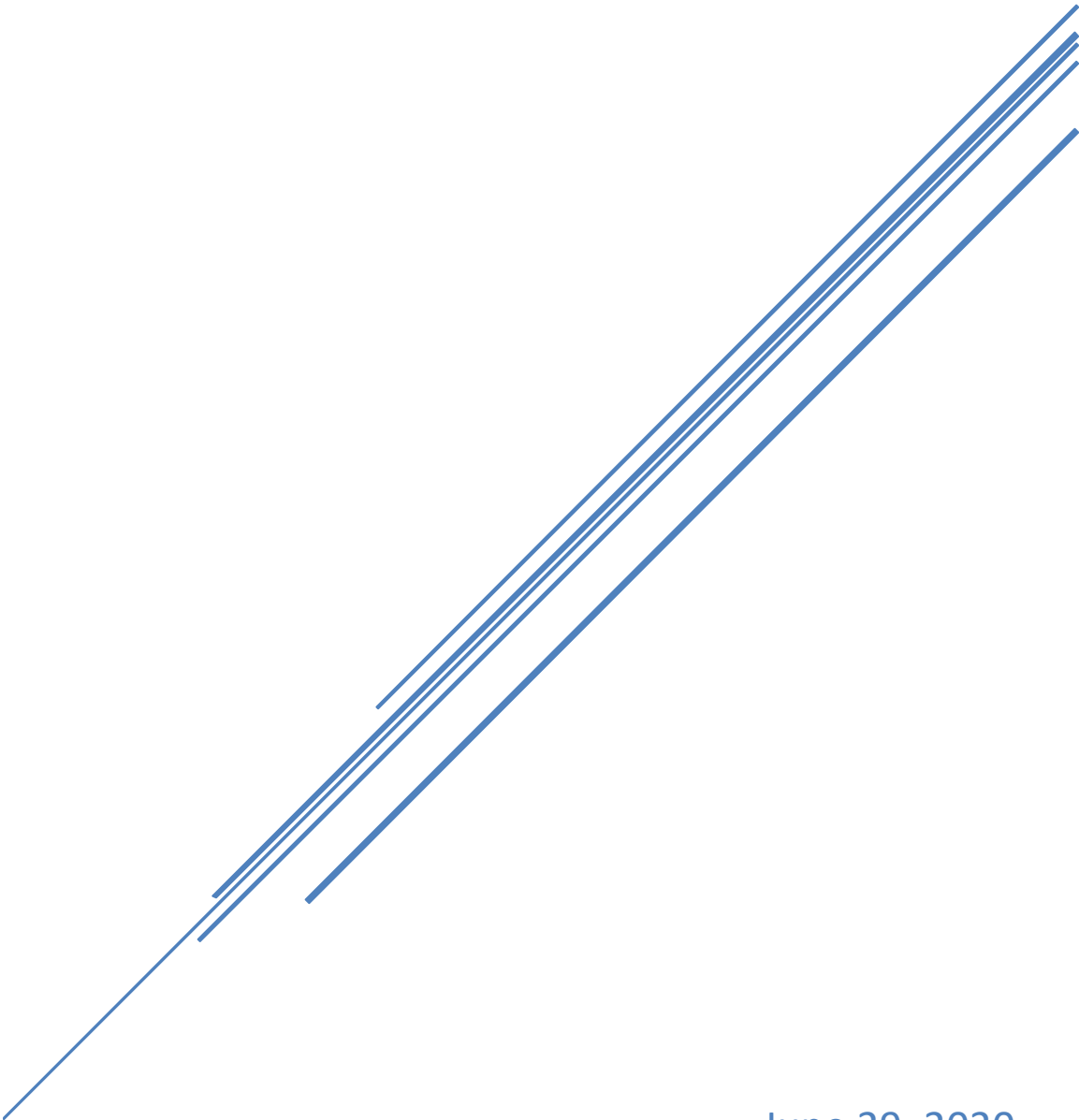


AFFORDABLE HOUSING MIDPOINT REVIEW REPORT

Borough of Montvale



June 29, 2020

PURPOSE

Paragraph 25 of the Borough of Montvale's 2017 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 is tailored to reflect the conditions in the municipality, the Settlement Agreement with FSHC, the Settlement Agreements with the Intervenors, The S. Hekemian Group, LLC (hereinafter "Hekemian"), Hornrock Properties MPR, LLC (hereinafter "Hornrock"), and 2 Paragon Drive, LLC (hereinafter "2 Paragon"), and the Court-approved Housing Element and Fair Share Plan.

The 2017 Settlement Agreement with FSHC requires that the midpoint review be posted on the Borough website, with 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

Montvale filed its Declaratory Judgment Action on July 6, 2015. The Borough executed a Settlement Agreement with FSHC on November 14, 2017. The Settlement Agreements with each of the Borough's three Intervenors, Hekemian, Hornrock, and 2 Paragon, were also executed on November 14, 2017. The 2017 Settlement Agreement with FSHC outlines Montvale's affordable housing obligations:

- A five-unit Rehabilitation Obligation,
- A 255-unit Prior Round Obligation, and
- A 542-unit Third Round Obligation.

However, the Borough sought and received a Vacant Land Adjustment (hereinafter "VLA") for the Prior Round from COAH in 2004 when Montvale received Substantive Certification. The Prior Round VLA produced a 188-unit Realistic Development Potential (hereinafter "RDP"). The 2017 Settlement Agreement continued to recognize the Borough's lack of vacant and developable land and included a VLA for the Third Round. The RDP for the Third Round Obligation is 181. Therefore, the Borough has an Unmet Need of 67 units for the Prior Round and 361 units for the Third Round. However, the Borough is able to satisfy the entire 255-unit Prior Round Obligation and has a 24-unit surplus that can be applied to the Third Round RDP.

On February 12, 2018, Judge Toskos entered an Order Approving Settlement Agreement Between the Borough of Montvale and Fair Share Housing Center. This Order followed the Fairness Hearing held on January 25, 2018. Thereafter, Montvale prepared and adopted the requisite compliance documents. A Compliance Hearing was held on July 18, 2018. Subsequently, Judge Toskos entered an Order of Judgment of Compliance and Repose on July 25, 2018. This Order had one condition regarding the Borough rehabilitation program. Once this condition was satisfied, Judge Farrington issued Montvale a Final Order of Judgment of Compliance and Repose (hereinafter "JOR") on October 3, 2018.

CONDITIONS OF COMPLIANCE

Montvale’s JOR does not contain any conditions.

Paragraph 23 of the 2017 Settlement Agreement requires an annual “Mount Laurel” Trust Fund accounting report to be provided to FSHC, New Jersey Department of Community Affairs (hereinafter “DCA”), COAH, or Local Government Services (hereinafter “LGS”) and be posted on the Borough’s website. This report is not part of the midpoint review and is due annually on the anniversary of the JOR. Paragraph 24, which concerns affordable housing activity requires an annual report to be submitted on the first anniversary of the JOR, and every anniversary thereafter through July 1, 2025. Finally, paragraph 25b concerns the review of very-low income units, which is due within 30 days of the third anniversary of the JOR and every third year thereafter.

Therefore, the first anniversary monitoring was due on October 3, 2019.

It should be noted that the Borough mailed the first anniversary trust fund and affordable housing activity reports to FSHC, DCA, COAH, and LGS on or about September 26, 2019. The reports are posted on the Borough’s website (<https://montvale.org/resident/affordable-housing>).

PRIOR ROUND MECHANISM REVIEW

Montvale received Substantive Certification from COAH in December of 2004, which granted a VLA to the Borough for the Prior Round Obligation. The Prior Round RDP is 188 units. However, as stated above, the Borough is able to satisfy the entire 255-unit Prior Round Obligation. It should be noted that a majority of the mechanisms allocated to the Prior Round Obligation have been constructed except for the DePiero and 127 Summit Avenue mechanisms. All mechanisms are detailed in the 2018 Housing Element and Fair Share Plan. As per the Housing Element and Fair Share Plan, a total of 215 credits and 64 bonuses are allocated to the Prior Round Obligation, which totals 279 credits. See the tables below and on the following pages for a summary of the units allocated to the Prior Round Obligation.

PRIOR ROUND MECHANISMS						
Development	Block & Lot	Description	Ordinance Adopted (Y/N)	Status	Existing Affordable Units	Proposed Affordable Units
Janovic I (Brookview Estates)	N/A	The developer provided a \$300,000 payment-in-lieu, which was then utilized to fund a 15-unit RCA with the City of Garfield. An amended RCA was executed in 2004, transferring 47 units. Montvale provided a total of \$1,175,000.	N/A	The money was transferred between 2005 and 2006.	15	

PRIOR ROUND MECHANISMS (continued)

Development	Block & Lot	Description	Ordinance Adopted (Y/N)	Status	Existing Affordable Units	Proposed Affordable Units
Janovic II	N/A	A four-lot subdivision where the developer agreed to provide a \$50,000 payment-in-lieu, which was then utilized to fund a two-unit RCA with Cliffside Park. The RCA was executed in September of 2003.	N/A	The money was transferred between 2005 and 2006.	2	
Chamberlain	N/A	An 18-lot subdivision, which required the developer to provide a \$250,000 payment-in-lieu. The money was then used to fund an RCA in Cliffside Park, which was executed in July of 2003.	N/A	The money was transferred in 2005.	10	
K. Hovanian/ Rink/ Dill (Four Seasons)	N/A	The developer agreed to provide an \$800,000 payment-in-lieu, which was utilized to finance an RCA with the City of Garfield. An amended RCA was executed in 2004, transferring 47 units. Montvale agreed to provide a total of \$1,175,000.	N/A	The money was transferred between 2005 and 2006.	32	
Greenway (Summit Ridge)	Varies	A 59-unit condominium complex, which includes two affordable family rentals and ten affordable family for-sale units. The units received Certificates of Occupancy between 2000 and 2001.	N/A	Built & Occupied	12	
Bear Brook/ US Cable	Varies	A 33-unit condominium complex, which included five affordable family rental units. The affordable units received Certificates of Occupancy in 1998.	N/A	Built & Occupied	5	
Baldanza/ Charlestowne Court	B2408, L24	A 12-unit multi-family inclusionary development with three affordable family rental units. The units received Certificates of Occupancy in 2007.	N/A	Built & Occupied	3	

PRIOR ROUND MECHANISMS (continued)						
Development	Block & Lot	Description	Ordinance Adopted (Y/N)	Status	Existing Affordable Units	Proposed Affordable Units
Nottingham Manor	Varies	A garden apartment complex originally constructed in the 1950s. In 2004, an undeveloped portion of the property was rezoned and the developer was approved to construct 36 units, including eight affordable family rental units. The units received Certificates of Occupancy in 2007.	N/A	Built & Occupied	8	
National Institute for People with Disabilities	B1709, L1	Licensed group home for very-low income clients with five bedrooms.	N/A	Built & Occupied	5	
Axxin/ K. Hovanian/ Valley View	Varies	A 128-unit inclusionary condominium development. The units received Certificates of Occupancy between 2007 and 2009.	N/A	Built & Occupied	26	
Montvale Senior Housing/ Montvale Commons	B1601, L21.02	A 28-unit, municipally-sponsored, 100% affordable development containing 10 units reserved for individuals with special needs, which are permanent supportive housing, and 18 non-age-restricted rental units. The units were occupied in 2013.	N/A	Built & Occupied	28	
Del Ben/ Montvale Reserve	Varies	An 80-unit inclusionary multi-family development resulting from a Prior Round builder's remedy lawsuit. There are six affordable family for-sale units, which received Certificates of Occupancy between January and March of 2017 and have 30-year deed restrictions.	N/A	Built & Occupied	6	

PRIOR ROUND MECHANISMS (continued)						
Development	Block & Lot	Description	Ordinance Adopted (Y/N)	Status	Existing Affordable Units	Proposed Affordable Units
DePiero	B1002, L3 & 5	In July of 2014, the Borough approved an application for a 32-unit affordable multi-family building in conjunction with the Wegmans/ lifestyle center application. A condition of the approval was to convey Block 1002, Lots 3 and 5 to the Borough. Since 2014, the Borough has been conveyed title to the two lots.	Y	Ordinance 2013-1374, adopted on April 30, 2013, created the Affordable Housing - Planned Unit Development, AH-PUD, District. On June 9, 2020, the Borough approved a Developer's Agreement with the Walters Group, which indicates the property will be developed with a 25-unit affordable multi-family building, which is seven units less than the Settlement Agreement.		25
Bonnabel/ Trailing Ridge/ The Alexa	B301, L2 & 3	An 80-unit inclusionary development with 17 affordable units approved in 2007. However, one additional affordable unit was required as part of a 2008 minor subdivision approval, for a total of 18 affordable family rental units. A 30-year deed restriction will be recorded for the 18 affordable units.	Y	The property was rezoned to the AH-8A District in 2006. The development is under construction, 4 affordable units have been built and issued Certificates of Occupancy.	18	
127 Summit Ave/ Waypoint	B1002, L7	The property is located in the AH-6 District, which permits inclusionary housing at a density of 5.8 units per acre. The AH-6 District was originally adopted in 1993 and subsequently amended in 1994, 1996, and 2005.	Y	In January of 2020, Waypoint Residential Services, LLC submitted an application for Preliminary and Final Site Plan approval to construct a 170-unit multi-family, active adult community, which would include 26 affordable senior rental units. The first hearing was held on March 3, 2020. The next hearing is tentatively scheduled in July of 2020. Note that the FSHC Settlement Agreement and HEFSP only allocated 13 credits for this site.		26

As detailed in the above tables, the DePiero site is being reduced by 7 credits. However, if approved as proposed, the 127 Summit Avenue (Waypoint) site will produce 13 additional credits. This would result in a net gain of 6 credits to be applied towards the Borough’s surplus over and above the Third Round RDP.

THIRD ROUND REALISTIC OPPORTUNITY REVIEW

The obligation to create realistic opportunity during the compliance period applies to all RDP mechanisms for VLA municipalities. The tables on the following pages summarize the mechanisms allocated to the Third Round RDP and their current status. There is one existing mechanism and seven proposed mechanisms allocated to the Third Round RDP, which generate 180 credits and 46 bonuses (for a total of 226). Additionally, (as per the Housing Element and Fair Share Plan) 24 surplus credits from the Prior Round Mechanisms are allocated to the Third Round RDP.

THIRD ROUND REALISTIC DEVELOPMENT POTENTIAL MECHANISMS						
Development	Block & Lot	Description	Ordinance Adopted (Y/N)	Status	Existing Affordable Units	Proposed Affordable Units
Children's Aid and Family Services	B2509, L51	Group home for six low income clients with developmental disabilities. A 30-year deed restriction for the group home was recorded on April 27, 2015.	N/A	Built & Occupied	6	
School #2	B1606, L6 & 6.02	The property was rezoned to the Affordable Housing Senior District in 2014. A 100% affordable development was approved in 2015, which included retrofitting the existing school into a ten-unit affordable senior apartment building with an addition containing a group home with four special needs housing units. The ten-unit apartment building received a CO on August 20, 2018, while the four-bedroom group home received a CO on October 11, 2018.	Y	Built & Occupied	14	

THIRD ROUND REALISTIC DEVELOPMENT POTENTIAL MECHANISMS (continued)

Development	Block & Lot	Description	Ordinance Adopted (Y/N)	Status	Existing Affordable Units	Proposed Affordable Units
99 Spring Valley Rd	B403, L2	A 12-unit inclusionary townhome development, which was approved in the Fall of 2015, containing two affordable family for-sale units. The two affordable units received COs in March and May of 2019 and both have a 30-year deed restriction.	N/A	Built & Occupied	2	0
7 Franklin Ave	B2408, L26	A 13-unit inclusionary multi-family development, approved in April of 2018, which includes three affordable family units.	N/A	Under construction, expected to be completed by the end of 2020.	0	3
110 Summit Ave/ Thrive	B1102, L2	Ordinance No. 2017-1423, adopted on February 28, 2017, amended the Office and Research OR-1, OR-2, OR-3, and OR-4 District regulations to include assisted living residences as a conditional use. One condition requires 10% of units to be reserved for Medicaid-eligible persons in order to qualify for affordable housing.	Y	On September 4, 2018, the Board approved an application for an assisted living, memory care, and independent living facility containing 202 units. The development will provide 13 two-bedroom senior affordable units, which translates to 26 credits. The approved project is currently under construction.		26
A & P/ 2 Paragon/ Village Springs	B1903, L7	Ordinance No. 2017-1437, adopted on December 11, 2017, created the AH-6A Affordable Housing District.	Y	On October 29, 2018, the Board approved an application for a townhouse development containing 80 units. The development will provide 16 affordable family for-sale stacked townhouse units, which will consist of four one-bedroom units, eight two-bedroom units, and four three-bedroom units. The affordable units will be deed restricted for a minimum of 30 years. Site work is anticipated to commence on or about August 1, 2020.		16

THIRD ROUND REALISTIC DEVELOPMENT POTENTIAL MECHANISMS (continued)

Development	Block & Lot	Description	Ordinance Adopted (Y/N)	Status	Existing Affordable Units	Proposed Affordable Units
Sony/ Hornrock	B3302, L1	Ordinance No. 2017-1438, adopted on December 26, 2017, created the AH-26 Affordable Housing District. The Borough awaits construction of the approved development to commence.	Y	On August 20, 2019, the Board approved an application for an inclusionary multi-family development containing 185 units. The development will provide 37 affordable family rental units, which will consist of seven one-bedroom units, 22 two-bedroom units and eight three-bedroom units. The affordable units will be deed restricted for a minimum of 30 years.		37
Mercedes/ North Market	B2702, L1 & B2801, Lot 2; B3201, L6	Ordinance No. 201-1436, adopted on December 11, 2017, created the M-PUD Mixed-Use Planned Unit Development District. The development on the Mercedes site is currently under construction. The Borough awaits an application for the Glenview site.	Y	On May 21, 2019, the Board approved an application for an mixed use development containing retail and office spaces, a hotel, and 308 multi-family units on the Mercedes site (Block 2702, Lot 1 and Block 2801, Lot 2). The development will provide 44 affordable family rental units, which will consist of eight one-bedroom units, 26 two-bedroom units, and ten three-bedroom units. The affordable units will be deed restricted for a minimum of 30 years. The Board also granted Planned Unit Development approval to the Glenview Site (Block 3201, Lot 6) for a 42-unit multi-family building, including nine affordable units.		53

THIRD ROUND UNMET NEED

The tables on the following pages summarize the mechanisms allocated to the Third Round Unmet Need and their current status. All required Ordinances have been adopted.

THIRD ROUND UNMET NEED MECHANISMS						
Development	Block & Lot	Description	Ordinance Adopted (Y/N)	Status	Existing Affordable Units	Proposed Affordable Units
Annie Sez	B703, L7	Inclusionary Overlay Zone District that permits inclusionary residential development.	Y	Ordinance No. 2018-1452, adopted May 29, 2018, created the Mixed-Use Inclusionary 1 (MI-1) Overlay District on the property. The MI-1 Overlay District permits a variety of uses including multi-family residential units above the ground floor at a density of no more than 12 units per acre. A 20% affordable housing set-aside is required for for-sale developments and a 15% affordable housing set-aside is required for rental developments. The Borough awaits an application.		TBD
Southeast B-1 District (east side of the train tracks)	Various block & lots	Inclusionary Overlay Zone District that permits inclusionary residential development.	Y	Ordinance No. 2018-1452, adopted May 29, 2018, created the Mixed-Use Inclusionary 3 (MI-3) Overlay District on certain properties located on the east side of the train tracks. The MI-3 Overlay District permits a variety of uses including multi-family residential units above the ground floor at a density of 15 units per acre. A 20% affordable housing set-aside is required for for-sale developments and a 15% affordable housing set-aside is required for rental developments. The Borough awaits applications.		TBD

THIRD ROUND UNMET NEED MECHANISMS (continued)						
Development	Block & Lot	Description	Ordinance Adopted (Y/N)	Status	Existing Affordable Units	Proposed Affordable Units
Southeast B-1 District (west side of the train tracks)	Various block & lots	Inclusionary Overlay Zone District that permits inclusionary residential development.	Y	Ordinance No. 2018-1452 adopted May 29, 2018, created the Mixed-Use Inclusionary 2 (MI-2) Overlay District on certain properties located on the east side of the train tracks. The MI-3 Overlay District permits a variety of uses including multi-family residential units above the ground floor at a density of 12 units per acre. A 20% affordable housing set-aside is required for for-sale developments and a 15% affordable housing set-aside is required for rental developments. The Borough awaits applications.		TBD
Borough-Wide Set-Aside	N/A	Inclusionary ordinance triggered when multi-family developments of certain sizes and density are permitted outside of an inclusionary zone.	Y	Ordinance No. 2018-1449, adopted on May 29, 2018, created the "Borough-Wide Set-Aside Requirements". This section requires either a 20% affordable housing set-aside (for-sale) or a 15% affordable housing set-aside (rentals) for all approved applications, outside of an inclusionary zone, requiring a use or density variance or approval of a redevelopment or rehabilitation plan for the construction of multi-family residential development of five or more units. The Borough awaits applications.		TBD

On or about April of 2020, the Borough of Montvale submitted a Use Variance Application to convert an existing mixed-use building into a two-family affordable rental dwelling at 26 North Kinderkamack Road. The existing structure contains an apartment and a doctor's office. A hearing was held on June 2, 2020. The Board approved the application at the hearing. It should be noted that these two units were not included in the Settlement Agreement with FSHC or the Housing Element and Fair Share Plan. It is anticipated that the allocation of these units will be determined in 2025.

REHABILITATION

As indicated above, Montvale has a five-unit Rehabilitation Obligation. As noted in Paragraph 7 of the 2017 Settlement Agreement, the Borough will “work with Bergen County or hire a separate entity to implement an indigenous need rehabilitation program”. On July 31, 2018, the Mayor and Council adopted Resolution No. 159-2018 awarding a Professional Services Contract to Community Grants, Planning & Housing (hereinafter “CGP&H”) to conduct housing rehabilitation services. Following the issuance of the JOR, the Borough advertised the program. Eight homeowners have shown interest and two have submitted complete applications. Of the two applications, one was over income. The second application was income qualified and over \$10,000 in repairs was completed on January 30, 2020.

The Borough intends to advertise the program again in the near future, however, some of the options are currently unavailable due to the COVID-19 pandemic.

VERY-LOW INCOME ANALYSIS

Paragraph 13 of the Settlement Agreement indicates that 13% of all units referenced in the 2017 Settlement Agreement, except those units that were constructed or granted preliminary or final site plan approval prior to July 1, 2008, to be very-low income units. Half of those units must be available for families. The table below, and continued on the following page, provides a summary of the Borough’s very-low income units and their current status.

VERY-LOW INCOME UNITS					
Mechanism	Total Affordable Units	Proposed VLI Units	Existing VLI Units	VLI Percentage of Total	Status
Montvale Senior Housing/ Montvale Commons	28				Built & Occupied.
Del Ben/ Montvale Reserve	6		0	0%	Built & Occupied.
DePiero	25	TBD		TBD	The Borough approved a Developer's Agreement with The Walters Group. They are currently filing with DCA for funding.
Bonnabel/ Trailing Ridge/ The Alexa	18	3		16.7%	Approved in 2007, under construction. Note that this project is not required to provide very-low income units (pre-2008 approval). However, three very-low income units are being provided.

VERY-LOW INCOME UNITS (continued)					
Mechanism	Total Affordable Units	Proposed VLI Units	Existing VLI Units	VLI Percentage of Total	Status
127 Summit Ave/ Waypoint	26	TBD		TBD	An application was submitted in January of 2020, approval is pending.
Children's Aid and Family Services	6	0*		0%	Built & Occupied.
School #2	14	5		35.7%	Built & Occupied. It should be noted that there is one senior VLI and four group home beds, which are VLI.
99 Spring Valley Rd	2	0		0%	Built & Occupied.
7 Franklin Ave	3	0		0%	Approved in 2019, under construction.
110 Summit Ave/ Thrive	26	TBD		TBD	Approved in 2018, under construction.
A & P/ 2 Paragon/ Village Springs	16	0		0	Approved in 2018, awaiting construction to commence.
Sony/ Hornrock	37	4		10.8%	Approved in 2019, awaiting construction to commence.
Mercedes / North Market	44	6		13.6%	Approved in 2019, under construction.
Mercedes (Glenview Site)	9	TBD		TBD	The Borough awaits an application for the Glenview site.
Annie Sez	TBD	TBD		TBD	Ordinance No. 2018-1452 created the Mixed-Use Inclusionary 1 (MI-1) Overlay District. Awaiting application.
Southeast B-1 District (east side of the train tracks)	TBD	TBD		TBD	Ordinance No. 2018-1452 created the Mixed-Use Inclusionary 3 (MI-3) Overlay District. Awaiting applications.
Southeast B-1 District (west side of the train tracks)	TBD	TBD		TBD	Ordinance No. 2018-1452 created the Mixed-Use Inclusionary 2 (MI-2) Overlay District. Awaiting applications.
Borough-Wide Set-Aside	TBD	TBD		TBD	Ordinance No. 2018-1449 created the Borough-Wide Set-Aside Ordinance. Awaiting applications.

* We are researching the number of very-low income information for this mechanism.

CONCLUSION

As per the 2017 Settlement Agreement, the Borough was required to provide a realistic opportunity for the development of affordable housing through the adoption of inclusionary zoning on several sites. As demonstrated by the tables above, Montvale has enacted all required ordinances, thereby creating the required realistic opportunity. Furthermore, the Borough's Planning Board has processed several large applications, such as Sony/Hornrock, Mercedes, A&P, and 110 Summit since the issuance of the JOR. Furthermore, the Borough has gone above and beyond the Settlement Agreement and is under contract to purchase an existing building and convert said structure to a 2-unit affordable family rental. The Borough sought and obtained a use variance to do so, utilizing funds from the Affordable Housing Trust Fund.

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

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