

WEST ORANGE TOWNSHIP PLANNING BOARD

RESOLUTION NO. 20-04

**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
IMPLEMENT A SETTLEMENT AGREEMENT WITH FAIR SHAIR HOUSING
CENTER**

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 include provisions addressing the Township of West Orange's (the "Township") constitutional obligation to provide for its fair share of low and moderate income housing, as directed by the New Jersey Supreme Court and consistent with N.J.A.C. 5:93-1 et seq., as amended and supplemented, N.J.A.C. 5:80-26.1 et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

WHEREAS, the further purpose of this Ordinance is to assure compliance with the regulations of the Council on Affordable Housing ("COAH") set forth at N.J.A.C. 5:93-1 et seq., and the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq., including provisions for unit affordability controls as well as eligibility for low and moderate income households; and

WHEREAS, the Ordinance would update Section 25-18 of the Township's Land Use Regulations Ordinance so as to require a mandatory affordable housing set aside of twenty percent for all new multifamily residential developments of five units or more; and

WHEREAS, the aforementioned set aside requirement shall not apply to residential expansions, additions, renovations, replacement or any other type of residential development that does not result in a net increase in the number of dwellings of five or more; and

WHEREAS, the Ordinance would create a new overlay zone district (IH0-1) for the West Orange Plaza shopping center (Block 152.01, Lots 1445 and 1445.05) and Mayfair Farms (Block 152.01, Lot 1445.01) which would permit commercial/retail on the first floor and up to three stories of residential above at a density of up to 16 units per acre, with 20 percent of the units set aside for low and moderate income households, as well as the uses permitted in the underlying zone district; and

WHEREAS, the Ordinance would create a new overlay zone district (IH0-2) for 200 Pleasant Valley Way (Block 151, Lot 33) which would permit multifamily residential use at a density of up to 24 units per acre, rounded up to a maximum of 142 dwelling units, with 20 percent of the units set aside for low and moderate income households, as well as the uses permitted in the underlying zoning district; and

WHEREAS, this Ordinance is intended to apply except where inconsistent with applicable law; and

WHEREAS, the Township Council introduced the Ordinance at its meeting which took place on October 6, 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 October 5, 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Township's 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 each of the areas proposed to be rezoned for the existing zoning of the property or properties in the proposed overlay zones. The proposed zoning in the Ordinance 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 Ordinance should result in a compact building layout and design.
- The proposed Ordinance 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 the findings 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.

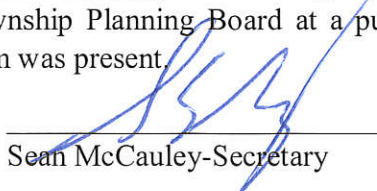
NOW, THEREFORE, BE IT FURTHER RESOLVED that the Planning Board hereby directs the Secretary to forward this Resolution to the Township Clerk for Township Council consideration.

OCTOBER 7, 2020 ROLL CALL VOTE ON THE RESOLUTION

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

CERTIFICATION

I hereby CERTIFY on this day 10/8/2020 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