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PART VI



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**Office of Assistant Secretary
for Housing—Federal Housing
Commissioner**



**Site and Neighborhood Standards for
Subsidized Newly-Constructed or
Substantially-Rehabilitated Housing**

**Section 8 Housing Assistance Payment
Program—New Construction and
Substantial Rehabilitation**

Notice of Proposed Rulemaking

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 200]

[Docket No. R-77-432]

**SITE AND NEIGHBORHOOD STANDARDS
FOR SUBSIDIZED NEWLY-CONSTRUCTED
OR SUBSTANTIALLY-REHABILITATED
HOUSING**

Notice of Proposed Rule Making

The Department of Housing and Urban Development is proposing to establish uniform site and neighborhood standards for housing that is newly constructed, substantially rehabilitated, or purchased for use as low rent public housing, and for which HUD assistance is provided in the form of annual contributions, interest reduction payments, rent supplements, below market interest rate insured mortgages or loans, or housing assistance payments.

The standards would replace 24 CFR Part 200. References are made to these standards in other regulations of the Department. See, e.g., 24 CFR 886.203(a)(2). No change in the regulations governing the Section 202 program for elderly housing (Sec. 202 of the Housing Act of 1959, 12 U.S.C. 1701q) is required because those regulations require compliance with either 24 CFR 880.112 or 881.112. See 24 CFR 885.3.

The proposed regulations would provide uniform criteria for evaluating proposed locations for assisted housing with the aim of ensuring that housing opportunities for lower income and minority households are available in a wide range of locations. The Department has concluded that the best approach to this complex issue of site selection is to allow full and open public discussion by those affected by the proposed regulations before these standards are finalized. Accordingly, the Department presents these regulations not as the Department's conclusion as to the final form the standards should take, but as an option whose specificity will give form and substance to a discussion of the issues involved.

In order to assist the public in commenting on these regulations, this preamble will present a history of the site selection issue and a summary of the provisions of the proposed regulations so that public comments can respond to how these regulations may impact on individual projects or communities.

I. BACKGROUND

One of the statutory responsibilities of the Department in administering its housing and community development programs is the furthering of fair housing goals (Sec. 808(d)(5) of Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3608(d)(5)), and the "reduction of the isolation of income groups within communities and geographical areas and the promotion of an increase in the diversity and vitality of neighborhoods through the spatial deconcentration of housing opportunities for persons of lower in-

come." Sec. 101(c)(6), Housing and Community Development Act of 1974 (42 U.S.C. 5301(c)(6)).

Although federally assisted housing constitutes a relatively small portion of the nation's housing stock, it is an important source of housing opportunities for lower income and minority families. Thus, promoting the provision of assisted housing in a wide variety of locations is an essential element in the fair housing goal which finds expression throughout the Department's programmatic responsibilities, and which goes beyond assisted housing to include, for example, the enforcement of Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3604-3619); the Community Development Block Grant Program and the related review of local Housing Assistance Plans; and HUD's recently implemented program to provide supplemental allocations of housing assistance, comprehensive planning, and community development funds to areas which have developed housing allocation plans to increase the geographic choice of housing opportunities for lower income families throughout a metropolitan area. See 24 CFR Part 891.

The Department's experience has indicated the need for uniform site and neighborhood standards which clearly articulate the Department's policy of promoting fair housing through the development of assisted housing at locations which broaden the housing opportunities available to lower-income families. The lack of a simple set of uniform criteria applicable to all federally assisted housing programs, and the ambiguity of present requirements have resulted in inconsistent and uneven application of the current standards.

The development of such site and neighborhood standards for federally assisted housing is a difficult and complex task because of the need to balance a number of significant and competing social goals. The goal of dispersing assisted housing must be measured against the need to provide resources to rehabilitate the housing and to improve the quality and viability of the neighborhoods in which lower income families already live. In addition, federal intervention in locally determined land use or in locally devised community development strategies, through the imposition of site and neighborhood standards, may conflict with other statutory or Departmental policies which encourage increased discretion for local governmental officials. Finally, the location of assisted housing should be considered in relation to such concerns as racial imbalances in the public schools, neighborhood transition, and the availability of transportation and social services. These proposed regulations are being published for comment in order to focus discussion on such specific issues so that the Department may make a fully informed decision on a uniform set of standards.

II. HISTORY

Since the inception of Low Rent Public Housing in 1937, the earliest of the federally-assisted housing programs,

standards of one type or another have been applied by HUD and its predecessor agency, the Public Housing Administration, to the selection of sites. However, those early standards did not reflect a concern for the impact of site selection on housing opportunities for minority families. By the mid-1960's, it became evident that much of the public housing available to minorities was being constructed in areas of minority concentration. Responding to this pattern, pursuant to authority conferred by Executive Order 11063 of 1962 (42 U.S.C. 1982 note), and the Civil Rights Act of 1964 (see particularly 42 U.S.C. 2000d), the Department added a site standard in 1967 which addressed the responsibility of local housing authorities to provide for a balanced distribution of public housing projects within the locality, in order to promote housing opportunities for minorities outside as well as inside "areas of racial concentration." Criterion 2g of Par. 205.1 of the Low-Rent Public Housing Manual.

In 1970, the Department undertook to modify its site selection system to reflect the requirements of Section 808 of Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3608) that the Secretary administer HUD programs "in a manner affirmatively to further the policies of this Title."

The development of these new site selection standards was hastened by the United States Court of Appeals decision in *Shannon v. HUD*, 436 F.2d 809 (C.A. 3, 1970), which held that the Department "must utilize some institutionalized method whereby, in considering site selection or type selection, it has before it the relevant racial and socio-economic information necessary for compliance with its duties under the 1964 and 1968 Civil Rights Act." Observing that desegregation is not the only goal of the national housing policy, the Court left room for HUD to approve proposals which might add to racial concentration in "instances where a pressing case may be made for the rebuilding of a racial ghetto," so long as HUD carefully weighed the alternatives and made an informed judgment that "the need for physical rehabilitation or additional minority housing at the site in question clearly outweighs the disadvantages of increasing or perpetuating racial concentration."

In January 1972, HUD published its revised Project Selection Criteria (24 CFR Part 200, Subpart N) which established a formal system for evaluating proposed sites for assisted housing. These new guidelines provided criteria for assessing sites for both public housing and FHA-insured assisted housing, primarily Section 236 (see 12 U.S.C. 1715z-1). Factors included not only the question of minority concentration, but also the overall need for the proposed housing project, the availability of community services, the undue concentration of subsidized units without regard to racial concentration, the environmental impact of the project, the availability of minority job opportunities, the capacity of the

sponsor and quality of the prospective management of the project.

The Project Selection Criteria were intended: (a) to expand existing site selection criteria to reflect the requirements of Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3604-3619), and to implement the President's related directive that "the administrator of a housing program should include, among the various criteria by which applications for assistance are judged the extent to which a proposed project, or the overall development plan of which it is a part, would, in fact, open up new housing opportunities that would contribute to decreasing the effects of past housing discrimination (June 11, 1971 statement of the President on Federal policies relating to equal housing opportunity, p. 12); (b) to give priority to projects which provided geographic dispersal, small size and low density, a special mix and good design and management; (c) to assist in the selection of public housing applications which best met this objective; (d) to enable HUD Field Offices to eliminate clearly unacceptable proposals prior to performing the detailed processing required by each program; and (e) to assure that those proposals which met the broad-based criteria reflecting the basic concerns of the Department were given a priority for funding.

The criteria prohibited locating a project in an area of minority concentration unless the project was necessary to meet an "over-riding need" for housing in the area, or "sufficient and comparable" opportunities for assisted housing existed outside the areas of minority concentration.

The 1972 Project Selection Criteria were not applicable to rehabilitation projects, Indian Reservation housing, Section 235 existing housing, public housing acquisition or leasing of fewer than 25 units, and new construction projects of fewer than five dwelling units.

Section 201(a) of the Housing and Community Development Act of 1974 (88 Stat. 653) created the Section 8 (Rental Subsidy) Housing Assistance Payments Program (see 42 U.S.C. 1437f), which is now the Department's primary housing assistance program. The 1974 Act states as statutory purposes the "reduction of the isolation of income groups within communities and geographical areas" and the "spatial deconcentration of housing opportunities for persons of lower incomes." Section 101(c)(6), (42 U.S.C. 5301(c)(6)). It also requires that a community, as a condition to receiving its Community Development Block Grant, prepare a housing assistance plan (HAP) which must identify the general locations of proposed housing for lower-income persons, with the objective of "promoting greater choice of housing opportunities and avoiding undue concentrations of assisted persons in areas containing a high proportion of low income persons". Section 104(a)(4)(C), 42 U.S.C. 5304(a)(4)(C).

The site and neighborhood standards established for the Section 8 New Construction and Substantial Rehabilitation

programs (see 24 CFR 880.112 and 881.112 respectively) closely paralleled the standards established in 1972 for the public housing programs, including the 1974 revised standards for the Section 23 program, which was the predecessor to Section 8. The present Section 8 site selection regulations state:

The site shall promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons. 24 CFR 880.112(c) and 881.112(c).

This Section 8 standard repeats the statutory language (Sec. 104(a)(4)(C)(ii) of the HCD Act of 1974, 42 U.S.C. 5304(a)(4)(C)(ii) with respect to the objectives of the "general locations" requirement of the local Housing Assistance Plans. A related regulatory requirement imposed pursuant to the HCD Act (24 CFR 880.112(f) and 881.112(e)) requires that "the site * * * comply with any applicable conditions in the Local Housing Assistance Plan, approved by HUD."

The standard contained in the earlier Project Selection Criteria concerning areas of racial concentration was rephrased in the regulations for Section 8 New Construction to require that the site shall not be located in areas of minority concentration unless there are "sufficient, comparable opportunities existing for housing for minority families, * * * outside areas of minority concentration, or * * * the project is necessary to meet overriding housing needs." 24 CFR 880.112(c)(1). The Section 8 Substantial Rehabilitation regulations require only that the site be "suitable from the standpoint of facilitating and furthering compliance with * * * applicable" fair housing requirements. 24 CFR 881.112(b).

The regulations for the "Section 8 Housing Assistance Payments Program—Additional Assistance Program for Projects Insured or Formerly Insured by HUD", 24 CFR Part 886, published in the FEDERAL REGISTER on August 4, 1976 (41 FR 32686), incorporated only those site and neighborhood standards in § 881.112 which require assisted units to qualify as decent safe and sanitary housing, but not the provisions concerning minority concentrations. The same standard was applied to the program developed for "PHA Acquisition of HUD-Owned Properties and Properties with HUD-Insured and HUD-Held Mortgages" (24 CFR Part 845) published in the FEDERAL REGISTER as an Interim Rule on June 9, 1976. (41 FR 23292). The minority concentration criteria were not applied to these programs because they only provide additional assistance to existing lower income HUD-insured or HUD-subsidized projects.

Section 8 existing housing (24 CFR Part 882) is not subject to the present or proposed site-selection standards because that program is based on a shopping or "finders-keepers" principle under which families select the location of their own housing. Departmental regulations for the Traditional Public Housing Program (proposed Part 841 of 24 CFR) which

were published for comment on November 18, 1976 at 41 FR 50947 provide that the 1972 Project Selection Criteria will continue to apply pending the establishment of new site and neighborhood standards.

III. MAJOR ISSUES POSED BY THE PROPOSED SITE AND NEIGHBORHOOD STANDARDS

A. Minority Concentrations. One of the difficult issues which these proposed site-selection standards address is that of under what circumstances subsidized housing may be located in areas with substantial concentrations of racial minorities. The policy which these proposed standards are intended to serve is to ensure that people of all races have a variety of housing opportunities available to them. If comparable housing is available to minorities inside and outside an area of racial concentration, so that minority families have the option of living in either environment, then such a policy is satisfied. See § 200.704(d)(1)(ii). If the policy to be served were to mandate the broad geographic dispersal of minority families, as opposed to housing opportunities, more restrictive standards would be necessary.

An "area of minority concentration" has been defined in the proposed regulations as an area in which more than 40 percent of the residents are minority citizens or one in which minorities make up a significantly greater proportion of the residents than is true of the locality as a whole. This provision prevents the location of additional assisted housing in an area which already houses a disproportionate share of the locality's minority residents even though the proportion of minority residents in the area does not exceed 40 percent. See § 200.704(a)(1).

The proposed regulation also contains an exception which will avoid imposing an unfair penalty on those localities which presently have a large percentage of minority residents. For example, § 200.704(d)(2) allows approval of a proposed site in an area of minority concentration if sites outside such areas cannot feasibly be made available for assisted housing. This provision, which may be criticized by some as a loophole, avoids the anomaly of barring any assisted housing in a community in which all available sites are in areas with greater than 40 percent minority populations.

Under the proposed regulations, a site is to be considered available if assisted housing would be an incompatible land use, or would frustrate other legitimate land-use or growth-management policies. § 200.704(d)(2). Thus, for example, a site would be unavailable if it were in the midst of a high traffic industrial area or where the physical infrastructure and public services in undeveloped open space or a single-family neighborhood could not accommodate high-density lower-income housing, without an unconscionably high public investment. The proposed regulation specifically provides that sites shall not be considered unavailable for low-income housing if their unavailability is the result of dis-

crimatory zoning or other discriminatory practices. § 200.704(d)(2). The question of what constitutes discriminatory zoning is an unsettled area of case law. The Department specifically requests comments on the types of justifications that could be adopted to assist in determining whether sites are unavailable for the purpose of this provision.

Moreover, areas of minority concentration may be particularly susceptible to neighborhood preservation or renewal programs of which assisted housing is an integral part. Accordingly, sites which are otherwise unacceptable may be approved under the specific conditions described in § 200.704(d)(3), if they are in an area which is the target of concentrated local neighborhood preservation or revitalization efforts. This exception would be invoked only where the community has sites available outside areas of minority concentration and its annual allocation of assisted housing for the relevant year is too small to provide the assisted housing needed to implement the preservation plan to be balanced by comparable housing outside areas of minority concentration. The relevant local government must fully support such an exemption and demonstrate its continuing commitment to the revitalization of the area.

Regardless of whether housing is subject to this preservation area exception, whenever it is to be constructed in an area of minority concentration, a positive finding must be made by HUD that the project will improve rather than impair the physical and social quality of the neighborhood. § 200.704(e).

B. Racially Mixed Areas. Racially mixed areas present an issue of particular sensitivity. Because the racial balance in a neighborhood is often very delicate, under these proposed regulations a project site should not be approved in such an area when it would cause a rapid and massive turnover of the residents in the surrounding neighborhood, with the physical decline and disinvestment that may attend such transitions. § 200.704(b). On the other hand, a rapid increase in the number of minority residents in an area is not per se to be avoided. There is no reason to avoid the proportion of minorities in a neighborhood quintupling from 3 to 15 percent, for example. Nor is an increase in the number of minorities in a neighborhood from 25 to 35 percent, because of the racial makeup of a project, necessarily to be avoided, if the project does not significantly and adversely affect the stability of the racially-integrated surrounding neighborhood.

Section 200.704(b) is intended only to reach the situation where the proposed project's likely effect on the surrounding neighborhood will be to cause precipitous racial transition that results in the neighborhood becoming an area of undue minority concentration. Thus, the regulation focuses only on those neighborhoods which, while not yet having a 40 percent minority population, do have, for example, a 30 percent minority

population, or a trend of racial transition which will soon result in the neighborhood becoming an area of minority concentration.

A related provision, § 200.704(c), provides that a site in a racially-mixed area should not be approved where it would cause a significant and disproportionate share of the locality's minority students to be concentrated in one or more public schools serving the site. Because patterns of residential segregation and *de facto* school segregation are integrally related, the location of assisted housing should avoid exacerbating racial imbalances in public schools.

Again, however, this provision should not be misused to bar assisted housing and minority families from predominantly non-minority neighborhoods. Its purpose is to avoid the location of assisted housing recreating a pattern of *de facto* school segregation, which a court or community has tried to remedy.

C. Areas with a Concentration of Assisted Housing. Site-selection criteria also must deal with the problem of areas with a significant concentration of lower-income families in federally assisted housing. The proposed standards seek to avoid concentrations of assisted housing which congregate large number of low-income families in particular neighborhoods, since such concentrations may lead to serious management problems in the assisted housing stock. Proposed project sites are to be approved in areas of concentrations of assisted housing only when a positive finding can be made that the project will improve, rather than impair the physical and social quality of the neighborhood. § 200.704(e).

Because of its unique characteristics and the needs of its occupants, however, elderly housing is exempted from the provision designed to avoid concentrations of assisted housing. § 200.704(a)(3)(ii). While concentrating large numbers of assisted low-income families can have serious social and economic repercussions, these problems have not arisen with regard to housing for the elderly. Elderly housing may presently be located in a single section of a city that is ideal for such housing and the presence of additional elderly housing may result in even better services and facilities being provided. Requiring a new elderly project to be located in another section of the locality, where there is not a concentration of elderly housing, could result in a significantly less satisfactory living environment.

D. Standards for Rehabilitation. Another basic question concerns whether to exempt or impose a different—presumably lesser—standard for substantial rehabilitation projects, as compared to new construction. The goals of rehabilitating blighted, abandoned or substandard dwellings in central city areas where low-income families live must be weighed against the goal of expanding housing opportunities outside of areas of minority or assisted-housing concentration. In these proposed regulations, the tension between balanced housing opportunities

and neighborhood preservation is struck not through a distinction between rehabilitating or building a similar structure on the same site, but rather by the aforementioned local neighborhood preservation exemption to both minority concentration and assisted housing concentration requirements. § 200.704(d)(3).

E. A healthy living environment. Sites in areas both of minority concentration and with undue concentrations of assisted housing are not to be approved unless a determination is made that approval of the site will be likely to improve, rather than impair, the physical and social quality of the area. § 200.704(e). Thus, sites for assisted housing must be accessible to employment opportunities. § 200.710. The chance for gainful employment is as important to a lower-income family as is subsidized housing. The requirement that the proposed site be convenient to places of employment is to be applied less rigorously to elderly housing. Although employment opportunities may not be an important to the elderly, sites for elderly housing must be convenient to other supporting social services, such as basic commercial and medical facilities, because the elderly often do not have access to private automobile transportation and may even find dependence on public transportation for these necessities of life unduly burdensome.

F. Federal and Local Government Roles. The final tension inherent in the site selection issue is the role of Federal and local governments in balancing competing interests, and determining sites for assisted housing. While the Federal Government has an historic role in assuring the rights of minority and lower income families, local governments have been given an increasing role in determining the use of Federal funds within their jurisdictions. Local officials have the greatest capacity for assessing local needs, coordinating the impact of differing Federal programs on those needs, leveraging public and private resources, and responding to public concerns.

The regulations emphasize the critical role of local government in the decision-making process. Section 200.716 provides that a site must comply with any applicable conditions in the HUD-approved Local Housing Assistance Plan. Section 200.718 also requires that the views and recommendations of the Chief Executive Officer of the unit of general local government reviewing the site pursuant to Section 213 of the Housing and Community Development Act of 1974 (42 U.S.C. 1439) and 24 CFR Part 891 must be carefully considered in approving a site. The matters on which comments are requested from local Chief Executive Officers go considerably beyond the question of consistency with the HAP and include comments with respect to the standards proposed by these regulations. The proposed regulations also require that sites must be consistent with any applicable areawide housing opportunity plan or development plan for a new community.

G. Miscellaneous Provisions. Other new provisions in these regulations clarify that approval of a site as meeting these standards does not substitute for or imply HUD review and approval of the site as meeting HUD requirements with respect to the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347), other related statutes or Executive Orders, or the standards (e.g., those relating to marketability) applicable to the particular housing program.

Interested persons are invited to comment on the proposed revised site and neighborhood standards by submitting written data, views and arguments. Communications should be identified by the above docket number and title and should be filed with the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. All relevant material received on or before March 2, 1977 will be considered before adoption of the final rule. Copies of comments submitted will be available for public inspection during normal business hours at the above address.

A Finding of Inapplicability of the National Environmental Policy Act has been made. A copy of the Finding is available for public inspection in the Office of the Rules Docket Clerk during regular business hours at the address set forth above.

In addition, a Finding of Inapplicability of Inflation Impact Statement requirements has been made in accordance with relevant procedures. A copy of this Finding is available for inspection in the Office of the Rules Docket Clerk during regular business hours at the address set forth above.

Accordingly, it is proposed that Chapter II of 24 CFR be amended as follows:

1. Subpart N is revised to read:

Subpart N—Site and Neighborhood Standards for Subsidized Housing

- Sec.
- 200.700 Site and neighborhood standards.
- 200.702 Requirements as to size, terrain and utilities.
- 200.704 Equal housing opportunity requirements.
- 200.706 Environmental requirements.
- 200.708 Accessibility to community facilities.
- 200.710 Accessibility to employment opportunities.
- 200.712 Compliance with relocation requirements.
- 200.714 Sites in flood zones.
- 200.716 Consistency with plans.
- 200.718 Local government comment.
- 200.720 Other site related reviews.

Subpart N—Site and Neighborhood Standards for Subsidized Housing

AUTHORITY: Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)); sec. 5(b) and 8 U.S. Housing Act of 1937 (42 U.S.C. 1437c(b) and 1437f).

§ 200.700 Site and neighborhood standards.

Proposed sites for new construction and substantial rehabilitation projects, and projects acquired for use as low rent public housing without rehabilitation, must be approved by HUD as meeting the standards set forth in this Subpart.

§ 200.702 Requirements as to size, terrain and utilities.

(a) The site must be adequate in size, exposure and contour to accommodate the number and type of units proposed; and adequate utilities (water, sewer, gas and electricity) and adequate paved streets shall be available to service the site.

§ 200.704 Equal housing opportunity requirements.

The site and neighborhood must be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et. seq.), Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3604-3619), Executive Order 11063 (42 U.S.C. 1982 note), the Housing and Community Development Act of 1974 (see particularly 42 U.S.C. 5301-5303), and HUD regulations issued pursuant thereto.

(a) *Determination of minority concentration or racial mixture.* In furtherance of the objectives of the statutes and the Executive Order enumerated in this section, HUD shall determine:

(1) *Whether the site is in an area of minority concentration.* In making such determination, the area to be considered shall be the census tract in which the site is located or such other area for which reliable data as to racial composition is available and which HUD determines, on the basis of functional considerations (i.e., location of neighborhood facilities such as schools, shopping centers, churches, etc.) to be more appropriate. An area shall be determined to be an area of minority concentration if minority residents constitute (i) more than 40 percent of the residents of the area or (ii) a significantly greater proportion of the residents of the area than the proportion of minority residents of the locality as a whole.

(2) *Whether the site is in a racially mixed area.* An area, as determined pursuant to paragraph (a) (1) of this section shall be determined to be a racially mixed area if it contains both minority and non-minority residents and minority residents constitute a significant percent but less than 40 percent of the total residents of the area.

(3) *Whether a site is in an area of undue concentration of federally-assisted housing.* The area, as determined pursuant to paragraph (a) (1), of this section shall be determined to be an area of undue concentration of federally-assisted housing if a substantial number of the housing units in the area (generally over 40 percent) consist of housing (i) constructed, rehabilitated or purchased, leased (exclusive of units leased under the Section 8 Existing Housing Program (24 CFR Part 882) under the U.S. Housing Act of 1937 (42 U.S.C. 1437f)), Sections 221(d)(3) BMIR, 235, or 236 of the National Housing Act (12 U.S.C. 1715L(d)(3), 1715z and 1715z-1), Section 101 of the Housing and Urban Development Act of 1965, (12 U.S.C. 1701s), or Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) and (ii) in-

tended for occupancy by other than elderly households.

(b) *Unacceptability if ratio of minority residents would be increased significantly.* A site in a racially mixed area shall not be approved if the proposed project would result in a significant and rapid increase in the proportion of minority to non-minority residents in the area causing it to become an area of minority concentration in which minority residents would constitute more than 40 percent of the residents of the area.

(c) *Unacceptability due to disproportionate concentration of minority students in public schools.* A site in a racially mixed area or area of minority concentration shall not be approved if the proposed project would distort a voluntary or court-imposed plan adopted by the school system or locality to assure equality of educational opportunity in its public schools, by causing a significant and disproportionate concentration of the locality's minority students in one or more of the public schools serving the site.

(d) *Approval of site in an area of minority concentration.* A site located in an area of minority concentration may be approved if one of the following determinations is made:

(1) *Sufficient and comparable opportunities for assisted housing are available outside areas of minority concentration.*

(i) Housing in the jurisdiction of the unit of general local government (or such wider area as may be covered by an areawide housing opportunity plan) constructed or rehabilitated under one or more of the statutory provisions cited in paragraph (a) (3) of this section is located in areas which are not areas of minority concentration. Such housing must be comparable in tenure (owner, renter), size (bedroom distribution), and number of assisted units to the tenure, size and number of assisted units located in areas of minority concentration; and must have units presently available or scheduled to be available within a waiting period of not more than twelve months in a number and type approximating the number and types of units proposed to be constructed or rehabilitated at the site in question;

(ii) Housing to be constructed or rehabilitated under the statutory provisions cited in paragraph (a) (3) of this section has been approved for development (e.g., fund reservation) within the jurisdiction of the unit of general local government (or such wider area as may be covered by an areawide housing opportunity plan) in areas which are not areas of minority concentration. The proposed tenure, size and number of such units must approximate the proposed tenure, size and number of units to be constructed or rehabilitated at the site in question and must be scheduled to be available for occupancy within twelve months of the anticipated completion of the proposed project; or

(2) *There are no sites which are available or which feasibly can be made available for housing constructed or rehabili-*

tated under the statutory provisions cited in Par. (a) (3) within the jurisdiction of the unit of general local government in areas which are not areas of minority concentration. Zoning and other land use controls intended to avoid incompatible land uses or to prevent unwarranted development of land before supporting facilities are available or to implement similar legitimate land-use policies are acceptable reasons for the unavailability of sites. However, sites shall not be considered unavailable if their unavailability is the result of discriminatory zoning or other discriminatory practices.

(3) *The site is an integral part of an overall local strategy for the preservation or revitalization of the immediate neighborhood.* This exception is applicable only when the overall level of housing assistance available to the locality makes impractical satisfaction in the same fiscal year of both the requirements of paragraph (d) (1) (ii) of this section and the local government's preservation program. In seeking this exemption, a unit of general local government must explain its overall preservation strategy; describe the concentrated efforts and expenditure of funds being undertaken to improve the neighborhood; demonstrate its continuing commitment to the renewal, revitalization or preservation of the area through such activities as urban renewal, the federal urban homesteading demonstration program, concentrated expenditures of community development block grant funds, or similarly focused neighborhood improvement programs; and indicate how its program is likely to achieve long-term economic viability and increased racial or economic integration for the neighborhood in which the site is located.

(e) *Approval of site likely to improve quality of area.* A site in an area of minority concentration or in an area of undue concentration of housing constructed or rehabilitated under the statutory provisions cited in paragraph (a) (3) of this section shall not be approved unless HUD determines that the approval of the site will be likely to improve rather than impair the physical and social quality of the area in which the site is located.

§ 200.706 Environmental requirements.

The site must be free from adverse environmental conditions, natural or man-made, such as instability, septic tank failures, sewage hazards, earthquake faults, mudslides, harmful air pollution, smoke or dust, excessive noise or vibration, heavy vehicular or aircraft traffic, rodent or vermin infestation, or fire or explosion hazards, or such conditions must be eliminated, substantially mitigated or corrected by the completion date of the project. The neighborhood must not be one which is seriously detrimental to the health or well being of the project residents or in which other undesirable elements predominate, such as dangerously high crime rate, unless there is actively in progress a concerted program to remedy these problems.

§ 200.708 Accessibility to community facilities.

The housing must be accessible to social, recreational, educational, commercial and health facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unsubsidized standard housing of similar market rents. Housing for the elderly must be accessible to public or similar transportation facilities, other than dependence on the private automobile ownership of project residents, and also must be reasonably accessible to basic commercial and medical services.

§ 200.710 Accessibility to employment opportunities.

Travel time and cost via public transportation or private automobile, from the neighborhood to places of employment providing a range of jobs for lower-income workers, must not be excessive. While elderly housing should not be isolated from employment opportunities, application of this standard to a proposed site or project intended for occupancy by elderly persons shall take into account the more limited employment opportunity needs of elderly persons.

§ 200.712 Compliance with relocation requirements.

The project may not be built or rehabilitated on a site which has occupants unless applicable relocation requirements are met.

§ 200.714 Sites in flood zones.

The project may not be built or rehabilitated in an area that has been identified by HUD as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968 (42 U.S.C. 4001-4027) unless the project is covered by flood insurance as required by the Flood Disaster Protection Act of 1973 (42 U.S.C. 4101-4128), and it meets any relevant HUD standards and local requirements.

§ 200.716 Consistency with plans.

The site shall comply with any applicable conditions in the Local Housing Assistance Plan approved by HUD, any applicable areawide housing allocation plan and/or any applicable Development Plan for a new community approved under Title VII of the HUD Act of 1970 (42 U.S.C. 4501-4532) or Title IV of the HUD Act of 1968 (42 U.S.C. 3901-3914). Where the unit of general local government is a participating jurisdiction in an areawide housing opportunity plan pursuant to 24 CFR 886.301, the site shall be consistent with the plan.

§ 200.718 Local government comment.

Approval of a site as meeting the requirements of this Subpart shall take into account the views of the Chief Executive Officer of the unit of general local government in connection with its review of the project pursuant to Section 213 of the Housing and Community Development Act of 1974 (42 U.S.C. 1439) and 24

CFR Part 891. The views and recommendations of the Chief Executive Officer of the unit of general local government in whose jurisdiction the site is located, together with any factual evidence he submits in support of his recommendations, shall be carefully considered in making the determinations required under §§ 200.704 and 200.716.

§ 200.720 Other site related reviews.

Approval by HUD of a site as meeting the standards set forth in this Subpart shall not substitute for or imply HUD review and approval of the site as meeting HUD requirements with respect to the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347), The National Historic Preservation Act of 1966 (16 U.S.C. 470-470n), other related statutes or Executive Orders, or the applicable housing program under which the proposed project is to be constructed or rehabilitated.

Issued at Washington, D.C. January 12, 1977.

CARLA A. HILLS,
Secretary of
Housing and Urban Development.
[FR Doc. 77-2085 Filed 1-21-77; 8:45 am]

Office of the Secretary
[24 CFR Parts 880 and 881]
[Docket No. R-77-437]

SECTION 8 HOUSING ASSISTANCE PAYMENT PROGRAM

New Construction and Substantial Rehabilitation

PROPOSED RULE MAKING

Concurrently with the publication of this Notice of Proposed Rulemaking, the Department is proposing to amend Chapter II Part 200 Subpart N of this Title by revising Site and Neighborhood Standards for subsidized housing. As explained in the preamble to that proposed revision the new Site and Neighborhood Standards are intended to provide uniform criteria for evaluating proposed assisted housing locations with the aim of insuring that housing opportunities for lower income and minority house holders are available in a wide range of locations. These proposed amendments of Parts 880 and 881 are intended to accomplish the same uniformity of standards for the Section 8 New Construction and Substantial Rehabilitation Programs as is contemplated for subsidized housing under the proposed revision of Part 200.

The major issues posed by Site and Neighborhood Standards, e.g., minority concentrations, racially mixed areas, areas with a concentration of assisted housing, standards for rehabilitation, healthy living environment, and roles of Federal and local government are each discussed extensively in the preamble to the proposed amendment to Part 200.

Interested persons are invited to comment on these proposed revised Site and Neighborhood Standards by submitting

written data, views and arguments. Communications should be identified by the above docket number and title and should be filed with the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. All relevant material received on or before March 2, 1977, will be considered before adoption of the final rule. Copies of comments submitted will be available for public inspection during normal business hours at the above address.

Accordingly, it is proposed: 1. to amend Part 880 by substituting the following table of contents and by revising the Part to read as set forth herein after:

- Sec.
 880.112 Site and neighborhood standards.
 880.112a Requirements as to size, terrain and utilities.
 880.112b Equal housing opportunity requirements.
 880.112c Environmental requirements.
 880.112d Accessibility to community facilities.
 880.112e Accessibility to employment opportunities.
 880.112f Compliance with relocation requirements.
 880.112g Sites in flood zones.
 880.112h Consistency with plans.
 880.112i Local government comment.
 880.112j Other site related reviews.

AUTHORITY: Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

§ 880.112 Site and neighborhood standards.

Sites proposed for use for housing pursuant to this Part must be approved by HUD as meeting the standards set forth in §§ 880.112 through 880.112j. Reference in any other Part to § 880.112 of this Part shall include reference to §§ 880.112 through 880.112j of this Part.

§ 880.112a Requirements as to size, terrain and utilities.

The site must be adequate in size, exposure and contour to accommodate the number and type of units proposed; and adequate utilities (water, sewer, gas, and electricity) and adequate paved streets shall be available to service the site.

§ 880.112b Equal housing opportunity requirements.

The site and neighborhood must be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), Title VIII of the Civil Rights Acts of 1968 (42 U.S.C. 3604-3619), Executive Order 11063 (42 U.S.C. 1982 note). The Housing and Community Development Act of 1974 (see particularly 42 U.S.C. 5301-5309), and HUD regulations issued pursuant thereto.

(a) *Determination of minority concentration or racial mixture.* In furtherance of the objectives of the foregoing statutes and Executive Order HUD shall determine:

(1) *Whether the site is in an area of minority concentration.* In making such

determination, the area to be considered shall be the census tract in which the site is located or such other area for which reliable data as to racial composition is available and which HUD determines, on the basis of functional considerations (i.e., location of neighborhood facilities such as schools, shopping centers, churches, etc.) to be more appropriate. An area shall be determined to be an area of minority concentration if minority residents constitute (i) more than 40 percent of the residents of the area or (ii) a significantly greater proportion of the residents of the area than the proportion of minority residents of the locality as a whole.

(2) *Whether the site is in a racially mixed area.* An area, as determined pursuant to paragraph (a) (1) of this section, shall be determined to be a racially mixed area if it contains both minority and non-minority residents and minority residents constitute a significant percent but less than 40 percent of the total residents of the area.

(3) *Whether the site is in an area of undue concentration of federally-assisted housing.* The area, as determined pursuant to paragraph (a) (1) of this section, shall be determined to be an area of undue concentration of federally-assisted housing if a substantial number of the housing units in the area (generally over 40 percent) consist of housing (i) constructed, rehabilitated, purchased or leased (inclusive of units leased under the Section 8 Existing Housing Program (24 CFR Part 882)) under the U.S. Housing Act of 1937 (42 U.S.C. 1437f), Sections 221(d) (3) BMIR, 235 or 236 of the National Housing Act (12 U.S.C. 1715L (d) (3), 1715z and 1715z-1), Section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), or Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) and (ii) intended for occupancy by other than elderly households.

(b) *Unacceptability if ratio of minority residents would be increased significantly.* A site in a racially mixed area shall not be approved if the proposed project would result in a significant and rapid increase in the proportion of minority to non-minority residents in the area causing it to become an area of minority concentration in which minority residents would constitute more than 40 percent of the residents of the area.

(c) *Unacceptability due to disproportionate concentration of minority students in public schools.* A site in a racially mixed area or area of minority concentration shall not be approved if the proposed project would distort a voluntary or court-imposed plan adopted by the school system or locality to assure equality of educational opportunity in its public schools, by causing a significant and disproportionate concentration of the locality's minority students in one or more of the public schools serving the site.

(d) *Approval of site in an area of minority concentration.* A site located in an area of minority concentration may be approved if one of the following determinations is made.

(1) *Sufficient and comparable opportunities for assisted housing are available outside areas of minority concentration.*

(i) Housing in the jurisdiction of the unit of general local government (or such wider area as may be covered by an area-wide housing opportunity plan) constructed under one or more of the statutory authorities cited in paragraph (a) (3) of this section, is located in areas which are not areas of minority concentration. Such housing must be comparable in tenure (owner, renter), size (bedroom distribution), and number of assisted units to the tenure, size and number of assisted units located in areas of minority concentration; and must have units presently available or scheduled to be available within a waiting period of not more than twelve months in a number and type approximating the number and type of units proposed to be constructed at the site in question:

(ii) Housing to be constructed or rehabilitated under any of the statutory provisions cited in paragraph (a) (3) of this section has been approved for development (e.g., fund reservation) within the jurisdiction of the unit of general local government (or such wider area as may be covered by an area-wide housing opportunity plan) in areas which are not areas of minority concentration. The proposed tenure, size and number of such units must approximate the proposed tenure, size and number of units to be constructed at the site in question and must be scheduled to be available for occupancy within twelve months of the anticipated completion of the proposed project; or

(2) *There are no sites which are available or which feasibly can be made available for housing constructed pursuant to this Part within the jurisdiction of the unit of general local government in areas which are not areas of minority concentration.* Zoning and other land use controls intended to avoid incompatible land uses to prevent unwarranted development of land before supporting facilities are available or to implement similar legitimate land-use policies are acceptable reasons for the unavailability of sites. However, sites shall not be considered unavailable if their unavailability is the result of discriminatory zoning or other discriminatory practices; or

(3) *The site is an integral part of an overall local strategy for the preservation or revitalization of the immediate neighborhood.* This exception is applicable only when the overall level of housing assistance available to the locality makes impractical satisfaction of the requirements of paragraph (d) (1) (ii) of this section and the local government's preservation program. In seeking this exemption, a unit of general local government must explain its overall preservation strategy; describe the concentrated efforts and expenditure of funds being undertaken to improve the neighborhood; demonstrate its continuing commitment to the renewal, revitalization or preservation of the area through such activities as urban renewal, the federal urban homesteading program, con-

centrated expenditures of community development block grant funds, or similarly focused neighborhood improvement programs; and indicate how its program is likely to achieve long-term economic viability and increased racial or economic integration for the neighborhood in which the site is located.

(e) *Approval of site is likely to improve quality of area.* A site in an area of minority concentration or in an area of undue concentration of housing constructed or rehabilitated under the statutory provisions cited in paragraph (a) (3) of this section shall not be approved unless HUD determines that the approval of the site will be likely to improve rather than impair the physical and social quality of the area in which the site is located.

§ 880.112c Environmental requirements.

The site must be free from adverse environmental conditions, natural or man-made, such as instability, septic tank failures, sewage hazards, earthquake faults, mudslides, harmful air pollution, smoke or dust, excessive noise or vibration, heavy vehicular or aircraft traffic, rodent or vermin infestation, or fire or explosion hazards, or such conditions must be eliminated, substantially mitigated or corrected by the completion date of the project. The neighborhood must not be one which is seriously detrimental to the health or well being of the project residents or in which other undesirable elements predominate, such as a dangerously high crime rate, unless there is actively in progress a concerted program to remedy these problems.

§ 880.112d Accessibility to community facilities.

The housing must be accessible to social, recreational, educational, commercial and health facilities and service that are at least equivalent to those typically found in neighborhoods consisting largely of unsubsidized standard housing or similar market rents. Housing for the elderly must be accessible to public or similar transportation facilities, other than dependence on the private automobile ownership of project residents, and also must be reasonably accessible to basic commercial and medical services.

§ 880.112e Accessibility to employment opportunities.

Travel time and cost via public transportation or private automobile, from the neighborhood to places of employment providing a range of jobs for lower-income workers, must not be excessive. While elderly housing should not be isolated from employment opportunities, application of this standard to a proposed site for elderly persons shall take into account the more limited employment opportunity needs of elderly persons.

§ 880.112f Compliance with relocation requirements.

The project may not be built on a site which has occupants unless applicable relocation requirements are met.

§ 880.112g Sites in flood zones.

The project may not be built in an area that has been identified by HUD as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968 (42 U.S.C. 4001-4027) unless the project is covered by flood insurance as required by the Flood Disaster Protection Act of 1973 (42 U.S.C. 4101-4128) and it meets any relevant HUD standards and local requirements.

§ 880.112h Consistency with plans.

The site shall comply with any applicable conditions in the Local Housing Assistance Plan approved by HUD, any applicable areawide housing allocation plan and/or any applicable Development Plan for a new community approved under Title VII of the Housing and Urban Development Act of 1970 (42 U.S.C. 4501-4532), or Title IV of the Housing and Urban Development Act of 1968 (42 U.S.C. 3901-3914). Where the unit of general local government is a participating jurisdiction in an areawide housing opportunity plan pursuant to 24 CFR 886.301, the site shall be consistent with the plan.

§ 880.112i Local government comment.

Approval of a site as meeting the requirements of §§ 880.112 through 880.112j shall take into account the views of the Chief Executive Officer of the unit of general local government in connection with its review of the project pursuant to section 213 of the Housing and Community Development Act of 1974 (42 U.S.C. 1439) and 24 CFR Part 891. The views and recommendations of the Chief Executive Officer of the unit of general local government in whose jurisdiction the site is located, together with any factual evidence he submits in support of his recommendations, shall be carefully considered in making the determination required under §§ 880.112b and 880.112h.

§ 880.112j Other site related reviews.

Approval by HUD of a site as meeting the standards set forth in §§ 880.112 through 880.112i shall not substitute for or imply HUD review and approval of the site as meeting requirements with respect to the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347), the National Historic Preservation Act of 1966 (16 U.S.C. 470-470n), or other related statutes or Executive Orders, or other requirements of this Part.

2. To amend Part 881 by substituting the following table of contents and by revising the Part to read as set forth hereinafter:

Sec.	
881.112	Site and neighborhood standards.
881.112a	Requirements as to size, terrain and utilities.
881.112b	Equal housing opportunity requirements.
881.112c	Environmental requirements.
881.112d	Accessibility to community facilities.
881.112e	Accessibility to employment opportunities.

Sec.

881.112f	Compliance with relocation requirements.
881.112g	Sites in flood zones.
881.112h	Consistency with plans.
881.112i	Local government comment.
881.112j	Other site related reviews.

AUTHORITY: (Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d)).

§ 881.112 Site and neighborhood standards.

Sites proposed for use for housing pursuant to this Part must be approved by HUD as meeting the standards set forth in any other Part to § 881.112 of this Part shall include reference to §§ 880.112 through 880.112j of this chapter.

§ 881.112a Requirements as to size, terrain and utilities.

The site must be adequate in size, exposure and contour to accommodate the number and type of units proposed; and adequate utilities (water, sewer, gas, and electricity) and adequate paved streets shall be available to service the site.

§ 881.112b Equal housing opportunity requirements.

The site and neighborhood must be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3604-3619), Executive Order 11063 (42 U.S.C. 1982 note), The Housing and Community Development Act of 1974 (see particularly 42 U.S.C. 5301-5309), and HUD regulations issued pursuant thereto.

(a) *Determination of minority concentration.* In furtherance of the objectives of the foregoing statutes and Executive Order HUD shall determine:

(1) *Whether the site is in an area of minority concentration.* In making such determination, the area to be considered shall be the census tract in which the site is located or such other area for which reliable data as to racial composition is available and which HUD determines, on the basis of functional considerations (i.e., location of neighborhood facilities such as schools, shopping centers, churches, etc.) to be more appropriate. An area shall be determined to be an area of minority concentration if minority residents constitute (i) more than 40 percent of the residents of the area or (ii) a significantly greater proportion of the residents of the area than the proportion of minority residents of the locality as a whole.

(2) *Whether the site is in a racially mixed area.* An area, as determined pursuant to paragraph (a) (1) of this section, shall be determined to be a racially mixed area if it contains both minority and non-minority residents and minority residents constitute a significant percent but less than 40 percent of the total residents of the area.

(3) *Whether the site is in an area of undue concentration of federally-assisted housing.* The area, as determined pur-

suant to paragraph (a)(1) of this section, shall be determined to be an area of undue concentration of federally-assisted housing if a substantial number of the housing units in the area (generally over 40 percent) consist of housing (1) constructed, rehabilitated, purchased, or leased (inclusive of units leased under the Section 8 Existing Housing Program (24 CFR Part 882)) under the U.S. Housing Act of 1937 (42 U.S.C. 1437f), Sections 221(d)(3) BMR, 235 or 236 of the National Housing Act (12 U.S.C. 1715L(d)(3), 1715z and 1715z-1), Section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), or section 515 of the Housing Act of 1949 (42 U.S.C. 1485) and (ii) intended for occupancy by other than elderly households.

(b) *Unacceptability if ratio of minority residents would be increased significantly.* A site in a racially mixed area shall not be approved if the proposed project would result in a significant and rapid increase in the proportion of minority to non-minority residents in the area causing it to become an area of minority concentration in which minority residents would constitute more than 40 percent of the residents of the area.

(c) *Unacceptability due to disproportionate concentration of minority students in public schools.* A site in a racially mixed area or area of minority concentration shall not be approved if the proposed project would distort a voluntary or court-imposed plan adopted by the school system or locality to assure equality of educational opportunity in the public schools, by causing a significant and disproportionate concentration of the locality's minority students in one or more of the public schools serving the site.

(d) *Approval of site in an area of minority concentration.* A site located in an area of minority concentration shall not be approved unless one of the following determinations is made.

(1) *Sufficient and comparable opportunities for assisted housing are available outside area of minority concentration.* (i) Housing in the jurisdiction of the unit of general local government (or such wider area as may be covered by an areawide housing opportunity plan), or rehabilitated under one or more of the statutory authorities cited in paragraph (a)(3) of this section, is located in areas which are not areas of minority concentration. Such housing must be comparable to tenure (owner, renter), size (bedroom distribution), and number of assisted units to the tenure, size and number of assisted units located in areas of minority concentration; and must have units presently available or scheduled to be available within a waiting period of not more than twelve months in a number and type approximating the number and type of units proposed to be rehabilitated at the site in question.

(ii) Housing to be constructed or rehabilitated under any of the statutory provisions cited in paragraph (a)(3) of this section has been approved for development (e.g., fund reservation) with-

in the jurisdiction of the unit of general local government (or such wider area as may be covered by an areawide housing opportunity plan) in areas which are not areas of minority concentration. The proposed tenure, size and number of such units must approximate the proposed tenure, size and number of units to be rehabilitated at the site in question and must be scheduled to be available for occupancy within twelve months of the anticipated completion of the proposed project; or

(2) *There are no sites which are available or which feasibly can be made available for housing rehabilitated pursuant to this Part within the jurisdiction of the unit of general local government in areas which are not areas of minority concentration.* Zoning and other land use controls intended to avoid incompatible land uses or to prevent unwarranted development of the land before supporting facilities are available or to implement similar legitimate land-use policies are acceptable reasons for the unavailability of sites. However, sites shall not be considered unavailable if their unavailability is the result of discriminatory zoning or other discriminatory practices; or

(3) *The site is an integral part of an overall local strategy for the preservation of revitalization of the immediate neighborhood.* This exception is applicable only when the overall level of housing assistance available to the locality makes impractical satisfaction of the requirements of paragraph (d)(1)(ii) of this section and the local government's preservation program. In seeking this exemption, a unit of general local government must explain its overall preservation strategy; describe the concentrated efforts and expenditure of funds being undertaken to improve the neighborhood; demonstrate its continuing commitment to the renewal, revitalization or preservation of the area through such activities as urban renewal, the federal urban homesteading program, concentrated expenditures of community development block grant funds, or similarly focused neighborhood improvement programs; and indicate how its program is likely to achieve long-term economic viability and increased racial or economic integration for the neighborhood in which the site is located.

(e) *Approval of site is likely to improve quality of area.* A site in an area of minority concentration or in an area of undue concentration of housing constructed or rehabilitated under the statutory provisions cited in Par. (a)(3) shall not be approved unless HUD determines that the approval of the site will be likely to improve rather than impair the physical and social quality of the area in which the site is located.

§ 881.112c Environmental requirements.

The site must be free from adverse environmental conditions, natural or man-made, such as instability, septic tank failures, sewage hazards, earthquake faults, mudslides, harmful air pollution, smoke or dust, excessive noise or

vibration, heavy vehicular or aircraft traffic, rodent or vermin infestation, or fire or explosion hazards, or such conditions must be eliminated, substantially mitigated or corrected by the completion date of the project. The neighborhood must not be one which is seriously detrimental to the health or well being of the project residents or in which other undesirable elements predominate, such as a dangerously high crime rate, unless there is actively in progress a concerted program to remedy these problems.

§ 881.112d Accessibility to community facilities.

The housing must be accessible to social recreational educational, commercial and health facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unsubsidized standard housing or similar market rents. Housing for the elderly must be accessible to public or similar transportation facilities, other than dependence on the private automobile ownership of project residents, and also must be reasonably accessible to basic commercial and medical services.

§ 881.112e Accessibility to employment opportunities.

Travel time and cost via public transportation or private automobile, from the neighborhood to places of employment providing a range of jobs for lower-income workers, must not be excessive. While elderly housing should not be isolated from employment opportunities, application of this standard to a proposed site for elderly persons shall take into account the more limited employment opportunity needs of elderly persons.

§ 881.112f Compliance with relocation requirements.

The project may not be rehabilitated on a site which has occupants unless applicable relocation requirements are met.

§ 881.112g Sites in flood zones.

The project to be rehabilitated may not be located in an area that has been identified by HUD as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968 (42 U.S.C. 4001-4027) unless the project is covered by flood insurance as required by the Flood Disaster Protection Act of 1973 (42 U.S.C. 4101-4128) and it meets any relevant HUD standards and local requirements.

§ 881.112h Consistency with plans.

The site shall comply with any applicable conditions in the Local Housing Assistance Plan approved by HUD, any applicable areawide housing allocation plan and/or any applicable Development Plan for a new community approved under Title VII of the Housing and Urban Development Act of 1970 (42 U.S.C. 4501-4532), or Title IV of the Housing and Urban Development Act of 1968 (42 U.S.C. 3901-3914). Where the unit of general local government is a participating jurisdiction in an areawide housing oppor-

PROPOSED RULES

tunity plan, pursuant to 24 CFR 886.301, the site shall be consistent with the plan.

§ 881.112i Local government comment.

Approval of a site as meeting the requirements of §§ 880.112 through 880.112j shall take into account the views of the Chief Executive Officer of the unit of general local government in connection with its review of the project pursuant to Section 213 of the Housing and Community Development Act of 1974 (42 U.S.C. 1439) and 24 CFR Part 891. The views and recommendations of the Chief Executive Officer of the unit of general local government in whose jurisdiction the site is located, together with any factual evidence he submits in support of his recommendations, shall be carefully considered in making the determinations required under §§ 880.112b and 880.112h.

§ 881.112j Other site related reviews.

Approval by HUD of a site as meeting the standards set forth in §§ 880.112 through 880.112i shall not substitute for or imply HUD review and approval of the site as meeting requirements with respect to the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347), the National Historic Preservation Act of 1966 (16 U.S.C. 470-470n), or other related statutes or Executive Orders, or other requirements of this Part.

(Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535 (d)).

Issued at Washington, D.C. January 12, 1977.

CARLA A. HILLS,
*Secretary of Housing
and Urban Development.*

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