

**BOROUGH OF ORADELL, COUNTY OF BERGEN**  
**NOTICE OF MIDPOINT REALISTIC OPPORTUNITY**  
**REVIEW Docket Number: BER-L-6539-15**

**PLEASE TAKE NOTICE** that the Borough of Oradell, County of Bergen, posted its Mid-Point Review Report on its municipal website at [www.oradell.org](http://www.oradell.org) with a copy of the Report provided to Fair Share Housing Center ("FSHC") and to interested the Intervenors in the Oradell Borough's Declaratory Judgment Action at Docket No. BER-L-6215-15.

The requirement for a midpoint realistic opportunity review derives from the Fair Housing Act at N.J.S.A. 52:27D-313 and the purpose and process is set forth in Oradell Borough's Court-approved Settlement Agreement with FSHC. The purpose of the midpoint realistic opportunity review is for Oradell Borough to provide a status report as to Oradell Borough's implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity.

Any interested party may submit comments to Oradell Borough, with a copy to FSHC and the Intervenors, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Comments shall be submitted in writing no later than August 10, 2020. Any interested party may by motion request a hearing before the Court regarding these issues. In the event the Court determines that a site or mechanism no longer presents a realistic opportunity and should be replaced or supplemented, then Oradell Borough shall have the opportunity to supplement or revise its plan to correct any deficiency.

To facilitate this process, Oradell Borough placed on file with the Oradell Borough Clerk a copy of the Mid-Point Review Report and posted the Report on its municipal website. This Report will be available for public inspection on July 10, 2020 at the office of the Oradell Borough Clerk, Laura Lyons (Tel. No. (201) 261-8200), 355 Kinderkamack Road, Oradell, New Jersey 07649, during normal business hours (9:00 A.M. to 4:00 P.M.), or by appointment if the municipal building is still closed due to the pandemic or it will be mailed upon request.

Such comments must be filed in writing, on or before August 10, 2020 with Andrew P. Oddo, Esq., Municipal Attorney, 425 Grant Avenue, Oradell, New Jersey 07649, email: [aoddo@oddolawfirm.com](mailto:aoddo@oddolawfirm.com) with copies of all papers being forwarded by mail or e-mail to:

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**AFFORDABLE HOUSING  
THIRD ROUND MIDPOINT REALISTIC OPPORTUNITY REVIEW  
BOROUGH OF ORADELL  
BERGEN COUNTY, NEW JERSEY**

**July 10, 2020**

**PURPOSE**

The requirement for a midpoint realistic opportunity review derives from the Fair Housing Act ("FHA") at N.J.S.A. 52:27D-313, which provides: "[t]he Council (Council on Affordable Housing or COAH) shall establish procedures for a realistic opportunity review at the midpoint of the certification period and shall provide for notice to the public." Although COAH failed to adopt regulations or procedures for a midpoint realistic opportunity review, the purpose and process is set forth in Oradell Borough's Court-approved Settlement Agreement with Fair Share Housing Center ("FSHC").

The purpose of the midpoint realistic opportunity review is for Oradell to provide a status report as to the Borough's implementation of its Court-approved Housing Element and Fair Share Plan ("Plan"), an analysis of whether any unbuilt sites or unfulfilled mechanisms towards its realistic development potential ("RDP") continue to present a realistic opportunity and an update on unmet need mechanisms. Pursuant to the Oradell/FSHC Agreement, there's a requirement for the Borough to post this status report on its website, with a copy to FSHC and the Intervenor in the Borough's Declaratory Judgment matter (Docket No. BERL-6539-15). The Agreement also contemplates review of unmet need mechanisms, though the realistic opportunity for the development of unmet need mechanisms during the compliance period is not applicable. In the event the Court determines that an RDP site or mechanism no longer presents a realistic opportunity and should be replaced or if the Court determines that any unmet need mechanisms should be revised or supplemented, then Oradell Borough shall have the opportunity to supplement or revise its plan to correct any RDP or unmet need deficiency.

To facilitate the review process, in addition to posting this Mid-Point Review Report on its website and submitting copies to FSHC and the Intervenors, Oradell Borough will place on file a copy of this report for public inspection at the office of the Oradell Borough Clerk or, if the municipal building is still closed due to the pandemic, interested parties may request a copy be mailed. Lastly, the Borough will provide newspaper notice of the availability of this report. The Borough's notice to the public of this Mid-Point Review Report will include a 30 day deadline for any interested party/Intervenor comments/requests for a court hearing to be submitted.

## **BACKGROUND**

The Oradell/FSHC Settlement Agreement was executed on June 18, 2018. Following a July 19, 2018 Fairness Hearing, the Settlement Agreement was approved by Superior Court Order, dated July 24, 018, which found the Agreement and the Borough's Preliminary RDP and Unmet Need Compliance Measures fair to the interests of low and moderate-income citizens of the region which resulted in the entry of a Conditional Judgement of Repose. Oradell prepared a Housing Element and Fair Share Plan which was submitted and received no objections which resulted in the entry of a Final Judgment of Compliance and Repose ("JOR") on September 13, 2019. This final JOR approved the Borough's 2019 Plan including the Borough's RDP and unmet need compliance measures described below and provided the Borough of Oradell with immunity from builder remedy lawsuits through July 1, 2025.

## **MID POINT REVIEW QUESTIONS AND RESPONSIVE INFORMATION**

### **Conditions of Compliance**

1. What conditions from the court's approval of the municipal housing element and fair share plan and judgment of compliance and repose (or whatever standard terms is being used), if any, have not yet been satisfied? Explain the reasons for any delay and the steps the municipality is taking to satisfy the condition(s).

*There are no unsatisfied conditions from the court's approval of the Housing Element/Fair Share Plan and the Judgment of Compliance and Repose.*

## **Developments that Are Not Completed**

2. For each court-approved inclusionary development project that is not yet constructed, please provide a narrative as to its status and any progress towards construction.

*The New Milford Avenue Inclusionary Rental Development – Oradell’s Fair Share Plan includes an inclusionary rental development along the north side of New Milford Avenue, west of Fey Place and the railroad line. Six contiguous parcels on Fey Place, known as Block 119 Lots 9.01 through 9.06, along with the adjoining Fey Place right-of-way comprise an area of 1.68 acres.*

*In accordance with the Borough’s Settlement, the property was rezoned to the new AH-1 Zone to permit inclusionary development with a density of 8 units/acre and a 15% affordable set-side for rental units.*

*There have been no land use applications submitted for the AH-1 Zone.*

3. Have any non-inclusionary development projects (including 100% affordable projects, group homes, accessory apartments, market-to-affordable, extensions of affordability controls, etc.) included in the court-approved plan not yet been built/converted to affordable housing/controls extended? If yes, explain how many units, if any, have been built for each non-inclusionary project or mechanism and when construction is expected to be completed on the remaining units.

*Not applicable to the Borough of Oradell.*

4. Are there any projects that have missed any construction deadline established in the court-approved Settlement Agreement, or other mechanisms (e.g. market-to-affordable, accessory apartments, extensions of affordability controls) that have not met the completion schedule set forth in the Settlement Agreement or Housing Element and Fair Share Plan? If yes, what steps is the municipality taking to complete construction and what is the current timetable?

*The Borough has not missed any deadlines from the approved Settlement Agreement or the Housing Element/Fair Share Plan.*

5. Are all unbuilt developments currently in a sewer service area, and if not what has the municipality done to incorporate the site into a sewer service area? Are there any barriers to obtaining water or sewer for any unbuilt site? Are there any other regulatory conditions (e.g. changes to DEP permits or conditions) that make it not possible to complete any site as originally contemplated?

*The entire Borough of Oradell is in a sewer service area.*

## **Rehabilitation Obligation**

6. Is the rehabilitation program being administered by a municipality, county, or both? Do the program(s) include rental rehabilitation? If the municipality has not met at least half of its rehabilitation obligation by this midpoint review, what affirmative steps is the municipality

taking to meet the obligation and to facilitate participation by homeowners and/or landlords?

*The Borough of Oradell is addressing its four-unit rehabilitation obligation through continued participation in the Bergen County Home Improvement Program (BCHIP). Oradell has dedicated \$40,000 in its Trust Fund for the rehabilitation program.*

*The rehabilitation program includes rental rehabilitation. Oradell is taking affirmative steps to meet its rehabilitation obligation, including: adopting a Rehabilitation Manual, dedicating funds for the rehabilitation program, and, per the Rehabilitation Manual, the Borough will market the rehabilitation program to Oradell residents.*

**For Municipalities with a Prior Round and/or Third Round Vacant Land Adjustment (note please make sure any development referenced in the answers to these questions that includes or will include affordable housing is also in the monitoring spreadsheet):**

7. If the municipality's court-approved Prior and/or Third Round plan includes Unmet Need:

a. Has there been any development, proposal for development received by the municipality (even if ultimately rejected), adoption of rezoning or a redevelopment plan for of any parcel larger than 0.5 acres since the settlement was approved by the court on a parcel that was neither previously identified in calculating the municipality's RDP nor included in an inclusionary overlay zone? If so:

- i. Please describe the development(s), development proposal(s), rezoning(s) or redevelopment plans(s)?
- ii. Is any affordable housing included in any of the development(s) proposals(s), and/or rezoning(s) or redevelopment plan(s) referenced?
- iii. If the municipality has a mandatory set-aside ordinance, was that applied to the development(s) and/or rezoning(s) or redevelopment plan(s)?

b. Has any development occurred or been proposed to occur within any inclusionary overlay zone or for which a mandatory set-aside ordinance, if required to be adopted by the municipality, would apply since the settlement? If so:

- i. What is that development or developments?
- ii. Does that proposed or actual development include any affordable housing? What percentage of the development is affordable?

c. Have any changed circumstances occurred that result in additional parcels becoming available for development that were neither previously identified in calculating the municipality's RDP nor included in an inclusionary overlay zone? If yes, please identify the parcel(s) and describe how the municipality plans to address the changed circumstances.

7. a) *The Oradell Zoning Board denied a use variance application for the property known as Block 708, Lots 18 & 19, or 505 Kinderkamack Road. The application was for a mixed-use development with commercial use on the ground level and 11 residential apartments on the second level. Two of the eleven apartments would have been affordable units. This property exceeds 0.5 acres in size.*

7. b) *See response to 7a (above).*

7. c) *There are no changes regarding Oradell's RDP.*

**For Municipalities with a Prior Round and/or Third Round Durational Adjustment:**

8. If the municipality's court-approved plan had a durational adjustment, have there been any changed circumstances with regards to limited sewer and/or water capacity? If yes, please describe the changes and when and where additional infrastructure capacity will become available.

9. What steps has the municipality taken, if any, to address limited water and/or sewer capacity, and to facilitate the extension of public water and/or sewer to any site identified in the settlement agreement?

10. Has any property owner or developer contacted the municipality to extend public water and/or sewer to a site not identified in the settlement agreement? If so, how did the municipality respond to the request?

*Questions #8-10 do not apply because Oradell does not have a Durational Adjustment.*

**CONCLUSION**

The Borough's Court-approved compliance mechanisms addressing its RDP create a realistic opportunity as each compliance mechanism has met the development requirements (as extended by FSHC) set forth in the Court-approved Settlement Agreement and in the Court's 2019 JOR. The Borough maintains sufficient mechanisms for addressing unmet need. In the event the Court determines that an RDP site or mechanism no longer presents a realistic opportunity and should be replaced **or** if the Court determines that any unmet need mechanisms should be revised or supplemented, then Oradell Borough shall have the opportunity to supplement or revise its plan to correct any RDP or unmet need deficiency.

Prepared by:  
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Andrew P. Oddo, Esq.