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FILED

November 19, 2024

Hon. Michael V. Cresitello, Jr., P.J.Cv.

IN THE MATTER OF THE
APPLICATION OF THE TOWNSHIP OF
SOUTH BRUNSWICK, COUNTY OF
MIDDLESEX.

U.S. HOME d/b/a LENNAR (as successor
in interest to K. HOVNANIAN NJ
OPERATIONS, LLC),

Plaintiff,

vs.

TOWNSHIP OF SOUTH BRUNSWICK
and the PLANNING BOARD OF THE
TOWNSHIP OF SOUTH BRUNSWICK,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – MIDDLESEX COUNTY
DOCKET NO. MID-L-4433-17 (**consolidated**)

Civil Action

(Mt. Laurel Builder’s Remedy)

**CASE MANAGEMENT ORDER AND
ORDER SCHEDULING FAIRNESS
HEARING**

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – MIDDLESEX COUNTY
DOCKET NO. MID-L-1194-17

Civil Action

<p>PFF INDUSTRIAL – ROUTE 130/EXIT 8A, LLC, a limited liability company organized under the laws of the State of Delaware,</p> <p>Plaintiff,</p> <p>vs.</p> <p>TOWNSHIP OF SOUTH BRUNSWICK, TOWNSHIP COUNCIL OF THE TOWNSHIP OF SOUTH BRUNSWICK and the PLANNING BOARD OF THE TOWNSHIP OF SOUTH BRUNSWICK,</p> <p>Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION – MIDDLESEX COUNTY DOCKET NO. MID-L-4094-17</p> <p><u>Civil Action</u></p>
<p>SOUTH BRUNSWICK CENTER, LLC.,</p> <p>Plaintiff,</p> <p>vs.</p> <p>TOWNSHIP OF SOUTH BRUNSWICK and the PLANNING BOARD OF THE TOWNSHIP OF SOUTH BRUNSWICK,</p> <p>Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION – MIDDLESEX COUNTY DOCKET NO. MID-L-4432-17</p> <p><u>Civil Action</u></p>
<p>STANTON GIRARD, LLC.,</p> <p>Plaintiff,</p> <p>vs.</p> <p>TOWNSHIP OF SOUTH BRUNSWICK and the PLANNING BOARD OF THE TOWNSHIP OF SOUTH BRUNSWICK,</p> <p>Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION – MIDDLESEX COUNTY DOCKET NO. MID-L-4433-17</p> <p><u>Civil Action</u></p>

<p>WINDSOR ASSOCIATES, a New Jersey Partnership, Plaintiff, vs. TOWNSHIP OF SOUTH BRUNSWICK and the PLANNING BOARD OF THE TOWNSHIP OF SOUTH BRUNSWICK, Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION – MIDDLESEX COUNTY DOCKET NO. MID-L-4434-17 <u>Civil Action</u></p>
<p>AVALON BAY COMMUNITIES, INC., Plaintiff, vs. TOWNSHIP OF SOUTH BRUNSWICK and the PLANNING BOARD OF THE TOWNSHIP OF SOUTH BRUNSWICK, Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION – MIDDLESEX COUNTY DOCKET NO. MID-L-4435-17 <u>Civil Action</u></p>
<p>AMERICAN PROPERTIES AT SOUTH BRUNSWICK, LLC, Plaintiff, vs. TOWNSHIP OF SOUTH BRUNSWICK, TOWNSHIP COUNCIL OF THE TOWNSHIP OF SOUTH BRUNSWICK AND the PLANNING BOARD OF THE TOWNSHIP OF SOUTH BRUNSWICK, Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION – MIDDLESEX COUNTY DOCKET NO. MID-L-4437-17 <u>Civil Action</u></p>
<p>TG ACQUISITIONS, LLC, a New Jersey Limited Liability Company, Plaintiff, vs. TOWNSHIP OF SOUTH BRUNSWICK, a New Jersey Municipal Corporation and</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION – MIDDLESEX COUNTY DOCKET NO. MID-L-5012-17 <u>Civil Action</u></p>

<p>PLANNING BOARD OF THE TOWNSHIP OF SOUTH BRUNSWICK, Defendants.</p>	
<p>WINDSOR ASSOCIATES, a New Jersey Partnership, Plaintiff, vs. PLANNING BOARD OF THE TOWNSHIP OF SOUTH BRUNSWICK, Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION – MIDDLESEX COUNTY DOCKET NO. MID-L-7418-17 <u>Civil Action</u></p>
<p>TOLL BROTHERS, INC., (now New Village Associates, et al) Plaintiff, vs. TOWNSHIP OF SOUTH BRUNSWICK and the PLANNING BOARD OF THE TOWNSHIP OF SOUTH BRUNSWICK, Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION – MIDDLESEX COUNTY DOCKET NO. MID-L-0563-18 <u>Civil Action</u></p>
<p>RIDGE ROAD PROPERTIES, LLC Plaintiff, vs. TOWNSHIP OF SOUTH BRUNSWICK, a New Jersey Municipal Corporation and PLANNING BOARD OF THE TOWNSHIP OF SOUTH BRUNSWICK, Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION – MIDDLESEX COUNTY DOCKET NO. MID-L-2510-19 <u>Civil Action</u></p>

PRINCETON 2021 AND ORCHARDS
2021, as successor in interest to
RICHARDSON FRESH PONDS, LLC &
PRINCETON ORCHARDS ASSOCIATES,
LLC

Plaintiffs,

vs.

TOWNSHIP OF SOUTH BRUNSWICK,
Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – MIDDLESEX COUNTY
DOCKET NO. MID-L-4436-17

Civil Action

THIS MATTER having come before the Court for further proceedings as directed by the Court’s July 31, 2024 Order including a status conference conducted on October 31, 2024 and November 7, 2024, with appearances by Francis Womack, Esq., counsel for Plaintiff, Township of South Brunswick (“Township”), Thomas Molica, Esq. of Vogel, Chait, Collins & Schneider, special counsel for Township of South Brunswick Planning Board (“Planning Board”) (together Township and Planning Board referred to as “the Township”); Elizabeth Hampton, Esq., appearing on behalf of Intervenor Princeton 2021, LLC and Orchard 2021, LLC (P&O) and U.S. Home d/b/a Lennar (“Lennar”); Thomas F. Carroll, III, Esq. of Hill Wallack, LLP, as counsel for Intervenor PPF Industrial-Route 130/Exit 8A, LLC (“PPF”); (P&O and PPF collectively referred to as the “Settled Parties”); Kenneth D. McPherson, Jr., Esq. of Waters, McPherson, McNeill, P.C., appearing as counsel for Intervenor South Brunswick Center, LLC (“SBC”); Richard Hoff, Esq. of Bisgaier Hoff, as counsel for Intervenor Pulte (as successor to Avalon Bay); John Sarto, Esq. and Marc Policastro, Esq. of Giordano Halleran & Ciesla, as counsel for Intervenor American Properties at South Brunswick, LLC (“American Properties”); and Bryan D. Plocker, Esq. of Hutt Shimanowitz & Plocker, P.C., as counsel for Intervenor Windsor Associates (“Windsor” (collectively SBC, Pulte, American Properties, Windsor and Lennar referred to as the “SHO Parties”); Bryan D. Plocker, Esq. of Hutt Shimanowitz & Plocker, P.C., as counsel for Monmouth

Mobile Home Park Land Development (“MMHP”) and Jaynar Construction (“Jaynar”); Joshua Zielinski, Esq. of O’Toole Scrivo, P.C., as counsel for Intervenor Ridge Road Properties, LLC (“RRP”), (collectively, the Settled Parties, the SHO Parties, MMHP, Jaynar and RRP are referred to as the “Developers”) with Joshua Bauers, Esq., as counsel for Intervenor Fair Share Housing Center (“FSHC”) and Special Adjudicator Christine Nazzaro-Cofone, P.P. also attending;

IT IS ON THIS 19th DAY OF November, 2024, ORDERED, that:

1. A Fairness Hearing to determine if the settlement reached between RRP, the Township and the Planning Board is fair and equitable to low- and moderate-income households in accordance with East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996) and Morris County Fair Housing Council v. Township of Boonton, 197 N.J. Super. 359 (Law Div. 1984), shall be held on December 16 and December 17, 2024 at 10:00 a.m.;

2. The Fairness Hearing shall be held before the Honorable Michael V. Cresitello, Jr., P.J.Cv. at the Middlesex County Courthouse located at 56 Paterson Street, New Brunswick, New Jersey;

3. The form and content of the Fairness Hearing Notice that is attached hereto as **Exhibit A** is hereby approved for use by the parties in providing adequate notice to the public of the Hearing;

4. The parties to the settlement shall provide notice of the Fairness Hearing as follows:

a. Publishing a copy of the Notice in the Home News Tribune by November 15, 2024 as confirmed by the Affidavit of Publication to be filed with the court.

b. Mailing, by certified mail, return receipt requested, a copy of the Notice to the entities and/or individuals listed on the attached **Exhibit B**.

c. Posting a copy of the Notice on the Township’s official bulletin board and on the

Township's website at least thirty (30) days in advance of the Fairness Hearing, as confirmed by a certification to be filed with the court by the Municipal Clerk.

d. Announcing Notice of the Hearing at each regularly scheduled Township Council meeting commencing with the next scheduled Council meeting.

5. At least thirty (30) days prior to the Fairness Hearing, a copy of the settlement agreement shall be placed on file for public inspection and photocopying during normal business hours with the Clerk of the Township of South Brunswick at the Township Municipal Building located at 540 Ridge Road, Monmouth Junction, NJ 08852, as well as made available on the Township's website.

6. Any party that seeks to appear and be heard on the settlement agreement at the Fairness Hearing is directed to file written comments, concerns or objections with the court no later than December 2, 2024 with duplicate copies forwarded by certified mail, return receipt requested, to the attention of the parties and/or individuals listed on the attached Exhibit B. Any party that wishes to reply to comments, concerns or objections to the settlement agreement is directed to file them no later than December 9, 2024.

7. No later than December 12, 2024, the Special Master, Christine Cofone, P.P., shall furnish the court and counsel for all parties of record a copy of her Master's Report on the issues associated with the settlement agreement and Fairness Hearing. The Master's Report shall be placed on file with the South Brunswick Township Clerk at the address set forth above and be available for public inspection and photocopying during normal business hours, as well as made available on the Township's website;

8. Within seven (7) days of the execution of this Order, through and until the date of the Fairness Hearing, a copy of this Order shall be placed on the official bulletin board of the

Township of South Brunswick at the Municipal Building and shall be available for public inspection and photocopying during normal business hours, as well as made available on the Township’s website;

9. American Properties and RRP shall continue to mediate any disputes concerning the development of RRP’s site with a warehouse/distribution center use with the assistance of the Special Adjudicator;

10. The Township shall provide Pulte with a final resolution compliance review letter ~~by October 21, 2024,~~ within seven (7) days of the posting of this Order;

11. The Township shall continue to respond to all outstanding building/construction permit issues concerning P&O’s development within a reasonable time;

12. The Township shall provide a written update to the Developers and Special Adjudicator concerning the status of construction and testing of Well 17 by ~~October 23,~~ December 6, 2024;

13. The Court’s posting of this Case Management Order on eCourts shall constitute service upon all counsel and interested parties of record. The Court has provided a copy of this Case Management Order to the Special Master via email. The Township shall serve any other interested parties or pro se litigants on eCourts, via regular and certified mail within seven (7) days of the posting of this Case Management Order on eCourts.

/s/ Michael V. Cresitello, Jr.
Hon. Michael V. Cresitello, Jr., P.J.S.C.

Opposed []
Unopposed [X]

EXHIBIT A

PUBLIC NOTICE**TOWNSHIP OF SOUTH BRUNSWICK, MIDDLESEX COUNTY****NOTICE OF FAIRNESS HEARING TO DETERMINE WHETHER SETTLEMENT AGREEMENT WITH RIDGE ROAD PROPERTIES (“RRP”) SHOULD BE APPROVED**

PLEASE TAKE NOTICE that on Monday, December 16, 2024 and Tuesday, December 17, 2024 at 10:00 a.m., and as may be continued thereafter, there will be an in-person Fairness Hearing (the “Hearing”) before the Honorable Michael V. Cresitello, P.J.CV., at the Superior Court of New Jersey, Middlesex County Courthouse, 56 Paterson Street, New Brunswick, New Jersey 08903, Court Room 401, in the matter known as *Ridge Road Properties, LLC v. Township of South Brunswick and Planning Board of the Township of South Brunswick*, Docket No.: MID-L-2510-19, consolidated with the Township’s Mount Laurel IV Declaratory Judgment Action *In the Matter of the Application of the Township of South Brunswick in Middlesex County*, bearing Docket No.: MID-L-4433-17 (collectively the “Actions”). The purpose of the Hearing is for the Court to determine whether the terms of a Settlement Agreement reached on April 26, 2022 (the “Settlement Agreement” or the “RRP Settlement”) between the Township of South Brunswick (the “Township”), the Township of South Brunswick Planning Board (the “Planning Board” or “Board”) and Ridge Road Properties, LLC (“RRP”), is fair and reasonable to low- and moderate-income households¹.

By way of brief summary, in the Actions, the Township sought a declaratory judgment in the Superior Court of New Jersey, Law Division, Middlesex County, granting it immunity and repose pursuant to N.J.S.A. 52:27D-313, and a judicial declaration that its Housing Element and Fair Share Plan (“HEFSP”) is presumptively valid because it presents a realistic opportunity for the provision of its fair share of its housing region’s present and prospective need for low and

¹ The Township, Planning Board, and RRP may be collectively referred to herein as the “Parties.”

moderate income housing pursuant to the Court's decision in In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1, 35-36 (2015). ("Mount Laurel IV"). The Parties have agreed to amicably resolve the issues brought forth in the Actions as they relate to the real property owned by RRP generally located along Ridge Road and Perrine Road, in the Township, and known and designated as Block 79, Lots 4.02, 4.031, 4.032, 4.04, 6.01 and 6.03 on the Official Township Tax Map(s), and which consists of approximately 176.26 acres (the "RRP Property").

More specifically, in the Actions, RRP was granted a builders' remedy to construct 1,320 residential housing units, including 264 affordable housing units on the RRP Property. Pursuant to the Settlement Agreement, RRP will be making a monetary contribution of \$8,065,0000 to the Township's affordable housing trust fund for the provision of affordable housing in the Township and the 264 affordable housing units that were to be constructed by RRP will be relocated to other sites within the Township. Furthermore, subject to the Court's approval of the Settlement Agreement, the RRP Property will not be developed as an inclusionary residential housing development. Rather, the RRP Property will be developed for light industrial/warehouse use(s). The Settlement Agreement also requires RRP to construct certain improvements to the interchange of Route 1 and Ridge Road in the Township.

This Notice is being provided to advise all interested persons and parties who may be interested that the Court will conduct the Hearing on the RRP Settlement, pursuant to East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996), for the Court to determine if: (1) the RRP Settlement has apparent merit, (2) that notice was given to all members of the class and others who have an interest in the Settlement, (3) the Hearing has been conducted on the RRP

Settlement where those affected have sufficient time to prepare, and (4) that the RRP Settlement is “fair and reasonable to members of the protected class”.

Any interested person or party that seeks to appear and be heard at the Hearing on the above issues shall have the opportunity to present their position regarding the RRP Settlement. In advance of the Hearing, any written objections or comments by any interested person or party must be filed with the Honorable Michael V. Cresitello, Jr., P.J.Cv., at the Middlesex County Courthouse, 56 Paterson Street, New Brunswick, New Jersey, 08903, no later than December 2, 2024, with duplicate copies being forwarded by mail and, if possible, email, to the attention of the following:

Barbara Nyitrai, Township Clerk
Township of South Brunswick
540 Ridge Road, P.O. Box 190
Monmouth Junction, NJ 08852
bnyitrai@sbtnj.net

Josh Bauers, Esq.
Fair Share Housing Center, Inc.
510 Park Boulevard
Cherry Hill, NJ 08002
joshbauers@fairsharehousing.org

Francis M. Womack, Esq.
Township Attorney
South Brunswick Municipal Building
540 Ridge Road, P.O. Box 190
Monmouth Junction, NJ 08852
mwomack@sbtnj.net

Christine Nazzaro-Cofone
Court Appointed Special Adjudicator
Cofone Consulting Group LLC
125 Half Mile Road, Suite 200
Red Bank, NJ 07701
ccofone@cofoneconsulting.com

Joshua A. Zielinski, Esq.
O’Toole Scrivo, LLC
14 Village Park Road
Cedar Grove, NJ 07009
jzielinski@oslaw.com

South Brunswick Planning Board
c/o Thomas J.Molica, Jr. Esq.
Vogel, Chait, Collins & Schneider
25 Lindsley Drive, Suite 200
Morristown, NJ 07960
tmolica@vccslaw.com

Any written responses by the Parties to written objections received shall be filed with the Court, the Court Special Adjudicator, the Township, RRP and the objector on or before December 9, 2024. This Notice is provided pursuant to directive of the Court and is intended to inform all interested persons and parties of the basic subject matter of the Hearing, the existence of the RRP

Settlement and the possible consequences of formal action and Court approval of the RRP Settlement.

Copies of this Notice, the RRP Settlement, the Court Order scheduling the Hearing, the September 18, 2024 Settlement Agreement between Fair Share Housing Center and the Township of South Brunswick, the Township's 2024 Amendment to the 2020 Amended Third Round Housing Element and Fair Share Plan and Third Round Spending Plan, with all accompanying documents, ("Settlement Documents") are available for inspection by interested persons and parties at the office of the Township Clerk, located at the South Brunswick Municipal Building, 540 Ridge Road, P.O. Box 190, Monmouth Junction, New Jersey 08852 during normal business hours. The Settlement Documents shall also be posted on the Township's website. This Notice does not indicate any view by the Court or the Parties as to the merits of the RRP Settlement, the fairness, reasonableness, or adequacy of the RRP Settlement, or of any of the issues to be addressed, adjudicated, or otherwise resolved at the Hearing.

By: Francis M. Womack, Esq.
Township Attorney
Township of South Brunswick

EXHIBIT B

Jon Drill, Esq.
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571 Pompton Ave
Cedar Grove, NJ 07009

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Fair Share Housing Center
510 Park Blvd
Cherry Hill, NJ 08002

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Woodbridge, NJ 07095

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25 Market Street
Trenton, NJ 08625-0112

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Warren, NJ 07059

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123 Washington St
Newark, NJ 07102

Steven Firkser, Esq.
Greenbaum Rowe Smith and Davis
75 Livingston Avenue
Roseland, NJ 07068

Habitat for Humanity
Middlesex County
51 Trinity Lane
Woodbridge, NJ 07095

Jewish Renaissance
Community Foundation
275 Hobart Street
Perth Amboy, NJ 08861

Faith Fellowship CDC
2707 Main Street
Sayreville, NJ 07062

Latino Action Network
PO Box 943
Freehold, NJ 07728

The Intersect Fund
109 Church Street
New Brunswick, NJ 08901

Coming Home of Middlesex County
75 Bayard Street
New Brunswick, NJ 08901

New Jersey Citizen Action
118 W. State Street
Trenton, NJ 08608

Supportive Housing Association of NJ
185 Valley Street
South Orange, NJ 07079

Middlesex County NAACP
New Brunswick Area Branch
PO Box 235
New Brunswick, NJ 08901-0235

NJ State Conference of the NAACP
4326 Harbor Beach Blvd. #775
Brigantine, NJ 08203

Habitat for Humanity of
Greater Plainfield
2 Randolph Road
Plainfield, NJ 07060

Central Jersey Housing
Resource Center
92 East Main Street, Suite 407
Somerville, NJ 08876

Council on Affordable Housing
101 South Broad Street
PO Box 813
Trenton, NJ 08625

Allies, Inc.
1262 White Horse-Hamilton Square Rd
Bldg. A Suite 101
Hamilton, NJ 08625

Homeless Solutions
540 West Hanover Avenue Suite 100
Morristown, NJ 07960

Cooperative Housing Corp
59 West End Avenue
Somerville, NJ 08876

Friends of the Carpenter
40 Mercer Ave
North Plainfield NJ 07060

NJ Statewide Independent
Living Council
629 Amboy Avenue Suite 104
Edison, NJ 08837

Enable, Inc.
13 Roszel Rd., Suite B110
Princeton, NJ 08540

Making it Possible to End
Homelessness
100 Mitch Snyder Drive
Edison, NJ 08837

Raritan Valley Habitat for
Humanity, Inc.
100 West Main Street
Somerville, NJ 08876