.

11-3. GENERAL REQUIREMENTS FOR APPROVAL

A. Presale Requirements. In order to assess the marketability of the units, the Field Office will require that 70 percent of the total units be sold before endorsement of any unit mortgage. The presale could be reduced to as low as 51 percent with the approval of the Field Office if there is an active market for the units. Generally, presales apply to proposed or newly constructed projects. However, in an existing project where the developer is still marketing units, the same presale requirement will apply. This includes properties converted from rental projects.

Valid presales include an executed sales agreement and evidence that a lender is willing to make the loan. A mortgagee may certify that this requirement has been met.

B. Owner-occupancy Requirements for Project Approval. At least 51 percent of the units of a project must be occupied by the owners or sold to owners who intend to occupy the units. Field Offices have the option to increase the percentage to as high as 70 percent depending upon the market conditions in the area.

If the owner-occupancy ratio includes presales, we require an executed sales agreement, evidence that a lender is willing to make the loan and the buyer intends to occupy the unit. A mortgagee may certify that this requirement has been met.

Note: Both the owner-occupancy and presale requirements may be certified at the time the case is submitted for endorsement. Individual applicants may be processed through firm commitment or borrower approval by a Direct Endorsement underwriter; however, no mortgage will be insured until these requirements have been satisfied.

(11-3) C. Owner-occupancy Requirements for HUD/FHA-insured Mortgages. Once a project is approved, at least 80 percent of the units on which there are HUD insured mortgages must be owner occupied.

D. Conversions from Rental Housing to Condominiums. Units in any project converted from rental housing to condominium ownership are not eligible for insurance and HUD will not process the project unless:

- 1) The conversion occurred more than one year before the application for mortgagor approval; or
- 2) The mortgagor or comortgagor was a tenant of that rental project; or
- 3) The conversion of the property is sponsored by a bona fide tenants organization representing a majority of the households.

The project must also meet all other requirements for approval.

E. Condominium Document Approval. An attorney must certify that all condominium legal documents meet HUD guidelines, (HUD Handbook 4265.1, Appendix 24) and state and local condominium laws. Approval of documents as evidenced by VA letter FL 26-619 or FNMA form 1028 may be accepted in lieu of an attorney's certification. In all cases, a copy of the documents must be obtained for the Field Office file.

F. Completion of Construction. Since HUD is insuring a mortgage on a unit and an undivided interest in the common elements, the entire condominium project, including the common facilities, should be complete before any mortgage is insured.

If, however, the project is being constructed in legal phases, mortgages may be insured on a phase by phase basis provided:

- 1) The developer submits a development plan which shows the total number of units and all planned community facilities;
- 2) There is reasonable expectation that the developer will complete the project as planned.
- 3) Community facilities (for the project) are completed or escrowed at 150 percent before insuring mortgages in the initial phase;

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- (11-3) 4) In projects where the community facilities are substantial, the developer will pay a proportional share of cost related to the community facilities based on the percentage attributable to each "unit/space" which has not been conveyed to a condominium owner; and
- 5) Each phase meets the presale and owner-occupancy requirements.

G. Manufactured housing as defined in 24 CFR 203.43(f) is not eligible for mortgages insured under Section 234.

H. Recertification of Approvals. Approvals of condominium projects should be recertified periodically to determine that the project is still in compliance with HUD's owner-occupancy requirement and that no conditions currently exist which would present an unacceptable risk to the insurance fund.

It is not necessary for the HUD Field Office to automatically review all projects on its approved list. However, when an application for mortgage insurance is received for a project which was approved or recertified more than two years ago, or if the HUD office becomes aware of any adverse conditions, the project should be evaluated. Based upon the individual circumstances, if serious problems exist, the approval could be withdrawn.

11-4. APPROVAL AND PROCESSING INSTRUCTIONS. Approval of condominium projects consists of: (1) acceptability of the structure (four or more units), site, and location; and (2) acceptability of the condominium organization and operations. The documents required and processing steps will vary depending upon the individual project and the state of construction. The categories are as follows:

- A. Proposed construction. A new development where no construction has started. There is no insured project mortgage and no insurance of advances. (See paragraph 11-5)
- B. Developments with buildings under construction or existing less than one year. The project is currently under development and may contain buildings in various stages of construction. (See paragraph 11-6)
- C. Existing construction (non-operating condominium association). The construction of the building(s) has been completed over one year, however, original units remain unsold and the developer/sponsor is still in control. (See paragraph 11-7).

(11-4) D. Existing construction (established operating condominium association. All units have been completed over one year and the developer has relinquished control of the association to the homeowners. (See paragraph 11-8)

11-5. PROPOSED CONSTRUCTION. New development and no construction has been started.

A. The sponsor submits the following to Field Office:

- 1) Application for Environmental Review (Form HUD 92250) and a description of the development indicating type of condominium structure, number of units and common facilities;
- 2) Location map;
- 3) Preliminary condominium site plan;
- 4) Equal Employment Opportunity Certificate (Form [HUD 92010](#));
- 5) Affirmative Fair Housing Marketing Plan; and
- 6) A letter from the State Historic Preservation Office indicating the project is acceptable.

B. The Valuation Branch assigns a control number and completes the environmental review (HUD Handbook 4135.1).

C. If the project is environmentally acceptable, an Environmental Review Letter will be issued by HUD outlining any environmental conditions requiring mitigation and additional documents to be submitted including, but not limited to, the following:

- 1) Three sets of construction documents (plans and specification) certified by sponsor/builder (Appendix A, page 11-17A) or architect (Appendix B, page 11-17B) that clearly fix the scope of work, define and describe materials used and illustrate the construction and methods of assembly. Include all exhibits outlined in the following:
 - a. Horizontal construction (units side-by-side). Refer to HUD Handbook 4145.1, Architectural Processing and Inspections for Home Mortgage Insurance, Chapter 2. See HUD requirements in Appendix K of HUD Handbook 4910.1, Minimum Property Standards for Housing.
 - b. Vertical construction (units over and under one another). Refer to HUD Handbook 4460.1, Architectural

- (11-5) Analysis and Inspections for Project Mortgage Insurance, Chapter 2. (Do not include the "Supplementary conditions of the Contract of Construction" in paragraph 2-19.b.) See HUD Requirements in HUD Handbook 4910.1, Minimum Property Standards for Housing. Site design and construction must comply with Site Grading and Drainage Guidelines in Appendix 8, HUD Handbook 4145.1.
- 2) All Condominium legal documents (with an attorney's certification)
 - 3) Proposed operating budget including reserves
 - 4) Proposed management plan
- D. The Field Office reviews the submission to assure that all certifications are acceptable and that the operating budget and management are adequate. The form HUD-92258 is then issued stating conditions of the approval that include presale and owner-occupancy requirements. The developer/sponsor must sign and return the form indicating acceptance of the conditions.
- E. The mortgagee may request appraisals, either for individual units or through the MCC/MAR procedure, and the sponsor may request an "early start" for construction (HUD Handbook 4145.1, Appendix 6). The fee appraiser will not be required to prepare a replacement cost estimate.
- F. For buildings containing 12 units or less and no more than three stories of living units, the sponsor/builder submits a certification that the units were constructed in accordance with local codes and applicable HUD requirements (See Appendix C, page 11-17C). A fee inspector is required to make inspection according to type of structure.
- 1) Single family type - no living units over or under any other living units - three inspections are required.
 - 2) Multifamily type - living units over or under other units - inspections must be made at various stages of construction (minimum of eight hours per month). Inspection fee is the same as for multifamily projects.
- G. For buildings containing 13 units or more, or over three stories of living units in height, an Architect's certification of the construction of the building is required (see Appendix D).
- 1) Evaluation and acceptance of the architect.
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- (11-5) a. Owner-Architect Agreement: (AIA Document B181) will be executed and submitted to HUD with the application for MCC/MAR. Any agreement or arrangement between the sponsor and architect prior to the execution of the appropriate Owner-architect Agreement will be superseded by such agreement when executed. HUD must not be incorporated into any specific provision of the Agreement.

Changes must not delete any service, either by the Architect or Owner, necessary to the specific project.

- b. Qualifications: The architect (or firm) is licensed in the state where the project will be built.
- c. Identity of Interest: Where an identity of interest exists between the design architect and sponsor, or contractor, inspection services during the construction stage must be performed by a non-identity of interest architect.
- 2) Construction Inspection. The Inspecting Architect must:

- a. Review the contract documents (including large scale drawings and shop drawings), specifications and engineering reports for completeness and adequacy. This is completed prior to start of construction.

Report all errors and omissions to the sponsor, mortgagee, HUD and, if appropriate, the design architect.

- b. Monitor the construction and determine whether it complies with the contract drawings and specifications and any specific conditions of the HUD MCC/MAR. Report in writing any non-compliance, omissions and deficiencies. Provide copies to the sponsor, mortgagee and the HUD Field Office.
- c. Maintain an on-site log that provides a record of inspections, work progress, findings, instruction and deficiencies. AIA Document G711 may be used for the log.
- d. Review change order request(s). HUD considers the signed contract documents as binding. To be acceptable, a proposed change must be due to necessity, be an appropriate betterment, or qualify as an equivalent. If the cost/value of the living units

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(11-5) is affected, Form [HUD 91322](#) may have to be revised by HUD or the DE Lender.

e. Provide all services by the Owner-Architect Agreement (AIA Document B181), including an inspection of all off-site construction for conformity with the terms of the contract.

f. Provide inspection certification (Appendix D, page 11-17D) including a Certificate of Substantial Completion (AIA Document G704).

H. Survey. Prior to issuance of the Certificate of Substantial completion, a survey is required by a licensed surveyor showing the exact location of all on-site improvements, including all water, sewer, gas and electric lines and mains, and all existing utility easements. (A licensed engineer may provide an "as built" improvement plan that locates all on-site improvements including water, sewer, gas and electric lines and mains.)

Certification by the surveyor is required that the improvements are entirely on the property and free of restriction lines and easements.

I. Construction Warranty. The construction contract must provide that the contractor will correct any defects due to faulty materials or workmanship for:

- 1) The entire project (excluding living units) one year from the date of substantial completion.
- 2) Individual living units, one year from the date of occupancy or loan closing, whichever is first.

11-6. DEVELOPMENTS WITH BUILDINGS UNDER CONSTRUCTION OR EXISTING LESS THAN ONE YEAR. Building(s) may already be built, under construction or proposed. Unless there is a 10 year insured warranty for the property, any building which is under construction or existing less than one year will be limited to a 90 percent loan-to-value ratio. Buildings within the development which are proposed and will be inspected during construction as described in paragraph 11-5, Proposed Construction, are eligible for the maximum loan-to-value ratio.

A. The mortgagee/sponsor submits the following to the Field Office.

- 1) Letter requesting approval which contains description of the project indicating type of condominium structure,

number of units and common facilities.

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- (11-6)
- 2) Location map;
 - 3) Recorded project plat, map and/or air lot survey which adequately identifies units;
 - 4) Developer's general plan and schedule for development;
 - 5) All condominium legal documents (with attorney's certifications);
 - 6) Proposed condominium association budget;
 - 7) Management agreement or proposed management plan;
 - 8) Current financial statement of the condominium project (including reserves); and
 - 9) Minutes of last two association meetings if operational.
- B. The Valuation Branch assigns a control number and notifies the mortgagee/sponsor of the project number.
- C. The Field Office reviews the exhibits and makes an on-site inspection to determine acceptability of the site and location of the project. See Appendix 22, Handbook 4265.1 for an example of a check list which can be used for project approval. If the documents and the location are acceptable, the mortgagee/sponsor will be notified that appraisals may be requested.
- D. The mortgagee may request appraisals for individual units or may use the MCC/MAR procedure for buildings which are proposed or have an insured 10-year warranty. The fee appraiser will not be required to prepare a replacement cost estimate. The MCC/MAR or conditional commitment/statement of appraised value will contain the presale and owner-occupancy requirements.
- E. The Loan to Value Ratio on individual buildings is based on the following:
- 1) Maximum Loan-to-value Ratio (97/95 percent)
 - a. The building is proposed and will be inspected during construction by a HUD fee inspector or an approved architect, or
 - b. The building is covered by a HUD accepted insured

10-year warranty plan (certification of completion is required), or

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(11-6) c. The construction of the building was completed over one year ago.

2) Low Loan-to-value Ratio (90 percent)

a. The building is under construction and will not be covered by a 10-year protection plan, or

b. The construction of the building was completed less than one year ago and is not covered by a 10-year protection plan.

Note: In order to obtain a high ratio loan on buildings within the Development where no construction has started, the procedures for certification of plans and specifications and inspections under proposed construction must be followed. For buildings under construction, the developer must submit one set of the construction documents to HUD.

F. Certifications. Follow instructions for proposed construction, paragraphs 11-5F and G.

G. Construction Inspections

1) Proposed building - follow instructions for proposed construction, paragraphs 11-5F and G.

2) Under construction or completed less than one year

a. single family type - final inspection by fee inspector/appraiser

b. multifamily type - final inspection of unit by appraiser

H. Survey. Same as proposed construction, paragraph 11-5H.

I. Construction Warranty. Same as proposed construction, paragraph 11-5I.

11-7. EXISTING CONSTRUCTION (NON-OPERATING CONDOMINIUM ASSOCIATION). Buildings were constructed as a condominium and construction has been completed over one year; however, original units remain unsold and the developer/sponsor may not have relinquished control of the

condominium to the homeowners.

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(11-7) The project must not be subject to future expansion at the option of the developer. If the condominium documents or the development plan indicate that additional units may be added to the condominium, follow the processing instructions under paragraph 11-6.

- A. The mortgagee/sponsor submits the following to the Field Office:
- 1) Letter requesting approval which contains a description of the project;
 - 2) Location map;
 - 3) Recorded project plat, map and/or air lot survey which adequately identifies units;
 - 4) Condominium documents (with attorney's certifications);
 - 5) Condominium association budget;
 - 6) Management agreement;
 - 7) Current financial statement of the condominium project (including reserves);
 - 8) Minutes of last two association meetings if applicable; and operational.
 - 9) Evidence of the completion of the project (including the common elements by final municipal approval and occupancy authorization.
- B. The Valuation Branch assigns a control number and notifies mortgagee/sponsor of project number.
- C. The Field Office reviews and makes an on-site inspection to determine acceptability of the site and location of the project. If the documents and the location are acceptable, the mortgagee/sponsor will be notified that appraisals may be requested.
- D. The mortgagee may request appraisals for individuals units only.
- E. The Loan to Value Ratio. Since the construction of the building(s) is over one year, the units are considered eligible for the maximum ratio loan.

- F. A presale will be required and established by the local HUD office. The presale is especially important in a completed project whether the developer has been actively conducting a

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- (11-7) sales campaign and a large percentage of units remain unsold. The marketability of the project should be carefully assessed especially in projects two or three years old. Appraisals should include comparables from competing projects and value should not be based solely on sales by the developer.
- 11-8. EXISTING CONSTRUCTION (OPERATING CONDOMINIUM ASSOCIATION). All units and all common elements and improvements have been completed and have been committed to a plan of condominium ownership for at least one year prior to application for approval. The developer has relinquished control of the association to the homeowners. The condominium association may request approval for the project.
- A. The mortgagee or Condominium Association submits the following to the Field Office:
- 1) Letter requesting approval which contains a description of the project;
 - 2) All condominium legal documents (with attorney's certification),
 - 3) Recorded plat, plan, survey, or map, including amendments, of project;
 - 4) The project's annual income, expenses, and budget. The reserve funds for commonly owned replacements must be sufficient to meet current costs;
 - 5) Minutes of last two meetings of the homeowners association;
 - 6) A report from management company, if applicable; and
 - 7) Certification from the association that the project meets the owner-occupancy requirements established by the HUD office. (Must not be lower than 51 percent.)
- B. The project should not be approved if circumstances or conditions exist that have a substantial adverse effect upon the project or will be a contributing cause for the unit mortgage to become delinquent. These circumstances or conditions include:
- 1) Defects in construction;

- 2) Substantial disputes, or dissatisfaction among the unit owners concerning the operation, maintenance or management of the project or the associations;

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- (11-8) 3) Disputes over the unit owner's respective rights, privileges and obligations.
- 4) Insufficient reserves and/or unrealistic operating budget.

C. Processing will follow the instructions for Existing Constructions (Non-operating Condominium Association), paragraph 11-7, B, C, D, E.

11-9 PROJECTS CONVERTED FROM RENTAL HOUSING: Units in a rental project which was converted to condominium ownership may not be insured until the project has been converted over one year. Conversion takes place when all the legal documents establishing the condominium have been recorded.

A. The one year restriction does not apply to:

- 1) Rental projects in which the conversion was sponsored by a bona fide tenants organization representing a majority of the households in the project.
- 2) Non-rental properties such as a school, church, or warehouse converted to condominium; or
- 3) A unit being sold to a purchaser who was a tenant in the project at the time of the conversion.

B. Instructions for processing a converted project will follow either the Existing Construction, Operating Condominium Association, (paragraph 11-8) or Existing Construction, Non-operating Condominium Association, (paragraph 11-7) depending on whether the developer/sponsor still has unsold units in the project. No project should be accepted for processing unless the units in that project are eligible for FHA insurance.

C. Eligibility is determined as follows:

- 1) Condominium documents have been recorded over one year. The project may be processed for approval and any buyer is eligible to apply for an FHA-insured mortgage.
- 2) Condominium documents have not been recorded over one

year.

- a. If the conversion is sponsored by a bona fide tenant organization, the project may be processed and any buyer would be eligible to apply for an FHA insured mortgage.

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- (11-19)
- b. If a former tenant wishes to purchase a unit, the project may be processed subject to the following:
 1. Only the former tenant is eligible to apply, other purchasers may apply after the one year limitation;
 2. The project must meet the presale and owner-occupancy requirements before the former tenant's mortgage may be insured;
 3. the tenant need not buy the same unit they currently rent;
 - c. If neither a or b applies, the project should not be processed until the documents have been recorded over one year.

11-10. APPROVALS BY THE DEPARTMENT OF VETERANS AFFAIRS. Condominium projects which have been approved by the Department of Veterans Affairs (VA) will require limited HUD review to verify that the project is in compliance with statutes, regulations and policies. The following instructions apply for an approval letter, a Certificate of Reasonable Value (CRV) or a Master Certificate of Reasonable Value (MCRV):

- A. VA Letter 26-619 or VA project approval letter is required, whenever possible. (An approval letter may no longer be available for projects which have been approved for a substantial period of time.) Any appropriate conditions required by VA must be included as conditions of our conditional commitment, firm commitment or DE approval.

If the approval letter does not indicate the type of project, a brief description of the project is also required, i.e., proposed, existing, conversion and number of units.

- B. A copy of the recorded legal documents establishing the condominium (declaration, by-laws, amendments, etc.) must be obtained for your files. No review is necessary. Additional documents will be required as follows:

- 1) Proposed or newly constructed projects:
 - a. The recorded project plat or map,
 - b. The proposed operating budget of the homeowners association,

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- (11-10)
- c. The developer's general plan and schedule for development,
 - d. An Affirmative Fair Housing Marketing Plan for projects consisting of five or more units.

2) Existing project:

- a. The current financial statement and operating budget of the condominium association, and
- b) The minutes of the last two meetings of the association.

- C. Perform an on-site visit to determine the acceptability of the project and location. The extent of the review will be determined by the Field Office based upon the individual circumstances. For instance, older projects and conversions, the overall maintenance, number of vacancies and adequacy of mechanical equipment as well as location would be important considerations. For projects which are proposed construction and an MCRV has been issued, the review could be limited to determining the acceptability of the location.

An on-site visit is optional for projects where the Field Office receives the MCRV and the accompanying committee appraisal (narrative appraisal). The Field Office would review the narrative appraisal to determine if there are any environmental problems which are inconsistent with our policies or regulations. If there are no environmental problems noted in the narrative appraisal, no on-site review is required. The information in the narrative appraisal may also be used to establish whether the units in the project will qualify for 97/95 percent loan-to-value ratio or will be limited to the 90 percent loan-to-value ratio.

- D. Loan to value Ratio. CRVs or MCRVs issued for properties which are proposed construction are eligible for the maximum loan-to-value ratio only if the CRV is issued prior to start of construction and the property is inspected during construction

by the VA or the property is covered by a HUD accepted 10-year insured protection plan. Properties with a 10-year insured plan require only a final inspection.

CRVs or MCRVs issued for properties which are under construction or less than one year old and not covered by a 10-year warranty will be limited to a 90 percent loan-to-value ratio.

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- (11-10) E. Conversions from Rental Housing. No approval letter, CRV or MCRV will be accepted for a project which has been converted from rental housing for less than one year unless converted by a tenants organization. An individual application for mortgage insurance, however, could be processed if the CRV had been issued to a former tenant and the project had met the presale and owner-occupancy requirements.
- F. Presale Requirements. Projects which are proposed or under construction must meet HUD presale requirements. In an existing project where the developer is still marketing units, evidence of presales is also required.
- G. Owner-occupancy Requirements. All projects must meet HUD's owner-occupancy requirement.
- H. Any project comprising less than four units will not be accepted. A CRV issued for a property in a two or three unit condominium project will be rejected.
- I. An FHA project number will be assigned to all VA approved projects which are accepted and the project will be added to the approved list. This list must be provided to the Direct Endorsement lenders and fee appraisers.
- J. Once a MCRV has been issued by the VA, HUD will not make "spot appraisals" or issue a master appraisal report (MAR) or master conditional commitment (MCC) on any units(s) covered by the MCRV.
- 11-11. Approvals by Federal National Mortgage Association (FNMA). Proposed or newly constructed projects which have been approved by FNMA may be accepted based upon HUD's review of the approval documents.
- A. The developer submits copies of the following documents:
- 1) FNMA Form 1026 Application for Project Acceptance and the supporting documents;

- 2) FNMA Form 1027, Conditional Project Acceptance (if FNMA placed any conditions on the project); and
- 3) FNMA Form 1028, Final Project Acceptance

B. The Field Office reviews the information submitted and determines whether any adverse conditions are noted.

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- C. An on-site review is optional and will depend on information contained in the Field Office review of the documents and knowledge of local conditions.
 - D. The loan-to-value ratio will be limited to 90 percent unless the project is covered by a HUD accepted 10-year insured protection plan. If covered by an approved insured 10-year protection plan, a final inspection of the unit by an FHA fee inspector will be required.

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Sponsor/Builder Design Certification

 (Condominium Program)

APPENDIX A

Sponsor/Builder or Agent

I, _____, to the best of my knowledge, belief and professional judgement, do hereby certify, for the purpose of satisfying the requirements of 24 CFR, Part 234.27(a)(2)(iii), with respect to the following:

- (1) The attached Construction Documents are for the building described as follows:

1/

- (2) The Construction Documents identified as _____ 2/
 include my approval signature as the sponsor/builder responsible for their preparation;

- (3) The proposed construction, as described in these Construction Documents, (a) is permissible under the applicable zoning, building, housing, and other codes, ordinances or regulations as modified by any written waivers obtained from appropriate officials, and (b) complies with Minimum Property Standards and other applicable standards, guidelines and criteria. 3/

Waivers of codes, etc., were obtained as listed:_____

_____4/

Date_____ Signed_____

Sponsor/Builder

I, _____, Sponsor/Builder, hereby certify that the construction documents submitted herewith have been reviewed by the individual signing above as to whether such documents comply with the HUD requirements set forth in item 3/ of the footnote. I understand the purpose of this certification is to induce the United States Department of Housing and Urban Development to issue mortgage insurance for units in this building.

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APPENDIX A
(Continued)

Sponsor/Builder's Name_____

Business Address_____

Telephone Number_____

WARNING: Title 18 U.S.C. 1001, provides in part that whoever knowingly and willfully makes or uses a document containing any false, fictitious, or fraudulent statement or entry, in any matter in the jurisdiction of any department or agency of the United States, shall be fined not more than \$10,000 or imprisoned for not more than five years or both. In addition, violation of this, or other, statutes may result in debarment and civil liability for damages suffered by the Department.

- 1/ List number and type of units, location of property, describe property, etc.
2/ Identify construction documents including information normally found in Title Block of drawings.
3/ a. Horizontal construction (units side-by-side), HUD Handbook

- 4910.1, Appendix K.
- b. Vertical construction (units over and under one another), HUD Handbook 4910.1.
- c. Site grading and drainage guidelines, HUD Handbook 4145.1 REV-1, Appendix 8.
- 4/ Identify attachment, if any.

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DESIGN ARCHITECT'S CERTIFICATION

(Condominium Program)

APPENDIX B

I, _____, Registered Architect, to the best of my knowledge, belief and professional judgement, do hereby certify, for the purpose of satisfying the requirements of 24 CFR, Part 234.27(a)(2)(iii), with respect to the following:

- (1) The attached Construction Documents are for the building described as follows:

_____ 1/
- (2) The Construction Documents identified as _____ 2/ include my approval signature as the architect responsible for their preparation;
- (3) The proposed construction, as described in these Construction Documents, (a) is permissible under the applicable zoning, building, housing, and other codes, ordinances or regulations as modified by any written waivers obtained from appropriate officials, and (b) complies with Minimum Property Standards and other applicable standards, guidelines and criteria. 3/

Waivers of codes, etc., were obtained as listed: _____

_____ 4/

Signed _____

Architect's Name _____

Business Address _____

Telephone Number _____

License Number _____ State _____

Seal

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APPENDIX B
(Continued)

WARNING: Title 18 U.S.C. 1001, provides in part that whoever knowingly and willfully makes or uses a document containing any false, fictitious, or fraudulent statement or entry, in any matter in the jurisdiction of any department or agency of the United States, shall be fined not more than \$10,000 or imprisoned for not more than five years or both. In addition, violation of this, or other, statutes may result in debarment and civil liability for damages suffered by the Department.

- 1/ List number and type of units, location of property, describe property, etc.
 - 2/ Identify construction documents including information normally found in Title Block of drawings.
 - 3/ a. Horizontal construction (units side-by-side), HUD Handbook 4910.1, Appendix K.
b. Vertical construction (units over and under one another), HUD Handbook 4910.1.
c. Site grading and drainage guidelines, HUD Handbook 4145.1 REV-1, Appendix 8.
 - 4/ Identify attachment, if any.
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2/90

11-17-B (Continued)

4150.1 REV-1

BUILDER'S CONSTRUCTION CERTIFICATION

(Condominium Program)

APPENDIX C

I, _____, Builder, to the best of my knowledge, belief and professional judgement, do hereby certify, for the purpose of satisfying the requirements of 24 CFR, Part 234.27(a)(2)(iii), with respect to the following:

- (1) I was responsible for the construction of the building described as follows:

1/

- (2) The building has been completed in conformance with the certified construction documents identified as_____,2/ which were the subject of a certification to HUD by the Sponsor/Builder or the Design Architect; the exterior grading and drainage complies with guidelines in HUD Handbook 4145.1 REV-1, Appendix 8.
- (3) There are no defects or deficiencies in the building except for ordinary punchlist items or incomplete work awaiting seasonal opportunity.
- (4) The building has been constructed in accordance with applicable state and local laws, zoning, building, housing and other codes, ordinances or regulations, as modified by written waivers obtained from appropriate officials.
- (5) Certificate of Occupancy or similar approval from the local jurisdiction is attached.

Waivers of codes, etc., were obtained as listed:_____

_____3/

Changes in the construction documents were approved as listed:_____

_____3/

Signed_____

11-17-C

2/90

4150.1 REV-1

APPENDIX C
(Continued)

Builder's Name_____

Business Address_____

Telephone Number_____

WARNING: Title 18 U.S.C. 1001, provides in part that whoever knowingly and willfully makes or uses a document containing any false, fictitious, or fraudulent statement or entry, in any matter in the jurisdiction of any department or agency of the United States, shall be fined not more than \$10,000 or imprisoned for not more than five years or both. In addition, violation of this, or other, statutes may result in debarment and civil liability for damages suffered by the Department.

-
- 1/ List number and type of units, location of property, describe property, etc.
 - 2/ Identify construction documents including information normally found in Title Block of drawings.
 - 3/ Identify attachment, if any.
-

11-17-C (Continued)

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4150.1 REV-1

INSPECTING ARCHITECT'S CERTIFICATION

(Condominium Program)

APPENDIX D

I, _____, Registered Architect, to the best of my knowledge, belief and professional judgement, do hereby certify, for the purpose of satisfying the requirements of 24 CFR, Part 234.27(a)(2)(iii), with respect to the following:

- (1) I was responsible for the inspection of construction of the building described as follows:

_____1/
- (2) I have no personal interest, present or prospective, in the properties, applicant(s), subcontractor(s), or builder.
- (3) The inspections were performed by me or under my supervision with the frequency and thoroughness required by generally accepted standards of professional care and judgement.
- (4) The building has been completed in conformance with the certified construction documents identified as _____, 2/ which were the subject of a certification to HUD by the Design Architect; the exterior grading and drainage complies with guidelines in HUD Handbook 4145.1 REV-1, Appendix 8.
- (5) There are no defects or deficiencies in the building except for ordinary punchlist items or incomplete work awaiting seasonal opportunity.
- (6) The building has been constructed in accordance with applicable state and local laws, zoning, building, housing and other codes, ordinances or regulations, as modified by written waivers obtained from appropriate officials.
- (7) Certificate of Substantial Completion (A.I.A. Document G704) is attached.

Waivers of codes, etc., were obtained as listed:_____

3/

Changes in the construction documents were approved as listed:_____

3/

Signed_____

2/90

11-17-D

4150.1 REV-1

APPENDIX D
(Continued)

Architect's Name_____

Business Address_____

Telephone Number_____

License Number_____ State_____

Seal

WARNING: Title 18 U.S.C. 1001, provides in part that whoever knowingly and willfully makes or uses a document containing any false, fictitious, or fraudulent statement or entry, in any matter in the jurisdiction of any department or agency of the United States, shall be fined not more than \$10,000 or imprisoned for not more than five years or both. In addition, violation of this, or others may result in debarment and civil liability for damages suffered by the Department.

- 1/ List number and type of units, location of property, describe property, etc.
- 2/ Identify construction documents including information normally found in Title Block of drawings.
- 3/ Identify attachment, if any.

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11-17-D (Continued)

4150.1 REV-1

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GRAPHICS MATERIAL IN ORIGINAL DOCUMENT OMITTED

11-17-E

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4150.1 REV-1

FORM HUD 92258, LETTER OF ACCEPTANCE FOR CONDITIONAL COMMITMENT
ON INDIVIDUAL OR GROUP APPLICATION FOR PROPOSED CONSTRUCTION

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GRAPHICS MATERIAL IN ORIGINAL DOCUMENT OMITTED

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11-17-F

4150.1 REV-1

SECTION 2. - PLANNED UNIT DEVELOPMENTS.

11-12. PLANNED UNIT DEVELOPMENT. A residential development shall be processed as a planned unit development (PUD) if it contains, within the overall boundary of the subdivision, common areas and facilities owned by a homeowners association to which all homeowners must belong and to which they must pay lien-supported assessments. The organization, preliminary planning, land lisps,

and processing through the issuance of the preconstruction analysis letter (HUD Form 92258) and Conditional Commitments for planned unit developments are described in HUD Handbooks 4135.1, 4140.1 and 4140.2.

A. Definition of the Property to be Appraised. Unique valuation problems are presented by this type of development. It is composed partly of dwellings on individually-owned lots and partly of commonly-owned elements of the development. The property to be appraised consists of the fee title to the real estate represented by the lot and the improvements thereon plus the benefits arising from ownership of an interest in the homeowners association. The benefits accruing from the commonly-owned areas and facilities will be reflected in the valuation of the individual lots and homes.

- 1) Each property owner automatically becomes a member of the association and the property is subject to assessment by the association for maintenance of the common areas and for other stipulated purposes which may include maintenance of the structural exterior and grounds.
- 2) In PUDs, individual yard areas may be reduced to permit more common areas which are owned and maintained by property owners or homes association.
- 3) Examples of commonly-owned elements are an internal park network abutting homesites in a townhouse-on-the-green superblock, or a cluster arrangement of lots with adjoining commonly-owned areas.

B. Processing Proposed Construction PUDS.

- 1) Approach to Value. The approach to value of the single family residential properties composing a planned unit development is the same as in other types of development, but frequently, by reason of the uniqueness of such a development, no valid comparisons are available which will pinpoint either the probable market price or rental value.

(11-12) In these instances, greater reliance than usual must be placed on the replacement cost estimate. Presumably, the planned unit development has received the benefits of more expert and careful planning and design than the usual subdivision development. The determination of feasibility is predicated upon sufficient demand to absorb the units, a high degree of appropriateness with a price range for the individual units that will provide a competitive edge in

the market, and a high degree of appeal arising from the aesthetic and recreational features of the development. If adherence to these principles is maintained, the replacement cost estimate would be an excellent indication of the value.

- 2) Estimate of Replacement Cost. The Replacement Cost of Improvements, Miscellaneous allowable Costs, and Marketing Expense are all estimated in the same manner as in any Section 203(b) case. The Estimate of Market Price of an Equivalent Site, however, requires the consideration of the following additional factors not usually encountered in the ordinary appraisal:

- a. Size of Individual Sites. The parcel of real estate may be considerably smaller in size than found in typical residential developments, the environment may be uniquely different, and the benefits accruing to ownership may include unique rights to the use of the common areas and enjoyment of the recreational facilities which are for the exclusive use of members of the homeowners association.
- b. Method of Site Appraisal. If sales have been made of properties in similar developments in the area, direct comparisons are possible and the comparative approach would be valid. If there are no similar developments, there is no way to draw a comparison to the very dissimilar typical, single-family residential property, and more emphasis will be placed on the cost to produce a similar site with similar facilities and benefits.
- c. Method of Pro Rata Supportable Cost. In addition to all the factors composing the production costs of sites outlined in previous paragraphs, the pro rata supportable cost of all the improvements, facilities, and land owned by the homes association is distributed to each site in the development. Approached from a slightly different aspect, the total supportable raw land cost (by comparison) of the entire development, including building sites, common areas, streets, etc.,

(11-12) is added to the cost of all utility installations, street improvements, engineering, subdivision costs, carrying charges, overhead and profits, and all landscaping, building improvements, and other facilities to be built on the common areas. This

total is spread over all the building sites in accordance with their relative desirability and utility.

- d. Additional Amenities. An estimate to adequately reflect the additional amenities of the common areas shall be shown in the replacement cost on the Marshall and Swift Form 1007, line 32, by crossing out "landscaping cost" and entering "additional amenities." The total of the land value and additional amenities should adequately reflect the true value of this site taking full cognizance of all special features attributable to this type of development.
- e. Inflated Land Prices Because of Density. If homes in a planned unit development are to compete successfully with other homes, the price of raw land should not be inflated because of a proposed higher density use. If inflated land prices are permitted, the planned unit development house may lose a major part of its competitive price advantage. Cluster planning of detached homes or use of row houses should also result in lower development costs from savings on street improvements, utility lines, and building construction costs.
- f. Maintenance Charges and Value Determination. In some planned unit developments, the advantages of cluster arrangements and the amenities thus produced are somewhat negated by high maintenance charges. If, for example, the cluster arrangements require the use of privately maintained streets and rights of way, it may have an adverse effect on marketability relative to other sites located on publicly maintained streets. The appraiser must measure these comparative advantages and disadvantages and reflect these market reactions in the value of the property.

C. Processing Existing Planned Unit Developments (PUDs). A critical factor to be considered in any appraisal is whether a mandatory lien supported assessment will exist against all properties in the subdivision. When a property is encumbered by

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(11-12) payments to a homeowners association, knowledge of the circumstances of this obligation is vital for a determination of acceptability of the property as security for an insured mortgage.

- 1) The following guidelines shall be used when processing the first existing property that is subject to a homeowners association with mandatory assessments (PUDs) which was not previously processed by HUD, VA or FmHA. The application shall be submitted to the Field Office with the following documentation:
 - a. Subdivision location map.
 - b. Subdivision plat approved by the local governing authority.
 - c. Master plot plan which includes block and street grading and drainage information.
 - d. Affirmative Fair Housing Marketing Plan.
 - e. Documentation concerning special hazards such as noise, flooding, seismic, etc., where applicable, and any other conditions of certification.

NOTE: HUD must comply with the Executive Orders and related environmental laws cited in 24 CFR Part 50.4.

- f. A copy of the applicable legal documents concerning the home-owners association and certification by an attorney that they are in compliance with HUD's legal requirements. (See Handbook 4135.1, REV.2, Appendix 9).
- g. A copy of the protective covenants.
- h. A copy of the recorded plat which indicates proper dedication of the common areas for use by the homeowners.
- i. A copy of the annual budget of the association, the annual assessment to each property owner and the amount which is established as a reserve for replacement. The above documentation shall be reviewed for completeness in the valuation branch prior to assigning a case number to the application. Incomplete submissions shall be returned to the mortgagee as preliminary rejects.

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(11-12) 2) The Chief Appraiser shall be responsible for strict

adherence to the following procedure when existing cases are received for processing in PUDs which have not been previously processed by HUD. When the first case is received:

- a. The property shall be appraised as any other existing case.
- b. All cases processed in PUDs shall be forwarded to the Field Office or DE mortgagee for approval and issuance of a commitment/statement of appraised value.

11-13. LEGAL DOCUMENTS: For suggested legal documents, see HUD Handbook 4135.1, REV. 2, Appendix 9.

11-14. VA-CRV CONVERSIONS. Requests for conversion of VA-CRV's in planned unit developments should be accepted and processed without Departmental review of the legal documents. However, HUD must independently assure compliance with environmental issues. Moreover, if the Department of Veterans Affairs has issued an MCRV or CRV for a PUD whose documents do not comply with HUD requirements, and this discrepancy comes to HUD's attention, HUD is not obliged to give recognition to the CRV and may require the matter to be resolved before approving an application with respect to a property in that PUD.

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Suggested format:

LEGAL CERTIFICATION FOR

(INSERT NAME)

PLANNED UNIT DEVELOPMENT

I am an attorney licensed to practice in the State of _____. I am not an employee, principal or officer of (Name of Developer or Sponsor). I hereby certify that the legal documents for the above Planned Unit Development are in compliance with all of the following HUD legal requirements.

I. Articles of Incorporation.

1. Every person or entity who is a record owner of any lot is entitled to membership and voting rights in the association. Membership is appurtenant to, and inseparable from, ownership of the lot.
2. If the association is dissolved, the assets shall be dedicated to a public body, or conveyed to a nonprofit organization with similar purposes.

3. Amendment of the Articles of Incorporation requires the approval of at least 2/3 vote of the lot owners.
4. Annexation of additional properties, mergers and consolidations, mortgaging of Common Area, dissolution and amendment of the Articles, requires prior approval of HUD/VA as long as there is a Class B membership.

II. Declaration of covenants.

1. A legal description of the Planned Unit Development is contained.
2. All lots in the Planned Unit Development are subject to the covenants.
3. Every owner has a right and easement of enjoyment to the common area, which is appurtenant to the title to the lot.
4. The lien of any assessment is subordinate to the lien of any first mortgage.
5. Mortgagees are not required to collect assessments.

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6. Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and restriction, requires HUD/VA prior approval as long as there is a Class B membership.
 7. Failure to pay assessments does not constitute a default under an insured mortgage.
 8. The covenants assure lot owners of automatic membership and voting rights in the association.
 9. Each lot owner is empowered to enforce the covenants.
 10. The approval of at least 2/3 of the lot owners is required to amend the covenants.
 11. The common area cannot be mortgaged or conveyed without the consent of at least 2/3 of the lot owners (excluding the developer).
 12. If ingress or egress to any residence is through the common area, any conveyance or encumbrance of such area is subject to lot owner's easement.

13. There is no provision in the covenants which conflicts with the HUD requirement that the common area shall be conveyed to the association free and clear of all encumbrances before HUD insures the first mortgage in the Planned Unit Development.
14. Absolute liability is not imposed on lot owners for damage to common area or lots in the Planned Unit Development.
15. The Class R membership (Declarant's weighted vote) ceases and converts to Class A membership upon the earlier of the following:
 - A. 75% of the units are deeded to homeowners.
 - B. On _____, 19__.

III. By-Laws

1. The By-Laws are consistent with the Articles of Incorporation and Declaration of Covenants.
2. HUD/VA has the right to veto amendments while there is a Class B membership.

Attorney

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SECTION 3. SINGLE FAMILY COOPERATIVE PROGRAM - SECTION 203(n)

- 11-15. SECTION 203(n). This program is available to assist a purchaser in acquiring a Corporate Certificate (stock certificate or membership certificate), in a cooperative housing project which is covered by a blanket mortgage insured under the National Housing Act. The purchaser assumes the responsibility for the monthly charges due the cooperative which are attributable to the dwelling unit the owner of the Corporate Certificate is entitled to occupy, and can finance a portion of the seller's equity with an insured mortgage.
- A. The seller's equity is the difference between the outstanding principal balance on the project mortgage attributable to the dwelling unit the owner of the Corporate Certificate is entitled to occupy and the fair market value of the dwelling unit, assuming it was being sold on the open market.
 - B. As in the other single family mortgage insurance programs, the equity financing loan will be funded by a HUD-approved mortgagee, and the mortgage will be insured by the Department.

Processing instructions are found in HUD Handbook 4240.3.
