

BOROUGH OF ORADELL

2022 AMENDMENT TO THE HOUSING ELEMENT & FAIR SHARE PLAN

BOROUGH OF ORADELL, BERGEN COUNTY, NEW JERSEY



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ADOPTED ON: XXX

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INTRODUCTION

The Borough of Oradell Planning Board adopted a Housing Element & Fair Share Plan (referred to as the “HEFSP”) on November 5, 2018. The plan was then endorsed by the Governing Body at its November 27, 2018 meeting. It is now necessary to amend the HEFSP to include the following:

1. Overlay Zoning on the White Beeches property.
2. Bergen County United Way affordable housing project proposed for Block 223, Lot 5, located on Genther Ave.

In addition to the two items listed above, it is notable that two development projects with affordable components have been approved in the Borough of Oradell. The two inclusionary housing developments will be further discussed in this report. No other revisions to the Housing Element, including the Borough’s affordable housing obligation, or the demographic analysis of the Borough’s population, housing stock, employment and income characteristics are warranted due to the limited nature of the plan amendment.

Affordable Housing History

New Jersey’s Mt. Laurel II doctrine requires all municipalities to provide a realistic opportunity for their fair share of low and moderate income housing. Oradell’s 2018 HEFSP is the Borough’s proposal for satisfying its share of the regional affordable housing needs under Mt. Laurel. The Plan computes the Borough’s fair share obligation and details the Borough’s strategies for addressing its present, prior, and prospective housing needs.

The New Jersey Fair Housing Act established the New Jersey Council on Affordable Housing (COAH). COAH was responsible for developing rules and regulations on affordable housing, as well as approving municipalities submitted affordable housing plans. The COAH approval process was known as Substantive Certification.

COAH adopted its first set of rules, known as ‘Round 1,’ for the period of 1987 through 1993. COAH ‘Round 2’ covered the 1987 to 1999 time period. These rounds are now combined and collectively referred to as the ‘Prior Round,’ which covers the 1987 to 1999 time period.

COAH adopted its first Round 3 rules in 2004. The Round 3 rules included a new methodology for calculating affordable housing, known as Growth Share. These rules were challenged, and the Appellate Division invalidated the Round 3 rules in 2007. COAH then adopted its second set of Round 3 rules in 2008; these rules also used the Growth Share methodology and were found invalid by the Appellate Division in 2010. COAH was directed to prepared new rules that used the Prior Round methodologies of assigning municipalities affordable housing obligations.

COAH prepared new rules in 2014, but failed to adopt them. In response, a motion was filed with the New Jersey Supreme Court to enforce litigant’s rights in response to COAH’s lack of action. On March 10, 2015 the Supreme Court issued its decision to enforce litigant’s rights and established a procedure for municipalities to transition their COAH applications to the Courts.

The Supreme Court established a new procedure that requires participating towns, such as Oradell, to submit a Declaratory Judgment action no later than July 8, 2015 to declare the Borough's Housing Element and Fair Share Plan as constitutionally compliant. Oradell filed its Action of Declaratory Judgment with the Court on July 8, 2015.

The Fair Share Housing Center, a nonprofit affordable housing advocacy group, is considered an "interested party" in all municipal Declaratory Actions. The Fair Share Housing Center and the Borough engaged in a mediation process under the supervision of the court-appointed Special Master. Oradell settled its affordable housing litigation via a Settlement Agreement executed on June 18, 2018. Borough officials participated in a Fairness Hearing before Judge Christine Farrington in Bergen County Superior Court on July 19, 2018. At that hearing, Judge Farrington ruled that the Settlement Agreement was fair to members of low and moderate income households.

Oradell then went on to prepare, adopt and endorse a Housing Element and Fair Share Plan, a Spending Plan, and various ordinances necessary to implement the Borough's Housing Element and Settlement Agreement. The Borough participated in a Compliance Hearing before Judge Farrington on September 11, 2019. Then, Oradell received its Final Judgment of Repose for the Third Round, which remains valid through July 2025.

ORADELL'S AFFORDABLE HOUSING OBLIGATION

A municipality's affordable housing obligation is comprised of three components: the Rehabilitation Obligation, the Prior Round Obligation and the Third Round Obligation.

Oradell's total fair share affordable housing obligation is derived as follows:

- The Borough has a Rehabilitation obligation of 4 units
- The Borough has a Prior Round obligation of 89 units
- The Borough has Third Round obligation of 308 units

Rehabilitation

As explained in the 2018 Housing Element and Fair Share Plan (HEFSP), the Borough intends to satisfy its four-unit Rehabilitation Obligation through continued participation in the Bergen County Home Improvement Program. Alternatively, the Borough will contract with a separate entity to rehabilitate a minimum of four residential units in the Borough. As shown in Oradell's Spending Plan, the Borough is committing an average of \$10,000 per unit, for a total of \$40,000 of its Affordable Housing Trust Fund, to income-qualified households to participate in the rehabilitation program.

Prior Round Obligation & Third Round Obligation

The 2018 HEFSP combined the Prior Round Obligation with the Third Round Obligation. The Prior Round Obligation covers the years of 1987-1999. The Third Round Obligation includes the Gap Obligation and the Prospective Need Obligation and covers the years 1999-2025.

As described in Oradell's 2018 HEFSP, the combined Prior Round and Third Round Obligations total 397 units. As part of its settlement agreement with the Fair Share Housing Center, and as detailed in the the 2018 HEFSP, it has previously been determined that Oradell does not contain sufficient land to build or zone for its entire 397 unit Third Round obligation. Therefore, Oradell was entitled to adjust its obligation via a Vacant Land Adjustment (VLA).

The VLA process was in conformance with COAH's Round 2 rules as described in Oradell's 2018 HEFSP. The VLA resulted in a Realistic Development Potential of 7 units and a remaining Unmet Need of 390 units.

MEETING THE OBLIGATION

Oradell's 2018 HEFSP details the following mechanisms for meeting the seven unit RDP:

Table 1 AFFORDABLE HOUSING MECHANISMS AND CREDITS BOROUGH OF ORADELL			
<u>Proposed Affordable Housing</u>	<u>Credits</u>	<u>Bonuses</u>	<u>Total</u>
<u>100% Affordable Developments</u>			
Habitat for Humanity – Westervelt Place	4	0	4
<u>Inclusionary Development</u>			
New Milford Ave. Family Rentals	2	1	3
TOTAL	6	1	7

Oradell's 2018 HEFSP includes mapping and a full description on the above affordable housing mechanisms. A brief description follows.

1. Habitat for Humanity/209 & 211 Westervelt Place – Habitat for Humanity constructed this 100% affordable housing development in 2014. The development consists of four owner occupied units. Thirty-year affordability controls on the units extend until 2044. **Total Credits: 4 units.**
2. New Milford Avenue Inclusionary Rental Development – The 2018 HEFSP includes two units of affordable housing to be built as part of an inclusionary rental development along the north side of New Milford Avenue, west of Fey Place and the railroad line. This was done by rezoning Block 119, Lots 9.01-9.06. The lots were rezoned for inclusionary multi-family development at a density of eight units per acre with an affordable set aside per Borough ordinance 19-03, adopted on March 12, 2019. **Total Credits: 3 units (2 credits and 1 bonus).**

Oradell's 2018 HEFSP also provided mechanisms to satisfy the 390 unit Unmet Need, as follows.

1. New Milford Ave. Rezoning - These are separate parcels than the rezoning that was used to meet the RDP (above). The subject properties are Block 118, Lot 2 and Block 119, Lots 1, 10, 11, 12 and 13. These lots combined total 2 acres and also were rezoned at a density of 8 units per acre with an affordable set-aside as a result of Oradell Borough Ordinance 19-03.
2. Central Business District (CBD) Overlay Zoning - This area consists of approximately 24 acres and includes 68 lots. The CBD Overlay Zone was created via Borough Ordinance 19-04, adopted on March 12, 2019.
3. Affordable Housing Overlay: White Beeches – Approximately 52.65 acres of the White Beeches golf course property is located in Oradell on a property known as Block 1401, Lot 1. The Borough rezoned the property to permit inclusionary development at a maximum density of six units per acre with an affordable set aside.
4. Mandatory Set-Aside Ordinance: The Borough adopted Ordinance 19-05 on February 26, 2019 that establishes a mandatory affordable housing set-aside requirement for any Board or municipal approval that results in multi-family development of five or more units.

AMENDMENTS TO ORADELL'S HOUSING ELEMENT AND FAIR SHARE PLAN

Since the adoption of Oradell's 2018 HEFSP and its Third Round Judgment of Repose, two modifications have occurred that warrant an amended Settlement Agreement with the Fair Share Housing Center and amending the Borough's HEFSP. These modifications are detailed in a May 18, 2021 First Amendment to the June 2018 Settlement Agreement between the Fair Share Housing Center and the Borough of Oradell.

The changes include revisions to the White Beeches Overlay Zoning and the addition of the Bergen County United Way project, both of which are Unmet Need mechanisms. There are no changes to the Borough's total obligation, Realistic Development Potential, or how the Realistic Development Potential is met.

White Beeches Overlay Zoning

At some point after the Borough's Judgment of Repose, litigation ensued over the White Beeches property. Per the May 18, 2020 First Amendment, "As part of a settlement of litigation captioned White Beeches Golf Club v. Borough of Oradell, Docket No. BER-L-8502-18, the Borough has agreed to rezone an approximately 1.5 acre portion of the White Beeches Golf Club property, known as Block 1401, Lot 1.02, as R-2 which would allow the development of three market-rate single family homes."

The Borough adopted Ordinance 21-05 on June 22, 2021. The Ordinance places approximately 1.5 acres of the White Beeches property in a new R-2A Zone District. Those properties in the

R-2A Zone District can be developed with single family homes. The remainder of the site remains in an overlay zone where inclusionary development of townhouses at 6 units per acre with an affordable set-aside is permitted. This site continues to be an Unmet Need mechanism.

Bergen County United Way – Genther Ave.

The Borough of Oradell has entered into an agreement with Bergen County United Way for development of Block 223, Lot 5, located on Genther Ave. Lot 5 is owned by the Borough and presently is vacant. An aerial photograph of the property is shown on the next page.

The Genther Ave. property is presently vacant and wooded. Based on a review of the New Jersey Department of Environmental Protection (NJDEP) mapping, the property does not contain any wetlands, floodplains or riparian buffer areas.

The Borough has agreed to donate the property to Bergen County United Way, which proposes to construct a four bedroom group home and two separate apartments on Lot 5. The apartments will consist of one one-bedroom apartment and one two-bedroom apartment. The group home and apartments would be occupied by adults with developmental disabilities and qualify as affordable housing units. The Borough has also agreed to provide \$50,000 from its Affordable Housing Trust Fund for the construction on Lot 5. This donation is included in the April 2022 Spending Plan Amendment.

The Bergen County United Way project is an Unmet Need Mechanism.

Recent Board Approvals

In 2021, the Oradell Planning Board and the Oradell Board of Adjustment issued approvals on projects that included affordable housing units. On August 16, 2021, the Board of Adjustment memorialized a Resolution that approved the development of 20 age restricted units at 505 Kinderkamack Road. Three of the units will be affordable units. On September 29, 2021, the Planning Board memorialized a Resolution giving approval to a mixed use development located at 387-393 Kinderkamack Rd. The development includes five apartments, of which one will be an affordable unit.

As shown, the Borough continues to capture affordable housing opportunities when it is able. Oradell fully meets its seven unit Realistic Development Potential described in the 2018 HEFSP and in this 2022 Plan Amendment. Therefore, the four affordable units that are the result of 2021 Board approvals are not needed to meet the Realistic Development Potential and shall not be used to address Unmet Need. Information on the three approved and anticipated affordable units is provided for general information purposes only. These units will be used to address Oradell's future Round 4 affordable housing requirements.



CONCLUSION

This report is an amendment to the Borough of Oradell's 2018 Housing Element and Fair Share Plan. It is important to note that Oradell has met its Round 3 affordable housing obligations. The Borough also continues to capture affordable housing opportunities as they arise.

The purpose of this amendment is to describe the revisions to the overlay zoning for the White Beeches property and the proposed Bergen County United Way development on Genther Ave. in conformance with the First Amendment to the June 18, 2018 Settlement Agreement between the Borough of Oradell and the Fair Share Housing Center. No other revisions to Oradell's 2018 Housing Element and Fair Share Plan are proposed at this time.