

February 17, 2006

**BOROUGH OF BRADLEY BEACH**

**RESOLUTION 2026-47**

**MEDIATION AGREEMENT BEFORE THE AFFORDABLE HOUSING DISPUTE  
RESOLUTION PROGRAM**

In the Matter of the Application of the Borough of Bradley Beach, County of Monmouth  
Docket No. MON-L-305-25

**WHEREAS**, the Borough of Bradley Beach (the “Borough” or “Bradley Beach”) having filed a resolution of participation in the Affordable Housing Dispute Resolution Program (the “Program”) and a declaratory judgment action pursuant to N.J.S.A. 52:27D-301 et. seq. (the “Fair Housing Act”) on January 23, 2025; and

**WHEREAS**, the Court entered an order on April 1, 2025 setting the Borough’s Fourth Round fair share obligations as a Present Need of 64 units and a Prospective Need of 30 units, which no party appealed, and ordering the Borough to file a Housing Element and Fair Share Plan (“HEFSP”) by June 30, 2025; and

**WHEREAS**, the Borough having filed its HEFSP on June 3, 2025 (“Adopted HEFSP”);  
and

**WHEREAS**, FSHC having filed a challenge pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) regarding the Borough’s HEFSP on August 30, 2025; and

**WHEREAS**, the Borough and FSHC have agreed to amicably resolve the issues set forth in the challenge through this mediation agreement and present this agreement for review by the Program and referral to the Mount Laurel judge pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) and Administrative Directive #14-24, which if approved will result in a compliance certification for the Borough for the Fourth Round;

**THEREFORE**, the Borough and FSHC agree:

**Fair Share Obligations**

1. The Borough’s Present Need or Rehabilitation Obligation is 64, the Borough’s Prior Round Obligation (1987-1999) is 20, the Borough’s Third Round Obligation (1999-2025) is 75, the Borough’s Fourth Round Prospective Need (2025-2035) is 30.

**Satisfaction of Fair Share Obligations**

2. The Borough will address its Present Need via participation in the Monmouth County Housing Improvement Program through an intergovernmental agreement.
3. The Borough’s Prior Round Obligation is 20, the Borough’s Third Round Obligation is 75, and the Borough’s Fourth Round Obligation is 30. These obligations have been combined and adjusted with a Vacant Land Adjustment (“VLA”) resulting in a Realistic Development Potential (“RDP”) of 13, and an Unmet Need of 112, which shall be addressed with the following mechanisms:

<b>MECHANISM</b>	<b>TYPE</b>	<b>UNITS</b>	<b>BONUS</b>	<b>TENURES</b>	<b>STATUS</b>
803 Main Street	Family	4	2, transit oriented		Approved
Oxford House Ocean Park Avenue	Transitional Housing	9			Complete
<b>RDP Total:</b>		<b>13</b>	<b>2</b>		
AH-1 Overlay Zone	Mixed-Use or Multifamily				Proposed
AH-2 Overlay Zone	Mixed-Use or Multifamily				Proposed
AH-3 Overlay Zone	Mixed-Use or Multifamily				Proposed
AH-4 Overlay Zone (803 Main St)	Mixed Use or Multifamily				Adopted

AH-5 Overlay Zone (Jersey Shore Fitness)	Mixed-Use				Proposed
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\* There are 15 total beds between 601 Ocean Park Avenue (9 beds) and 404 Newark Avenue (6 beds), but Bradley Beach’s transitional housing is subject to the Amended FHA’s 10% cap as by N.J.S.A. 52:57D-311e. For purposes of this agreement, the parties agree to calculate the obligation as Bradley Beach’s cumulative obligation from the Prior Round, Third Round, and Fourth Round. Any surplus Oxford House beds beyond the 9 counted in this agreement shall be reserved for a future round.

4. The Unmet Need Mechanisms will have the following zoning standards:

- a. The AH-1 Overlay Zone will include property within the BOR and OP zones which are at either end of Main Street on the east side. The maximum height will be 3 stories/40 feet, and the permitted density will be 30 dwelling units/acre (“du/ac”). Both mixed use and stand-alone multifamily residential are permitted. All parking serving development within the AH-1 Overlay Zone shall comply with the requirements of the Municipal Land Use Law (“MLUL”), N.J.S.A. 40:55D-1 et seq., the Residential Site Improvement Standards (“RSIS”), N.J.A.C. 5:21-1.1 et seq., and all applicable implementing ordinances.
- b. The AH-2 Overlay Zone includes properties within the BOR and OP zones west of Main Street. The maximum height will be 4 stories/48 feet, and the permitted density will be 30du/ac. Both mixed use and stand-alone multifamily residential are permitted. All parking serving development within the AH-2 Overlay Zone shall comply with the requirements of the Municipal Land Use Law (“MLUL”), N.J.S.A. 40:55D-1 et seq.,

the Residential Site Improvement Standards (“RSIS”), N.J.A.C. 5:21-1.1 et seq., and all applicable implementing ordinances.

- c. The AH-3 Overlay Zone is the GB-W overlay. The maximum height will be 4 stories/48 feet, and the permitted density will be 30du/ac. Both apartments and mixed-use development is permitted. All parking serving development within the AH-3 Overlay Zone shall comply with the requirements of the Municipal Land Use Law (“MLUL”), N.J.S.A. 40:55D-1 et seq., the Residential Site Improvement Standards (“RSIS”), N.J.A.C. 5:21-1.1 et seq., and all applicable implementing ordinances.
- d. The AH-5 Overlay Zone encompasses the entire block bound by the train tracks, Brinley Avenue, Main Street, and 5<sup>th</sup> Avenue, a total of 1.75 acres. The maximum height will be 4 stories/48 feet, and the permitted density will be 30du/ac. Only mixed-use redevelopment is permitted. All parking serving development within the AH-5 Overlay Zone shall comply with the requirements of the Municipal Land Use Law (“MLUL”), N.J.S.A. 40:55D-1 et seq., the Residential Site Improvement Standards (“RSIS”), N.J.A.C. 5:21-1.1 et seq., and all applicable implementing ordinances.

#### **Unit Type and Income Distribution Requirements**

4. The Borough and FSHC agree that the Borough’s HEFSP as presented above satisfies the following standards set forth in P.L. 2024, c. 2, including but not limited to, with respect to the following, and that the Borough shall maintain satisfaction with such requirements for the Fourth Round:
  - a. Age Restricted Cap. The Borough agrees that it shall not exceed the age-restricted cap found in N.J.S.A. 52:27D-311(I), which requires age-restricted units to be capped at 30 percent of the overall Fourth Round affordable housing units that

address the Fourth Round Prospective Need obligation exclusive of any bonus credits.

- b. Family units. Pursuant to N.J.S.A. 52:27D-211(l), the Borough shall satisfy a minimum of 50 percent of the actual affordable housing units, exclusive of any bonus credits created to address its Fourth Round Prospective Need affordable housing obligation through the creation of housing available to families with children and otherwise in compliance with the requirements and controls established pursuant to Section 21 of P.L.1985, c.222 (C.52:27D-321).
- c. Rental and family rental units. Pursuant to N.J.S.A. 52:27D-311(l), at least 25 percent of the actual affordable housing units, exclusive of any bonus credits, created to address its Prospective Need affordable housing obligation shall be addressed through rental housing, including at least half as available to families with children.
- d. Very low-income units. Pursuant to N.J.S.A. 52:27D-329.1, 13 percent of all affordable units referenced in this Agreement addressing the Borough's Prospective Need obligation shall be very low-income units for households earning 30 percent or less of the regional median income, with half of the very low-income units being available to families.
- e. All new construction units shall be adaptable in conformance with P.L.2005, c.350/N.J.S.A. 52:27D-311(a) and (b), and all other applicable law.
- f. All Prior Round and Third Round compliance shall continue to meet with the applicable percentages and standards for bonuses, family and senior housing, rental and family rental, very low-income units, and adaptability set forth in any prior

settlement agreement between FSHC and the Borough, statutory requirements, and the Prior Round and Third Round regulations.

5. In all developments that produce affordable housing, the Borough and FSHC agree that, unless varied by a prior court order of the trial court, the below terms shall apply:
  - a. All of the affordable units shall fully comply with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, et seq. (“UHAC”), including but not limited to the required bedroom and income distribution, length of affordability controls, and phasing of affordable units.
  - b. The applicability of the updated form of UHAC versus the prior form of UHAC shall be as set forth in the statute and most current form of UHAC adopted by HMFA. Any terms of a prior agreement, judgment, or grant of substantive certification as to prior round of obligations modifying UHAC as to affordability controls longer than the now current regulations or as to very low-income units shall remain in effect as to those prior rounds of obligations.
  - c. The Borough agrees that in order to meet the low-income and very low-income requirement of the Fair Housing Act, it shall adopt an ordinance requiring for all affordable housing developments in its HEFSP that 50 percent of the affordable units within each bedroom distribution shall be required to be for low-income households earning 50 percent or less of the regional median income, including 13 percent of the affordable units within each bedroom distribution shall be required to be for very low-income households earning 30 percent or less of the regional median income.

- d. The Borough agrees to review its Affordable Housing Ordinance and other ordinances to ensure that it complies with the most up to date requirements of UHAC and revise those ordinances accordingly as part of its Fourth Round HEFSP and implementing ordinances.
- e. The affordable units shall be affirmatively marketed in accordance with UHAC and applicable law. The affirmative marketing shall include posting of all affordable units on the New Jersey Housing Resource Center website in accordance with applicable law. The affirmative marketing plan shall include the following community and regional organizations: FSHC; the Latino Action Network; the New Jersey State Conference of the NAACP; the Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, and Greater Long Branch Branches of the NAACP; and the Supportive Housing Association.

#### **Process for Approval and Implementation**

6. Pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) and Administrative Directive #14-24, the municipality and FSHC recognize that the Program and/or county level housing judge must still review this agreement and the resulting HEFSP and implementing ordinances and resolutions for compliance with the Fair Housing Act prior to issuing a compliance certification, as follows:
  - a. The Borough and FSHC shall present this mediation agreement to the Program member for review upon full execution by both parties.
  - b. The Program Member shall review the agreement and if satisfied with compliance with the Fair Housing Act shall refer this matter to the Mount Laurel judge for

review and entry of certification of compliance, conditioned on adoption of all implementing ordinances and resolutions.

- c. The Borough shall adopt all implementing ordinances and resolutions no later than March 15, 2026, including but not limited to the outstanding items identified in the next paragraph. No later than 48 hours after adoption or March 15, 2026, whichever is sooner, the Borough shall file the information required by Paragraph 7 and any other adopted ordinances and resolutions on eCourts.
  - d. No later than April 15, 2026, the Borough and FSHC shall provide via filing on eCourts a form of consent order granting final compliance certification for the Court's review or identify any remaining issues of compliance that may be disputed at which point the court shall schedule a conference to review any such areas.
  - e. Both parties agree to implement the terms of this Agreement. If the Program, county level housing judge, or any appellate court rejects this Agreement, the parties reserve their right to rescind any action taken in anticipation of the Program's approval and return to status quo ante. All parties shall have an obligation to fulfill the intent and purpose of this Agreement, unless to do so would be inconsistent with the final, unappealable adjudication of any Program or court ruling or judgment. The terms of this agreement may be enforced through an enforcement motion in this declaratory judgment or a separate action before the Program or the Superior Court, Law Division.
7. The Borough and FSHC agree that following conditions remain to be met prior to March 15, 2026 as conditions of compliance certification, and that the municipality shall provide these documents to FSHC in draft form for comment by January 16, 2026:

- a. The Borough will adopt zoning ordinances for AH-1, AH-2, AH-3, and AH-5 ~~the Jersey Shore Fitness-Overlay Zones~~. The Borough adopted the AH-4 Overlay Zone on January 20, 2026.
  - b. The Borough will provide appropriate documentation including licensure/certification for the Oxford House bedrooms.
  - c. The Borough will provide a deed restriction, sample certificates of occupancy, and proof of affirmative marketing for 803 Main Street upon completion of the affordable units.
  - d. The parties shall confer in good faith about a specific use for the Borough's \$200,000 Trust Fund deposit from the 319 Lareine Avenue sale by January 16, 2026. The Borough will adopt a Fourth Round Spending Plan taking into account this expenditure and in accordance with P.L. 2024, c. 2 and the regulations at N.J.A.C. 5:99.
  - e. The Borough will update and adopt its affordable housing ordinance, development fee ordinance, affirmative marketing plan, and other administrative documents in accordance with the regulations at N.J.A.C. 5:80-26.1, et seq., before March 15, 2026.
8. The Borough and FSHC recognize that substantial changes in circumstances affecting the Borough's RDP are possible pursuant to the holding in Fair Share Housing Center v. Cherry Hill, 173 N.J. 393, (2002) and related law. In the event such a substantial changed circumstance occurs, the Borough shall have one hundred twenty (120) days to present to the trial court and FSHC a plan to address such change in circumstances on notice and opportunity to be heard from FSHC. The Borough agrees that any additional RDP

generated due to changed circumstances must be addressed in a manner that is consistent with controlling law.

9. The Borough's Compliance Certification shall be subject to required ongoing monitoring as follows:

- a. The Borough by February 15, 2026, and annually, agrees to electronically enter data into the AHMS system of the Department of Community Affairs of a detailed accounting of all development fees and any other payments into its trust fund that have been collected including residential and non-residential development fees, along with the current balance in the municipality's affordable housing trust fund as well as trust funds expended, including purposes and amounts of such expenditures, in the previous year from January 1<sup>st</sup> to December 31<sup>st</sup>.
- b. The Borough by February 15, 2026, and annually, agrees to electronically enter data into the AHMS system of the Department of Community Affairs of up-to-date municipal information concerning the number of affordable housing units actually constructed, construction starts, certificates of occupancy granted, and the start and expiration dates of deed restrictions. With respect to units actually constructed, the information shall specify the characteristics of the housing, including housing type, tenure, affordability level, number of bedrooms, date and expiration of affordability controls, and whether occupancy is reserved for families, senior citizens, or other special populations.
- c. For the midpoint realistic opportunity review as of July 1, 2030, pursuant to N.J.S.A. 52:27D-313, the Borough or other interested party may file an action through the Program seeking a realistic opportunity review and shall provide for

notice to the public, including a realistic opportunity review of any inclusionary development site as set forth in the adopted HEFSP that has not received preliminary site plan approval prior to the midpoint of the 10-year round. Any such filing shall be through eCourts or any similar system set forth by the Program with notice to any party that has appeared in this matter.

10. This Agreement may be executed in counterparts, all of which together shall constitute the same agreement, and any exhibits or schedules attached hereto shall be hereby made a part of this Agreement. This Agreement shall not be modified, amended or altered in any way except by a writing signed by each of the parties. Each party acknowledges that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each signatory is the proper person and possesses the authority to sign the Agreement, and that this Agreement was not drafted by any one of the parties, but was drafted, negotiated and reviewed by all parties, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any article, section, clause or provision of this Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof. If any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections. No member, official or employee of the municipality shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law, absent the need to invoke the rule of necessity.

Seconded by Councilperson \_\_\_\_\_ and adopted upon the following vote:

	<b>AYES</b>	<b>NAYS</b>	<b>ABSTAIN</b>	<b>ABSENT</b>
Ms. DeNoble				
Ms. Greenblatt				
Mr. Karp				
Mr. Nowicki				
Mayor Gubitosi				

**CERTIFICATION**

I, Erica Kostyz, Municipal Clerk, Borough of Bradley Beach, Monmouth County, New Jersey, do hereby certify that the foregoing resolution was duly adopted by the Governing Body at the January 20, 2026 Council Business Meeting.

\_\_\_\_\_  
Erica Kostyz, RMC, CMR  
Municipal Clerk

On behalf of the Borough of Bradley Beach:

On behalf of Fair Share Housing Center:

\_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
Date: \_\_\_\_\_