

# Section 202 Supportive Housing for the Elderly Program

FY 2022 Notice of Funding  
Opportunity (NOFO)

October 27, 2022

# Office of Fair Housing and Equal Opportunity (FHEO)

- The mission of FHEO is to **eliminate housing discrimination, promote economic opportunity, and achieve diverse, inclusive communities** by leading the nation in the enforcement, administration, development, and public understanding of federal fair housing policies and laws.
  - Investigate fair housing complaints
  - Conduct compliance reviews
  - Ensure civil rights compliance in HUD-funded programs
  - Manage fair housing grants

# NOFO Requirements

## Site and Neighborhood Standards (SNS)

Section III.F.8 of the NOFO and 24 CFR 891.125.

Submission required for **new construction** only (See Tab I of 202 NOFO Toolkit)

The contents of the SNS submission will depend on **whether the project is in an area of minority elderly concentration**.

# History

- HUD and its funding recipients are required by the Fair Housing Act to affirmatively further fair housing to address a **legacy of segregation** and to ensure all Americans have access to a quality neighborhood of their choice.
- SNS requirements were established following Shannon v. HUD, where the Third Circuit Court of Appeals held that HUD must consider the effects of racial concentration before approving the construction of a federally-assisted housing project.
- Under Shannon and its progeny, HUD must assess the racial impact of the projects it funds to ensure it is taking **affirmative steps** against segregation.

# History

- In January 1972, HUD published its **Project Selection Criteria**, which established guidelines for HUD evaluation of proposed sites for federally funded low-income housing. These evolved into the SNS standards HUD uses today including for the Section 202 program.
- The criteria prohibited placing a project in an “area of minority concentration” unless HUD deemed the project necessary to meet an “**overriding need**” for housing in the area. In other words, the need for additional housing at the particular site must **outweigh** the disadvantage of perpetuating racial concentration.
- The criteria also exempted a project if “**sufficient and comparable**” opportunities for federally subsidized housing existed outside the area of dense racial concentration.

# History

- In Section 216 of the Housing and Community Development Act of 1980, Congress specified that HUD may not exclude an assisted housing project from consideration for funding **solely** because of its location in an area of minority concentration.
- And finally, on March 22, 1996, HUD published its SNS regulations for the Section 202 Program at 24 CFR 891.125, which set forth standards regarding “areas of minority elderly concentration.”

# Why Fair Housing?

“Ongoing legacies of residential segregation and discrimination remain **ever-present** in our society . . . Many neighborhoods are **as racially segregated today** as they were in the middle of the 20th century [and]. . . [t]he Federal Government has a critical role to play in **overcoming and redressing** this history of discrimination and in **protecting** against other forms of discrimination...

[Affirmatively Furthering Fair Housing] is not only a mandate to refrain from discrimination but a mandate to take actions that undo historic patterns of segregation [and] . . . that afford access to long-denied opportunities.”

- [Joseph R. Biden, Jr., Memorandum on Redressing Our Nation's and the Federal Government's History of Discriminatory Housing Practices and Policies, WHITE HOUSE \(Jan. 26, 2021\)](#)

# Area of Minority Elderly Concentration



The percentage of **elderly persons of a particular racial or ethnic minority** within the area of the site is at least 20 percentage points higher than the percentage of that minority group in the housing market as a whole; or



The total percentage of **elderly persons of all racial or ethnic minorities** within the area of the site is at least 20 percentage points higher than the total percentage of minorities in the housing market area as a whole.



# Section 202 Area of Elderly Minority Concentration Tool

The tool will use the **census tract(s)** to approximate the neighborhood

The analysis may consider alternate proposed geographies in instances where there is strong evidence that such geography is more appropriate.

A “**housing market area**” generally corresponds to:

The  
Metropolitan  
Statistical Area  
(MetroSA)

The  
Micropolitan  
Statistical Area  
(MicroSA)

The tool will then compare the demographics for the:

Census Tract

Census Tract and  
All Adjacent  
Census Tract

Housing Market  
Area

# Determining Areas of Elderly Minority Concentration

## Section 202 Elderly Minority Concentration Tool

Section 202 Elderly Minority Concentration Analysis

Revitalization Analysis

**Note:** This tool does not contain data for the following U.S. Territories: Guam, the Northern Mariana Islands, American Samoa, and the U.S. Virgin Islands. Please see the FY 2020 Section 202 NOFA for the submission requirements for applications involving projects located in one of these territories.

### Section 202 Options

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Current Zoom Level

☐

Show Counties (Zoom 8+)

☐

Show CBSA (Zoom 8+)

☒

Show Minority & Tracts (Zoom 9+)

☐

Show BlockGroups (Zoom 12+)

☐

Show Opportunity Zone (Zoom 8+)

The purpose of the Section 202 Minority Elderly Concentration Analysis Tool is to allow applicants to quickly assess whether a proposed site for new construction is or may be in an area of minority elderly concentration. Please follow the Instructions to complete this analysis. The mapping tool is populated by a large amount of data. After clicking these polygon guides, please wait for data to load before clicking on additional buttons. Also, after clicking "DRAW" you have to re-enable the optional layers if you need them as a guide to draw your shape.

Instructions

Map

Satellite



What do I need  
to submit?

## All new construction projects must submit the report generated by the Section 202 Elderly Minority Concentration Tool

- You will need to create an account in order to generate a report. Once generated, a PDF of the report will be sent to your email. (A screenshot from the tool is not sufficient)
- As a note, the tool cannot generate a report for the following areas: Guam, U.S. Virgin Islands, Northern Mariana Islands, and American Samoa. See NOFO for instructions if your project is in one of these areas.

If the report shows that the project is not in an area of minority elderly concentration:

- In most cases, the applicant will only need to submit the report verifying that the project is not in an area of minority elderly concentration
- However, if the site is near the edge of an elderly minority-concentrated census tract or is separated from a significant portion of the occupied land in its census tract by a major geographic barrier (i.e. major highway, river, etc.), the applicant must provide supporting documentation that the census tract is an appropriate representation of the neighborhood or provide the report and supporting documentation showing that an ***alternative geography*** more appropriately reflects the neighborhood.

## If claiming an alternative geography:

- **Submit demographic data** for the selected alternative geography using the Section 202 Elderly Minority Concentration Tool (note: applicants may draw the boundaries of the alternative geography in the tool)
- **Submit a narrative justification and supporting documentation** demonstrating that the alternative geography is a more appropriate representation of the neighborhood and that the proposed boundaries are generally accepted as the neighborhood.

# SNS Requirements

24 CFR 891.125(c)(1)

For conversions of assistance in the Section 202 program that involve **new construction that is located in an area of minority concentration** (whether on the existing public housing site or on a new site), HUD will conduct a front-end civil rights review of the site to determine whether it meets one of the **exceptions** that would allow for new construction in an area of elderly minority concentration.

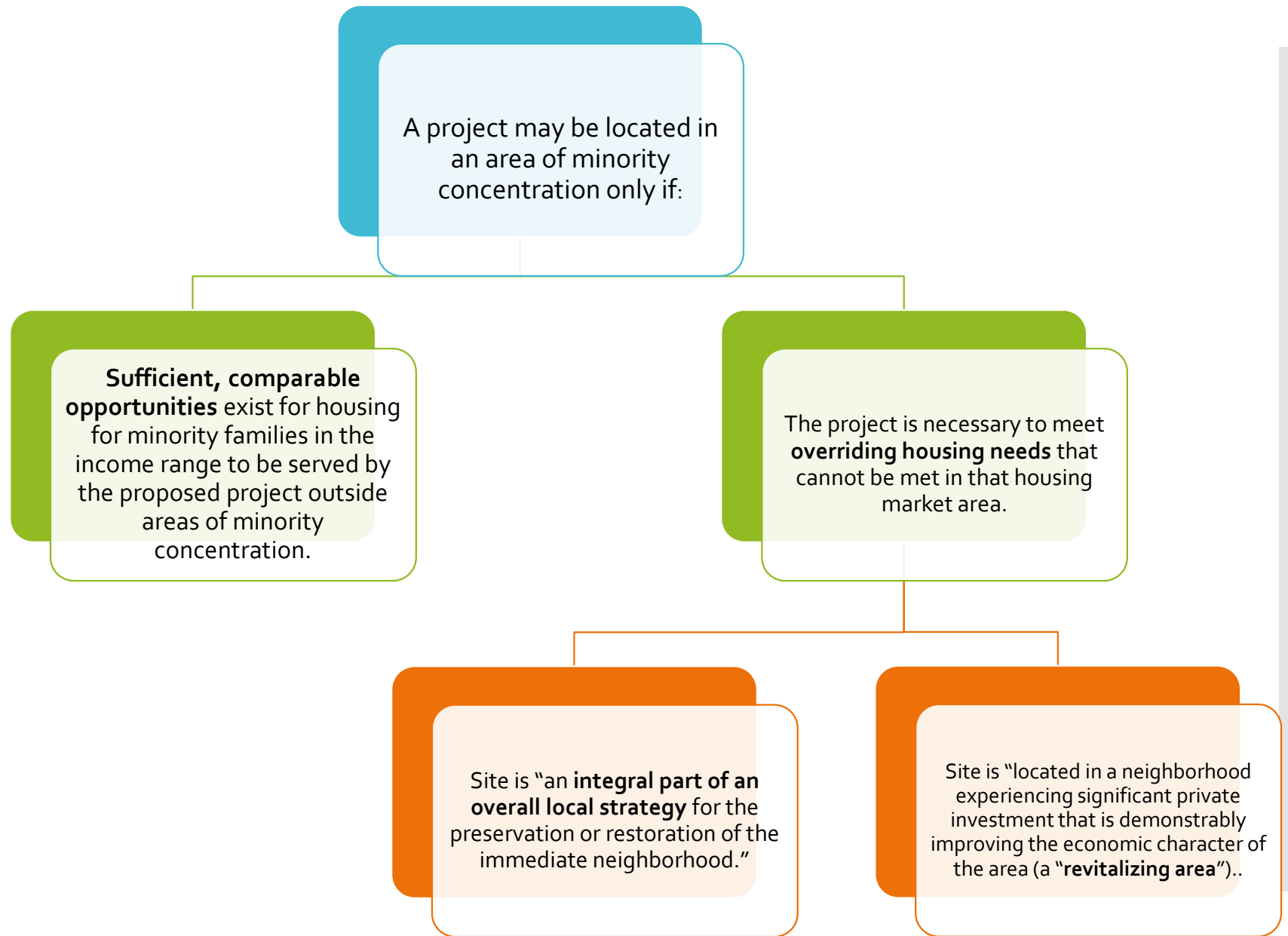
Two exceptions:

Sufficient, comparable  
opportunities

Overriding housing need

# AMEC Regulatory Exceptions

24 CFR 891.125(c)





# Sufficient, Comparable Opportunities Exception

24 CFR 891.125(c)(3)(I)

A project can be located in an area of elderly minority concentration if *sufficient, comparable* housing opportunities for minority families in the income range to be served by the project exist outside areas of minority concentration.

## Sufficient

- A reasonable distribution of units creating a proper balance of housing opportunities within and outside minority areas
- A proper balance includes an assessment of the locality's racial mix and conditions affecting the range of available housing choices for low-income persons or minority groups

## Comparable

- Same household and tenant type
- Approximately same tenant contribution toward rent
- Serves a similar interest group
- Located in the same housing market
- In habitable condition

# Sufficient, Comparable Opportunities

24 CFR 891.125(c)(3)(iii)

This review looks at a variety of factors to determine whether sufficient, comparable opportunities exist for minority families. The factors for this category include:

A significant number of assisted housing units are available in areas outside of areas of minority concentration;

There is significant integration of assisted housing projects constructed or rehabilitated in the past 10 years relative to the racial mix of the eligible population;

There are racially integrated neighborhoods in the locality;

Programs are operated by the locality to assist minority families that wish to find housing outside areas of minority concentration;

Minority elderly households have benefitted from local activities undertaken to expand choice for minority families outside of areas of minority concentration;

A significant proportion of minority elderly households has been successful in finding units in non-minority areas under the tenant-based assistance programs;

Comparable housing opportunities have been made available outside areas of elderly minority concentration through other programs; and

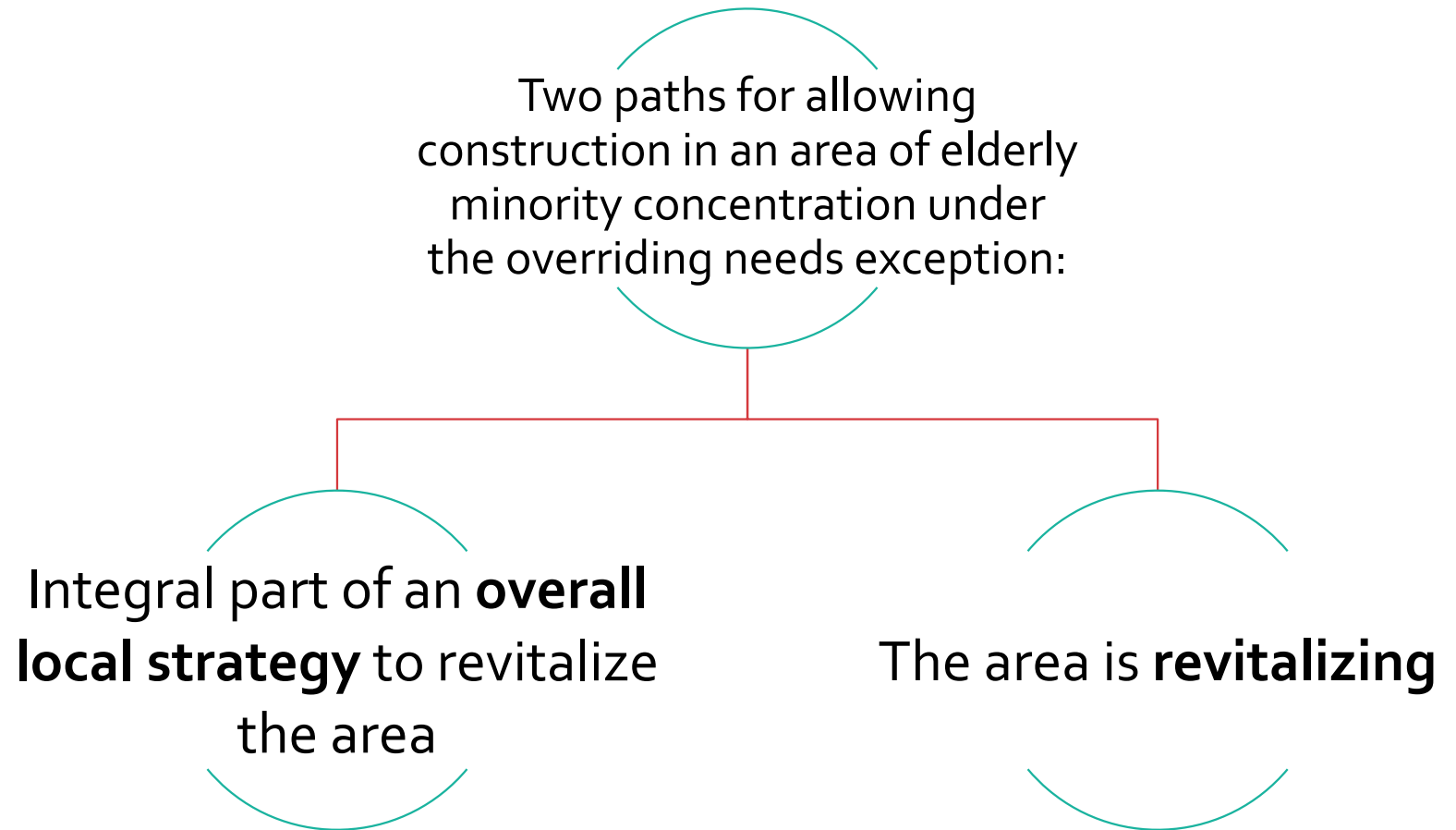
Other factors relevant to housing choice

Example:  
Sufficient,  
Comparable  
Opportunities

Program	Units in Housing Market Area	# Units of <i>in</i> AMEC	% of Units in AMEC	# of Units that are Comparable <i>Outside</i> AMEC	% of Units that are Comparable <i>Outside</i> AMEC
HUD 202	2712	705	26%	635	23%
Federal Public Housing for Elderly/Disabled Persons	11,907	4,287	36%	3,965	33%
State Public Housing for Elderly/Disabled Persons	18,371	4,042	22%	4,020	22%
Project-Based Section 8 Elderly	12,525	4,259	34%	3,875	31%
Total	45,515	13,293	30%	12,495	27%

# Overriding Needs Exception

24 CFR 891.125(c)(4)



# Overriding Needs: Integral Part of an Overall Local Strategy

24 CFR 891.125(c)(4)



## Official

Has the plan been adopted or ratified by a municipal, county, or legislative body (and is the project located inside the plan area)?



## Currently Operational

What progress has been made on the plan? Keep in mind how long the plan has been enacted for relative goals accomplished.



## Realistically Achievable

Does the plan recommend or have designs for items that are not realistic? Keep in mind budget constraints, zoning requirements, *etc.*



## Immediate Neighborhood

Will the strategy revitalize the neighborhood specifically, or the entire city? City-wide plans may not significantly improve a particular neighborhood.

Goes beyond physical improvement of the site.

# Overriding Needs: Integral Part of an Overall Local Strategy Factors

See NOFO FAQ

To establish that a proposed project is an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood, an applicant must demonstrate the following:

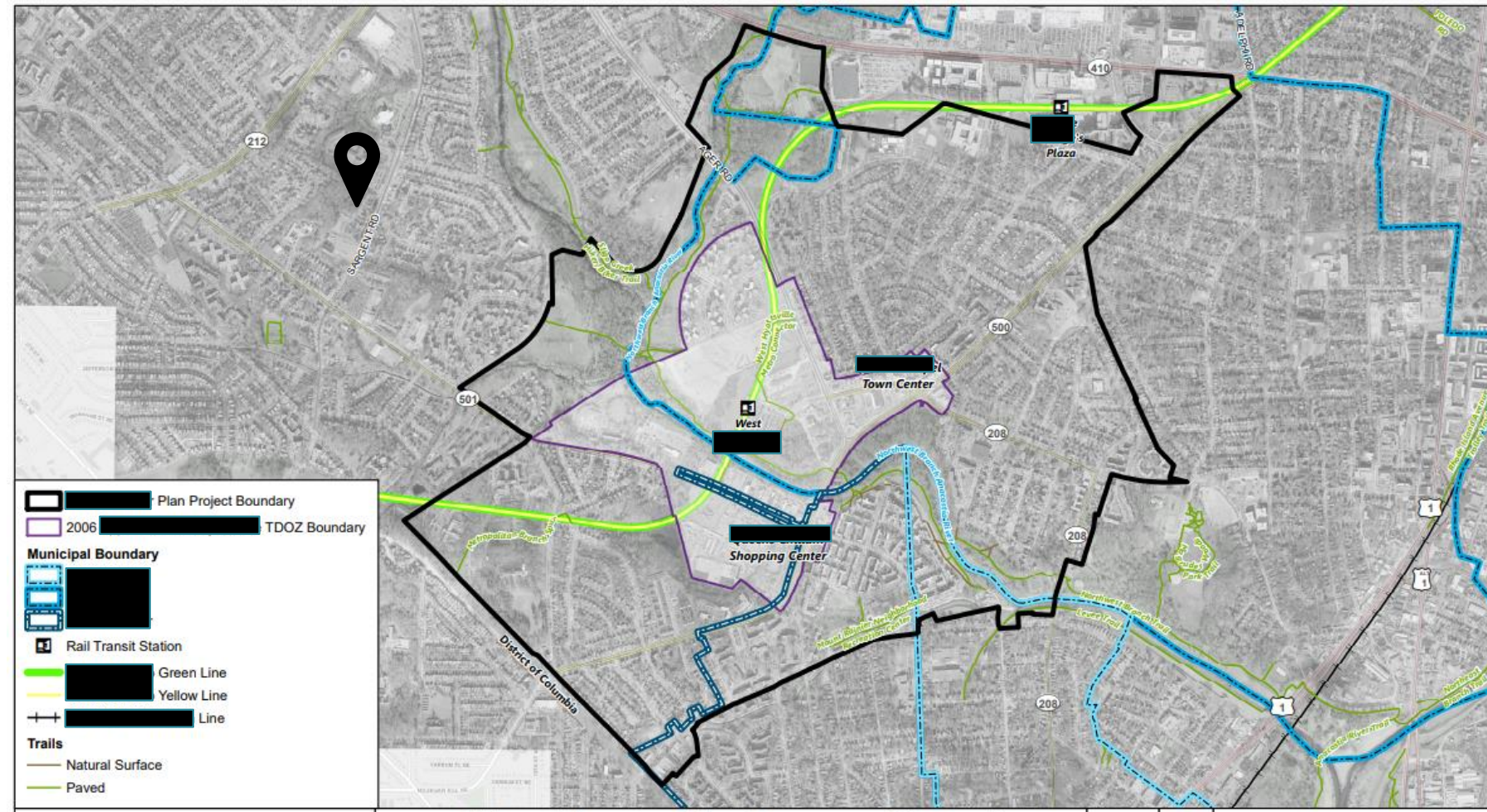
- The site is located in a defined geographic area that is the subject of an **official, currently operational and realistically achievable** plan for the improvement or revitalization of the immediate neighborhood
- The project conforms to, and the site is **integral to, the goals, strategies, and objectives** of the improvement or revitalization plan.

HUD will consider relevant factors including, for example, whether:

- The strategy itself, or a plan supporting the strategy, has been **enacted, adopted, or ratified** by a municipal, county, or state legislative body.
- There has been **progress to implement** the plan, or the strategy as a whole. The plan or strategy as a whole, or the elements applicable to project are consistent with the jurisdiction's land use or zoning code, development regulations, or other official body of laws or rules;
- Strategies or activities under the plan are **incorporated in current public, quasipublic agency or major institutional work plans**;
- The plan, or the strategy as a whole, includes objectives and initiatives related to the **preservation or restoration of a geography** larger than the Converting Project and any associated public housing site;
- A jurisdiction has **published solicitations or incentives** for development projects in the improvement or revitalization area;
- The plan is incorporated in the applicable jurisdiction's **Consolidated Plan** or other comprehensive community development plan;
- A jurisdiction has explicitly **designated the geographic area for improvement or revitalization** (e.g., Business Improvement District; Enterprise Zone designation; Promise Zone designation; Choice Neighborhoods designation);
- An implementing agency has **retained a construction firm** to break ground on the improvement or revitalization; and/or
- An implementing agency has **secured financing**, such as the issuance of bonds or final approval for tax increment financing.



Example:  
Integral Part  
of an  
Overall Local  
Strategy



## Overriding Needs: Revitalizing Area

24 CFR 891.125(c)(4)

HUD will consider evidence that the **site is in a revitalizing area** experiencing significant investment AND is demonstrably **improving the economic character of the area.**



There is high private and public **investment in retail, commercial, or housing development** that has occurred or will imminently occur:

Overriding  
Needs:  
Revitalizing Area,  
Significant Private  
Investment

24 CFR 891.125(c)(4)

New or improved retail centers, grocery stores, pharmacies, healthcare facilities, community centers, educational and recreational facilities, municipal services, and transportation serving the neighborhood.

Private and public investment or housing development that has occurred or will imminently occur in the area.

Economic conditions that are impacting the preservation of affordable housing in the neighborhood, including indicators of gentrification such as housing costs rising, accelerated rates of homeownership, and disproportionate depletion of larger dwellings for families with children

# Revitalizing Area: Demonstrably Improving

24 CFR 891.125(c)(4)

The neighborhood  
has demonstrated  
signs of  
revitalization,  
through indicators  
such as:

Low or declining **poverty** rates

Low or declining violent **crime**  
rates

Evidence of high or increased  
**educational** opportunity

High or increasing median  
household **income**

High or increasing  
**homeownership** rates

High or increased  
**employment**

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### Revitalization Analysis Options

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☒

Current Zoom Level

☒

Unemployment Rate (Zoom 9+)

☒

Poverty Rate (Zoom 9+)

☒

Median household income (Zoom 9+)

☐

Median home value (Zoom 9+)

☐

Homeownership Rate (Zoom 9+)

☐

Housing Vacancy Rate (Zoom 9+)

☐

Rental Vacancy Rate (Zoom 9+)

☐

Units with low income (Zoom 9+)

☐

Units with very low income (Zoom 9+)

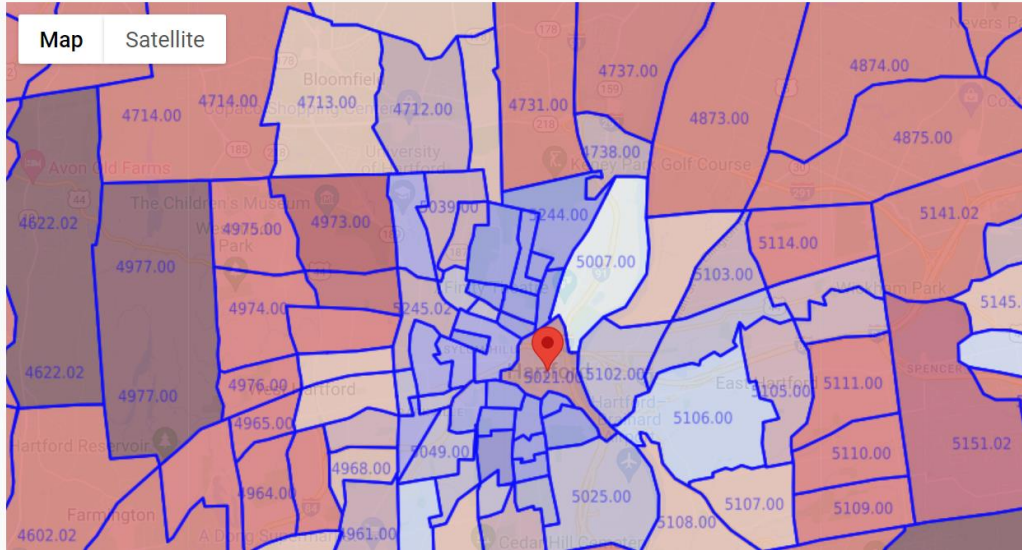
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Units with extremely low income (Zoom 9+)

Select Year: 

Census 2000

The purpose of the RAD, Section 202 or Section 811 Economic Revitalization Analysis Tool is to allow applicants to quickly access data and generate reports on certain indicators of revitalization to help them assess whether a



Revitalization Data Point	Start Point (raw number)	Start Point (%)	End Point (raw number)	End Point (%)	Percentage Point Change * (color-coded red for negative, green for positive impact and black for little to no change (<5%))
Poverty Rate** [2000-2012/16]		32.09		52.01	19.91*
Unemployment Rate** [2000-2012/16]		21.07		19.04	-2.03*
Real*** Median Household Income [2000-2012/16]	16696.62		11190		-32.98
Real*** Median Home Value [2000-2012/16]	116855.75		0.00		0.00
Homeownership Rate [2000-2012/16]		0.99		0.00	-0.99*
Housing Vacancy Rate** [2000-2012/16]		17.29		10.13	-7.17*
Rental Vacancy Rate** [2000-2012/16]		13.75		1.51	-12.24*
Units with low income <=80% of HAMFI [2011/15-2000] **	59	11.68	60	8.89	-2.79*
Units with very low income <=50% of HAMFI [2011/15-2000] **	95	18.81	60	8.89	-9.92*

# Revitalization Report

The Elderly Minority Concentration Tool contains a revitalization report based on a few of these indicators.

If the applicant has additional local knowledge or data as to whether the site is in a revitalizing area, the applicant should also provide this information in addition to the Minority Concentration Tool's report.





Neighborhoods and Amenities

# Revitalizing Area Example

# General Recommendations

- Read the [NOFO](#) and [FAQs](#) carefully
- Use the Revitalization Tool if claiming the Overriding Housing Needs – Revitalizing Area exception
- Tailor your narrative to as many factors in the exception(s) as applicable
- Review answered written questions after Webinar
- Consult PowerPoint presentation from today

## Additional Resources

- Applicants are encouraged to consult the Section 202 NOFO FAQs when preparing their SNS submissions.
- Further detail on SNS requirements can be found in Section III.F.8 of the NOFO and 24 CFR 891.125.
- Applicants will be given one opportunity to cure any deficiencies with their SNS submissions.
  - If there are any deficiencies, HUD will issue an NOCD and request additional relevant information.

Q&A

