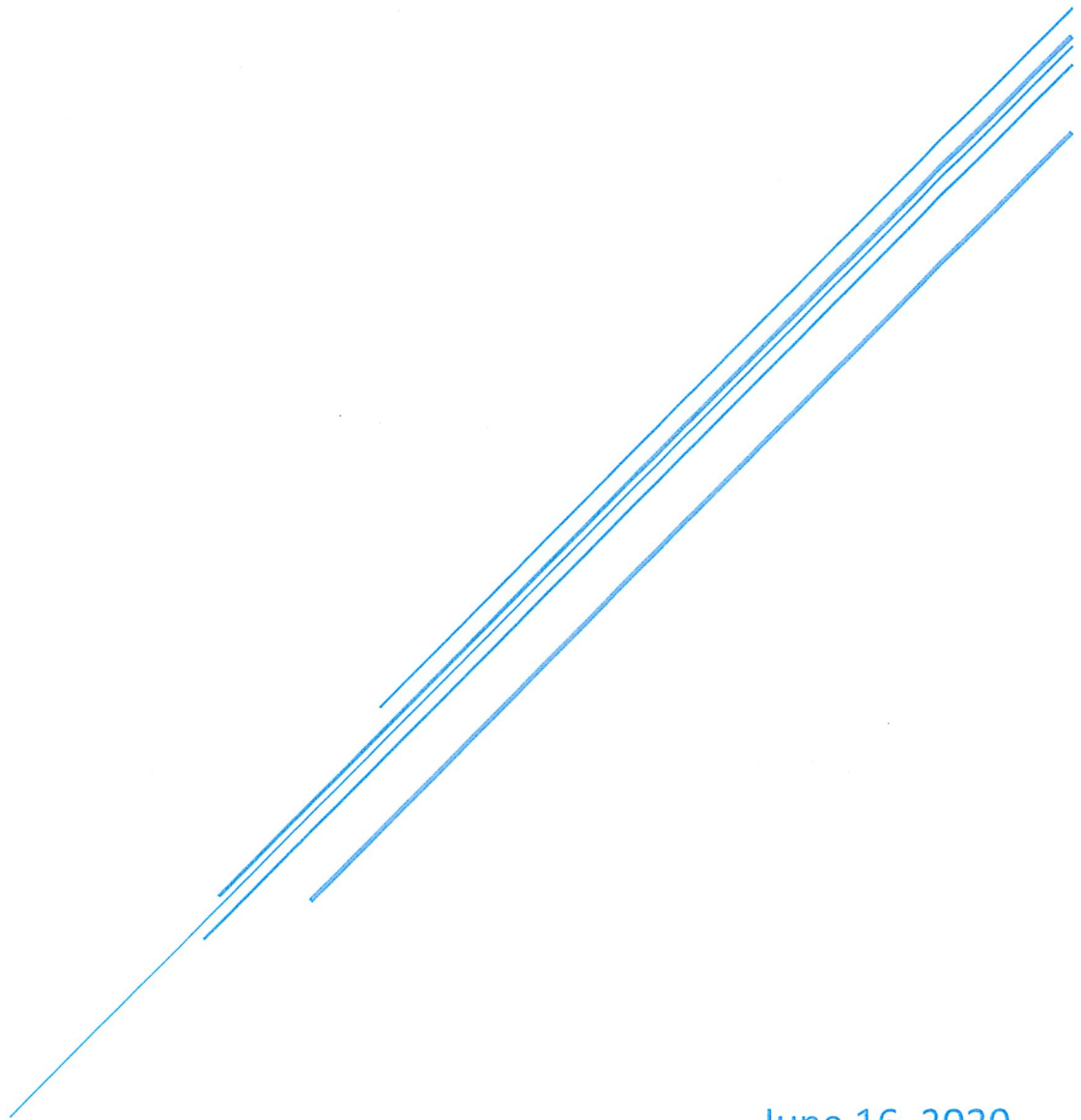


# AFFORDABLE HOUSING MIDPOINT REVIEW REPORT

Borough of Totowa



June 16, 2020

## PURPOSE

Paragraph 20 of the Borough of Totowa's 2018 Settlement Agreement with Fair Share Housing Center (hereinafter "FSHC") requires that the Borough comply with the statutory midpoint review requirements of the Fair Housing Act and specifically N.J.S.A. 52:27D-313, which states "...the Council shall establish procedures for a realistic opportunity review at the midpoint of the certification period and shall provide for notice to the public..." This Midpoint Review Report has been modeled after the template prepared by FSHC and modified to more closely reflect the conditions in the municipality, the Settlement Agreement with FSHC, and the Court-approved Housing Element and Fair Share Plan.

The 2018 Settlement Agreement requires that the midpoint review be posted on the Borough website, a copy provided to DCA, COAH or LGS, and a copy provided to FSHC. The review acts as a status report regarding the Borough's compliance mechanisms and whether or not any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity. This review includes mechanisms addressing the unmet need.

## RELEVANT BACKGROUND

Totowa filed its Declaratory Judgment Action on July 8, 2015. The Borough Executed a Settlement Agreement with FSHC on April 24, 2018. The 2018 Settlement Agreement outlines Totowa's affordable housing obligations:

- An eight-unit Rehabilitation Obligation,
- A 215-unit Prior Round Obligation, and
- A 454-unit Third Round Obligation.

However, the Borough sought and received a Vacant Land Adjustment (hereinafter "VLA") for the Prior Round and Third Round. The Prior Round VLA produced a 50-unit Realistic Development Potential (hereinafter "RDP"), while the Third Round VLA produced a 22-unit RDP. Therefore, the Borough has an Unmet Need of 165 units for the Prior Round and 432 units for the Third Round, for a total combined Unmet Need of 597 units.

On June 20, 2018, Judge Brogan entered a Conditional Order of Compliance and Approval of Settlement Agreement Between the Borough of Totowa and Fair Share Housing Center following the Fairness Hearing held on May 24, 2018. Thereafter, Totowa prepared and adopted the requisite compliance documents. The Final Compliance Hearing was held on December 13, 2018. On January 7, 2019, Judge Brogan issued the Borough a Final Order of Judgment of Compliance and Repose (hereinafter "JOR").

## CONDITIONS OF COMPLIANCE

Totowa's JOR does not contain any conditions.

It should be noted that the Borough filed its first anniversary trust fund monitoring on February 3, 2020. The first anniversary unit monitoring was filed on June 5, 2020. Both documents are posted on the Borough's website.

## PRIOR ROUND MECHANISM REVIEW

Totowa received Substantive Certification from COAH in 2004, which granted a VLA to the Borough for the Prior Round Obligation. The Prior Round RDP is 50. Five existing mechanisms generate 30 credits and 13 bonuses, and one proposed mechanism will produce seven credits. It should be noted that all the mechanisms allocated to the Prior Round RDP have been constructed, except the Sunset Ridge Development, LLC project, which is currently under construction. All mechanisms are detailed in the 2018 Housing Element and Fair Share Plan. See the table below for a summary of the units allocated to the Prior Round RDP.

PRIOR ROUND REALISTIC DEVELOPMENT POTENTIAL MECHANISMS						
Development	Block & Lot	Description	Ordinance Adopted (Y/N)	Status	Existing Affordable Units	Proposed Affordable Units
St. Joe's - Res. Health Care	B12, L2	Senior living facility with 84 credit-worthy units. However, only 12 residential health care units are allocated to the Prior Round RDP.	N/A	Built & Occupied	12	
Devereux - 169A Minnisink Rd	B & L	Group home for very-low income clients with five bedrooms	N/A	Awarded credits in the 2004 COAH Substantive Certification for the existing facility.	5	
Devereux - 169B Minnisink Rd	B & L	Group home for very-low income clients with four bedrooms	N/A	Awarded credits in the 2004 COAH Substantive Certification for the existing facility.	4	
Devereux - 653 Totowa Rd	B & L	Group home for very-low income clients with four bedrooms	N/A	Awarded credits in the 2004 COAH Substantive Certification for the existing facility.	4	
Jawonio	B133, L12.02	Five-bedroom group home, which received a CO in 2006.	N/A	Built & Occupied	5	
Sunset Ridge Development, LLC	B2, L1, 2, 3, & 4; B3, L1, 1.01, 3, 6, 7, & 8	A 48-unit inclusionary for-sale multi-family development approved in 2016.	N/A	Approved via Resolutions memorialized on March 9, 2016 and July 13, 2016. The project is under construction.		7

## THIRD ROUND REALISTIC OPPORTUNITY REVIEW

The realistic opportunity standard applies to all RDP mechanisms for VLA municipalities. The table on the following page summarizes the mechanisms allocated to the Third Round RDP and their current status. A total of five mechanisms are allocated to the Third Round RDP, which generate 17 credits and five bonuses.



THIRD ROUND REALISTIC DEVELOPMENT POTENTIAL MECHANISMS						
Development	Block & Lot	Description	Ordinance Adopted (Y/N)	Status	Existing Affordable Units	Proposed Affordable Units
Community Action for Independent Living	B166, L14.02	Four-bedroom group home, which received a CO in 1999.	N/A	Built & Occupied	4	
St. Joe's - Independent Living	B12, L2	Senior living facility with 84 credit-worthy units. However, only five independent living apartments are allocated to the Third Round RDP.	N/A	Built & Occupied	5	
Sunset Ridge Development, LLC	B2, L1, 2, 3, & 4; B3, L1, 1.01, 3, 6, 7, & 8	A 48-unit inclusionary for-sale multi-family development approved in 2016.	N/A	Approved via Resolutions memorialized on March 9, 2016 and July 13, 2016. The project is under construction.		1
95 Shepherds Lane	B11, L9.01	A 54-unit inclusionary development with 10 affordable units was approved in 2017. However, a new application was submitted in 2020, which proposes a 63 unit inclusionary development with 13 affordable units.	Yes	Ordinance No. 09-2016 was adopted on May 10, 2016, which created RAH-2 Zone. The 54-unit inclusionary development was approved via resolution memorialized on May 25, 2017. A new application is pending review and a hearing for a 63-unit inclusionary development.		4
Residential - Affordable Housing District (Forest Ave)	Various blocks & lots	Inclusionary Zone District that permits inclusionary residential development.	Yes	The area was rezoned via Ordinance No. 08-2016 adopted May 10, 2016. The Borough awaits the submission of applications.		3

## COMBINED PRIOR ROUND AND THIRD ROUND UNMET NEED

The table on the following page summarizes the mechanisms allocated to the Combined Prior Round Unmet Need and Third Round Unmet Need and their current status. Only one mechanism, St. Joseph's

Home for the Elderly, is built and occupied. However, since the issuance of the JOR, a new group home has been created at 20 Maple Lane. Additionally, the Ordinances for the areas zoned for inclusionary development have been adopted.

UNMET NEED MECHANISMS						
Development	Block & Lot	Description	Ordinance Adopted (Y/N)	Status	Existing Affordable Units	Proposed Affordable Units
St. Joe's - Res. Health Care & Independent Living	B12, L2	Senior living facility with 84 credit-worthy units. However, only 36 residential health care units and 31 Independent Living units are allocated to the Combined Unmet Need.	N/A	Built & Occupied	67	
95 Shepherds Ln	B11, L9.01	A 54-unit inclusionary development with 10 affordable units was approved in 2017. However, a new application was submitted in 2020, which proposes a 63 unit inclusionary development with 13 affordable units.	N/A	Ordinance No. 09-2016 was adopted on May 10, 2016, which created RAH-2 Zone. The 54-unit inclusionary development was approved via resolution memorialized on May 25, 2017. A new application is pending review and a hearing for a 63-unit inclusionary development.		6
Residential - Affordable Housing District (Gordon Dr)	B179, L4	Inclusionary Zone District that permits inclusionary residential development.	Y	Ordinance No. 08-2016 adopted May 10, 2016, amended and expanded the R-AH District. The Borough awaits the submission of applications.		TBD
Residential - Affordable Housing District (Riverview Dr)	B133, L10 & 11	Inclusionary Zone District that permits inclusionary residential development.	Y	Ordinance No. 08-2016 adopted May 10, 2016, amended and expanded the R-AH District. The Borough awaits the submission of applications.		TBD



## UNMET NEED MECHANISMS (continued)

Development	Block & Lot	Description	Ordinance Adopted (Y/N)	Status	Existing Affordable Units	Proposed Affordable Units
Residential - Affordable Housing District (Forest Ave)	Various Lots in B1, 2, 3, 4, 5, 6, & 9	Inclusionary Zone District that permits inclusionary residential development.	Y	The area was rezoned via Ordinance No. 08-2016 adopted May 10, 2016. The Borough awaits the submission of applications.		TBD
670 Union Blvd (Forman Mills)	B176, L2	Overlay Zone that permits inclusionary residential development.	Y	Ordinance No. 09-2018 adopted April 24, 2018 established the Multi-Family Residential Overlay District. The Borough awaits the submission of applications.		TBD
50 and 80 Bomont Pl	B133, L2 & 2.01	Overlay zone that permits inclusionary residential development.	Y	The area was rezoned via Ordinance No. 08-2016 adopted May 10, 2016. The Borough awaits the submission of applications.		TBD
Union Blvd Conditional Use	Various block & lots	Amendment to the B-2 zone to conditionally permit mixed-use development.	Y	Ordinance No. 10-2018 adopted April 24, 2018 to permit inclusionary development above permitted B-2 uses. The Borough awaits the submission of applications.		TBD
20 Maple Ln	B165, L19	Community Options purchased this home on or about April of 2020. Renovations were completed and the home will be licensed for 4 very-low income residents.	N	New four bedroom very-low income resident group home. Will be licensed by the State with a deed restriction. On June 9, 2020 the Borough authorized a funding agreement, which will provide \$15,000 per creditable bedroom to assist with conversion costs. Residents are expected to move in on or about July 1, 2020.		4

## REHABILITATION

As indicated above, Totowa has an 8-unit Rehabilitation Obligation. As noted in Paragraph 6 of the Settlement Agreement, this obligation will be satisfied by reserving at least \$80,000 of the Borough's Affordable Housing Trust Fund account to complete eight rehabilitations through a Borough-sponsored rehabilitation program. Since the issuance of the JOR the following activities have been completed:

- Flyers advertising the rehabilitation program were posted in the municipal building on or about July of 2019.
- The flyer was posted under "News" on the Borough's website in September of 2019.
- A luncheon with the seniors was scheduled for March 30, 2020. However, this was cancelled due to the COVID-19 pandemic.
- An informational mailer with data on the Borough's rehabilitation program was mailed out on March 30, 2020 to 88 residents on the tax frozen list.
- As a result of the mailing, the Borough received two applications.
  - Case 1901 was terminated due to the applicant exceeding the income limit.
  - Case 1902 was determined eligible on April 29, 2020. The inspection occurred in June of 2020. The work specifications have been prepared and a list of contractors has been sent to the homeowner for review and approval to place out to bid.

The Borough intends to advertise the program through a variety of mechanisms moving forward, however, some of the options are currently unavailable due to the COVID-19 pandemic.

## VERY-LOW INCOME ANALYSIS

Paragraph 11 of the Settlement Agreement indicates that 13% of all units referenced in the Agreement constructed after July 1, 2008 shall be very-low income units. Half of those units must be available for families. The table on the following page provides a summary of the Borough's very-low income units and their current status.



VERY-LOW INCOME UNITS					
Affordable Units Constructed or To Be Constructed After 2008	Total Affordable Units	Proposed VLI Units	Existing VLI Units	VLI Percentage of Total	Status
Sunset Ridge Development, LLC	8	1		12.5%	Approved in 2016, under construction.
95 Shepherds Ln	10	1		10.0%	Approved in 2017, resubmitted in 2020.
20 Maple Ln	4	4		100.0%	New four-bedroom very-low income resident group home. Residents anticipated to move in on or about July 1, 2020.
Residential - Affordable Housing District (Forest Ave)	TBD	TBD		TBD	Rezoned via Ordinance No. 08-2016. Awaiting applications.
Residential - Affordable Housing District (Gordon Dr)	TBD	TBD		TBD	Rezoned via Ordinance No. 08-2016. Awaiting applications.
Residential - Affordable Housing District (Riverview Dr)	TBD	TBD		TBD	Rezoned via Ordinance No. 08-2016. Awaiting applications.
670 Union Blvd (Forman Mills)	TBD	TBD		TBD	Ordinance No. 09-2018 created the MFR Overlay Zone. Awaiting Applications.
50 and 80 Bomont Pl	TBD	TBD		TBD	Rezoned via Ordinance No. 08-2016. Awaiting applications.
Union Blvd Conditional Use	TBD	TBD		TBD	Ordinance No. 10-2018 amended the B-2 Ordinance. Awaiting Applications.

## CONCLUSION

As per Paragraph 9 and 10 of the 2018 Settlement Agreement, the Borough was required to provide a realistic opportunity for the development affordable housing through the adoption of inclusionary zoning:

- Ordinance No. 08-2016, which guides development in the Forest Avenue, Gordon Drive and Riverview Drive areas
- Ordinance No. 09-2016, which guides development in the Shepherds Lane area
- 670 Union Boulevard

- 50 and 80 Bomont Place
- Union Boulevard Conditional Use

As demonstrated by the tables above, Totowa has adopted the necessary ordinances for the above mechanisms, thereby creating the realistic opportunity that is required by statute.

Furthermore, the Borough has committed to provide \$15,000 per creditable bedroom to Community Options, who purchased a single-family home and is in the process of converting it to a group home. This mechanism was not in the Settlement Agreement but was an approved expenditure in the Spending Plan. The transfer of these funds demonstrates Totowa's commitment to creating affordable housing within the Borough.

In conclusion, Totowa's plan implementation continues to create a realistic opportunity where that standard is applicable, and the Borough has implemented its Unmet Need mechanisms, which continue to be constitutionally sufficient.