

WEST ORANGE TOWNSHIP PLANNING BOARD

RESOLUTION NO. 20-03

RESOLUTION RECOMMENDING ADOPTION OF ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER XXV LAND USE REGULATIONS OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WEST ORANGE TO INCLUDE THE FOLLOWING: 25-19 IH-1 (INCLUSIONARY HOUSING) DISTRICT

WHEREAS, the West Orange Township Council has introduced an Ordinance Amending and Supplementing Chapter XXV of the Revised General Ordinances of the Township of West Orange entitled Land Use Regulations (hereinafter the "Ordinance"); and

WHEREAS, the purpose of the Ordinance is to create an Inclusionary Housing (IH-1) zoning district (the "District") to provide for inclusionary development that contributes to the region's fair share of affordable housing and which is necessary in order to meet the constitutional obligation to provide for West Orange Township's (the "Township") fair share of the regional need for affordable housing; and

WHEREAS, this District is also intended to implement the terms of a Settlement Agreement by and between, inter alia, the Township and Fair Share Housing Center dated April 6, 2020 and between the Township and West Essex Highlands Inc. dated April 23, 2020, which agreements were approved by the Court at a fairness hearing held on July 10, 2020, in the action captioned In the Matter of the Application of the Township of West Orange, Docket No. ESX-L-4697-15 (Mt. Laurel); and

WHEREAS, the further purpose of the Ordinance is to amend the Township's zoning map so as to include Block 179, Lot 32 within the District (IH-1); and

WHEREAS, the Township Council introduced the Ordinance at its meeting which took place on September 8, 2020; and

WHEREAS, pursuant to N.J.S.A. 40:55D-64 and N.J.S.A. 40:55D-26a, the Township Council has referred the Ordinance to the West Orange Township Planning Board (the "Board") to identify any provisions in the proposed amendment which are inconsistent with the Master Plan and make recommendations concerning the inconsistencies and any other matters as the Board deems appropriate; and

WHEREAS, at the Board's regular meeting on October 7, 2020, the Board reviewed the Ordinance as well as a consistency review of the Ordinance in a Memorandum dated September 23, 2020 prepared and presented by Paul Grygiel, AICP, PP/ Principal-Phillips Preiss Grygiel Leheny Hughes LLC; and

WHEREAS, the Board, pursuant to law, has made the following findings of fact and conclusions:

1. The Township's 2019 Master Plan Update Report includes the following identified objective under the heading "Recommendations-Land Use"

:

- Support land uses and development design that promote “aging in place” for older adults, and undertake other measures that support the Township’s Senior Livability Initiative.

2. The Township’s 2019 Master Plan Update Report also includes the following objectives under the heading “Housing”:

- “West Orange remains committed to addressing its “fair share” of regional affordable housing needs, as well as providing a range of housing opportunities.”

3. The Planning Board finds that the following objectives of the MLUL (N.J.S.A. 40:55D-2) which are incorporated objectives of the 2019 Township Master Plan Update Report are also advanced by the Ordinance, which purposes are identified below with commentary:

a. To encourage municipal action to guide the appropriate use or development of all lands in this state, in a manner which will promote the public health, safety, morals and general welfare.

Commentary: The proposed District IH-1 results in an appropriate use of land which contributes to the general welfare of the community and state, and is an appropriate response to the mandate to provide affordable housing through municipal zoning.

d. To ensure that the development of individual municipalities does not conflict with the development and general welfare of neighboring municipalities, the county and the state as a whole.

Commentary: The proposed District IH-1 does not conflict with the development or general welfare of any neighboring municipality, the county or the state as a whole and it provides a reasonable development option to address local affordable housing goals.

f. To encourage the appropriate and efficient expenditures of public funds by the coordination of public development with land use policies.

Commentary: The proposed District IH-1 provides affordable housing through inclusionary development without the expenditure of public funds and results in the efficient use of the available public infrastructure while curtailing the extension of such infrastructure.

i. To promote a desirable visual environment through creative development techniques and good civic design and arrangements.

Commentary: The proposed District IH-1 provides zoning requirements and standards that produce the opportunity to utilize creative development techniques in order to produce good civic design and arrangements, which are subject to further Planning Board review during the development application process.

m. To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land.

Commentary: The procedure followed in developing the proposed ordinance combines public and private procedures that result in an efficient use of land.

4. The Board has compared the Ordinance to the Land Use Plan Element of the 2019 Master Plan Update Report and the Housing Plan Element and finds that the intent of the proposed Ordinance advances the goal for a balanced land use plan that can meet the constitutional mandate to provide for the Township's fair share of the regional need for affordable housing. Nonetheless, the Township's Master Plan Land Use Plan Element currently designates the West Essex Highlands site for single-family residential development, and thus the proposed District IH-1 is therefore inconsistent with its Master Plan land use designation.

5. Notwithstanding this inconsistency, the Board recommends that the Township Council adopt the proposed Ordinance, considering the following facts and reasons:

- The proposed ordinance provides a better balance of land uses sought in the Master Plan.
- The proposed development required by the proposed District IH-1 should result in a compact building layout and design.
- Prior development proposals for this property in accordance with single-family zoning would have disturbed more land area and would not have been required to include sustainability measures.
- The proposed IH-1 District and the aforementioned West Essex Highlands, Inc. settlement agreement both set a maximum area of disturbance on the property for development and tree clearing at 30 acres – or one-quarter of the overall site area.
- Numerous sustainable design elements are mandated in the proposed development.
- The proposed IH-1 District will advance the goal of diversifying the housing stock and providing affordable housing to meet the constitutional obligation.

6. For all of the above reasons, the Board finds that while the proposed Ordinance is technically inconsistent with the Land Use Plan element of the Master Plan, the proposed Ordinance strikes a reasonable balance among the many planning considerations affected by the Ordinance, and provides a reasonable planning option for the properties affected by the Ordinance. Thus, the Board recommends adoption of the Ordinance.

WHEREAS, at the conclusion of the hearing, based on the foregoing findings, the Board took action recommending to the Township Council that the Ordinance be adopted;

NOW, THEREFORE, BE IT RESOLVED on this 7th day of October, 2020, by the Planning Board of the Township of West Orange, County of Essex, New Jersey, that the

Planning Board has determined that although the ordinance is technically inconsistent with the Land Use Plan Element of the Master Plan, this technical inconsistency is substantially outweighed by findings #1, #2, #3, #5 and #6 hereinabove.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Planning Board recommends that the Ordinance, a copy of which is attached hereto as Exhibit A, be adopted by the Township Council.

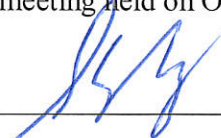
NOW, THEREFORE, BE IT FURTHER RESOLVED that the Planning Board hereby directs the Secretary to forward this Resolution to the Township Clerk for Township Council consideration.

OCTOBER 7, 2020 ROLL CALL VOTE ON THE RESOLUTION

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
Bagoff (Vice-Chair)	X		X			
Johnson (1 st Alt.)		X	X			
Smeraldo			X			
Klein						X
McCartney			X			
Trenk			X			
Weston (Chair)			X			
Williams						X
Wilkes			X			

CERTIFICATION

I hereby CERTIFY that the foregoing is a true copy of a Resolution adopted by the West Orange Township Planning Board at a publicly noticed meeting held on October 7, 2020, at which a quorum was present.



Sean McCauley
Secretary

Date: 10/8/2020