

Donald J. Sears, Esq. – Attorney ID# 020031986  
 Township of South Brunswick  
 540 Ridge Road  
 P.O. Box 190  
 Monmouth Junction, NJ 08852  
 Phone No.: (732) 329-4000

**FILED**

November 5, 2020

Hon. Michael V. Cresitello, Jr., J.S.C.

Attorney for Township of South Brunswick

<p>IN THE MATTER OF THE          APPLICATION OF THE TOWNSHIP          OF SOUTH BRUNSWICK FOR A          JUDGMENT OF COMPLIANCE AND          REPOSE AND TEMPORARY          IMMUNITY FROM <u>MOUNT LAUREL</u>          LAWSUITS</p>	<p>SUPERIOR COURT OF NEW JERSEY          LAW DIVISION          MIDDLESEX COUNTY</p> <p>DOCKET NO.: MID-L-4433-17</p> <p>CIVIL ACTION – <i>MOUNT LAUREL</i></p>
<p>PPF INDUSTRIAL-ROUTE 130/EXIT 8A,          LLC, a limited liability company organized          under the laws of the State of Delaware,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>TOWNSHIP OF SOUTH BRUNSWICK,          TOWNSHIP COUNCIL OF THE          TOWNSHIP OF SOUTH BRUNSWICK and          PLANNING BOARD OF THE TOWNSHIP          OF SOUTH BRUNSWICK,</p> <p style="text-align: center;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY          LAW DIVISION          MIDDLESEX COUNTY</p> <p>DOCKET NO.: MID-L-4094-17</p> <p>CIVIL ACTION – <i>MOUNT LAUREL</i></p> <p>ORDER SCHEDULING FAIRNESS          HEARING</p>

The Court having been advised by letter dated October 8, 2020, from Donald J. Sears, Esq., on behalf of the Township of South Brunswick (“Township”), on notice to the Special Master, Christine Nazzaro-Cofone, PP, and all other builder’s remedy plaintiffs and/or intervenors consolidated into this matter and/or interested parties included in the eCourts notice list for this matter, that Intervenor PPF Industrial-Route 130/Exit 8A, LLC (“PPF”), the

Township and the South Brunswick Planning Board (“Planning Board”) have reached a settlement of the issues between them, and the court having received a copy of the fully executed settlement agreement dated October 8, 2020, signed by PPF, the Township and the Planning Board, and the parties thereto having requested that the court schedule a date for a Fairness Hearing to determine if the settlement reached by these parties is fair and equitable to low and moderate income households, and the court having determined that there is “sufficient apparent merit” to warrant the scheduling of a Fairness Hearing 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), and otherwise for good cause shown:

IT IS ON THIS 5th DAY OF November, 2020, ORDERED, that:

1. A Fairness Hearing to determine if the settlement reached between PPF, 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, 2020, at 10:00 a.m.
2. The Fairness Hearing shall be held via the N.J. Judiciary’s virtual courtroom platform, the details of which shall be provided by the court so that proper public notice can be provided and members of the public can participate in the Hearing
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 at least thirty (30) days in advance of the date of the Fairness Hearing, 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, 2020, 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.
7. No later than December 9, 2020, 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. The Court's posting of this Order on eCourts shall constitute service upon all counsel and interested parties of record. The Court has provided a copy of this 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 Order on eCourts.

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

## OPPOSED

The opposition filed by defendant South Brunswick Center as to the form of the within Order and related public notice, as well as the responses thereto received from Plaintiff and defendant PPF, were considered by the Court. The Court finds that the current form of Order is appropriate and accurately reflects what was ordered by the Court at the conclusion of the Compliance Hearing on October 22, 2020. The Court further finds the attached proposed public notice to be satisfactory in its current form.

**EXHIBIT A: PUBLIC NOTICE OF FAIRNESS HEARING**

**PUBLIC NOTICE**

**TOWNSHIP OF SOUTH BRUNSWICK, MIDDLESEX COUNTY**

**NOTICE OF HEARING TO DETERMINE WHETHER SETTLEMENT AGREEMENT  
WITH PPF INDUSTRIAL-ROUTE 130/EXIT 8A, LLC SHOULD BE APPROVED**

**PLEASE TAKE NOTICE** that on Wednesday, December 16, 2020, at 10:00 a.m., and as may be continued thereafter, there will be a Fairness Hearing (the “Hearing”) before the Honorable Michael V. Cresitello, Jr., J.S.C., at the Superior Court of New Jersey, Middlesex County Courthouse, 56 Paterson Street, New Brunswick, NJ 08903, in the matter known as PPF INDUSTRIAL-ROUTE 130/EXIT 8A, LLC, a limited liability company organized under the laws of the State of Delaware, v. TOWNSHIP OF SOUTH BRUNSWICK, TOWNSHIP COUNCIL OF THE TOWNSHIP OF SOUTH BRUNSWICK and PLANNING BOARD OF THE TOWNSHIP OF SOUTH BRUNSWICK, Docket No. MID-L-4094-17, consolidated with the Township’s Mount Laurel IV Declaratory Judgment Action known as IN THE MATTER OF THE APPLICATION OF THE TOWNSHIP OF SOUTH BRUNSWICK, Docket No. MID-L-4433-17 (the “Action”). The Hearing shall be held via the N.J. Judiciary’s virtual courtroom platform. Members of the public and all interested parties can participate in the Hearing via the following link:

**[TO BE SUPPLIED BY THE COURT]**

The purpose of the Hearing is for the court to determine whether the terms of a Settlement Agreement reached on October 8, 2020 between the Township of South Brunswick (“Township”), the South Brunswick Planning Board (“Planning Board”) and PPF Industrial-Route 130/Exit 8A, LLC (“PPF Industrial”), is fair and reasonable to low- and moderate-income households.

By way of brief summary, the above Action was instituted by the Township seeking declaratory judgment granting it immunity and repose pursuant to N.J.S.A. 52:27D-313 and a judicial declaration that its housing plan 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 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 Action, as it relates to the PPF Industrial property, consisting of approximately 120 acres in the “PRD VII” Zone in the area of Route 130 South and Friendship Road (Block 6, Lots 15.021 and 15.022, Block 11, Lots 13.02 (portion), 15.03 and 15.05).

The settlement will provide for the development of up to approximately 3 acres of commercial development at the northwest corner of the intersection of Route 130 and Friendship Road (the “Commercial Subzones”). The settlement will also provide for the construction of up

to 326 housing units on the remaining undeveloped area (the “Residential Subzones”), of which 30% shall be set-aside for, and shall be affordable to, very-low, low and moderate income households, consisting of 98 two-story townhomes on fee simple lots, 130 three-story townhomes on fee simple lots, 83 affordable family rental apartments, and 15 affordable family “for sale” units in stacked townhomes. The settlement will also result in the dedication of approximately 34 acres of vacant land to the Township.

This notice is being provided to advise all parties who may be interested that the court will conduct a hearing on the settlement pursuant to 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), and if the court determines that: (1) the 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 settlement where those affected have sufficient time to prepare, and (4) that the settlement is “fair and reasonable to members of the protected class,” the court may approve the settlement.

Any member of the public or interested party may appear and be heard at the Hearing, at which time they shall have the opportunity to present their position. In advance of the Hearing, any objections or comments must be filed with the Court, in writing, no later than December 2, 2020, with duplicate copies being forwarded by certified mail and, if possible, e-mail, to the parties directly involved in the case as well as other interested parties listed in the October \_\_\_\_, 2020 Court Order scheduling the hearing, a copy of which is available on the Township’s website, in the Township Clerk’s office and posted on the bulletin board in the Municipal Building.

This Notice is provided pursuant to directive of the court and is intended to inform all interested parties of the basic subject matter of the Hearing, the existence of the settlement and the possible consequences of court approval of the settlement. Copies of all documents related to this Action and the settlement may be obtained from the South Brunswick Township Clerk, South Brunswick Municipal Building, 540 Ridge Road, Monmouth Junction, NJ 08852, during normal business hours, or on the South Brunswick Township website at [www.sbtnj.net](http://www.sbtnj.net). This Notice does not indicate any view by the court or the parties as to the merits of the Action, the fairness, reasonableness, or adequacy of the proposed settlement, or of any of the issues to be addressed and resolved at the Hearing.

TOWNSHIP OF SOUTH BRUNSWICK

By: Donald J. Sears, Esq.

**EXHIBIT B: SERVICE LISTS**

In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing (067126)

List of Parties Participating in M-392-14

Kevin D. Walsh, Esq.  
Adam M. Gordon, Esq.  
Fair Share Housing Center  
510 Park Boulevard  
Cherry Hill, NJ 08002  
[kevinwalsh@fairsharehousing.org](mailto:kevinwalsh@fairsharehousing.org)

Jonathan E. Drill, Esq.  
Stickel, Koenig, Sullivan & Drill, LLC  
571 Pompton Avenue  
Cedar Grove, NJ 07009  
[jdrill@sksdlaw.com](mailto:jdrill@sksdlaw.com)

Jeffrey R. Surenian, Esq.  
Michael A. Jedziniak, Esq.  
Jeffrey R. Surenian & Associates, LLC  
707 Union Avenue, Suite 301  
Brielle, NJ 08730  
[jrs@surenian.com](mailto:jrs@surenian.com)

Edward J. Buzak, Esq.  
The Buzak Law Group, LLC  
Montville Office Park  
150 River Road, Suite N-4  
Montville, NJ 07045  
[ejbuzak@buzaklawgroup.com](mailto:ejbuzak@buzaklawgroup.com)

Geraldine Callahan, Esq.  
Deputy Attorney General  
Office of the Attorney General  
25 W. Market Street  
P.O. Box 112  
Trenton, NJ 08625  
[Geraldine.callahan@dol.lps.state.nj.us](mailto:Geraldine.callahan@dol.lps.state.nj.us)

Jeffrey Kantowitz, Esq.  
Law Office of Abe Rappaport  
195 Route 46 West  
Suite 6  
Totowa, NJ 07512  
[jkantowitz@rappaport-law.com](mailto:jkantowitz@rappaport-law.com)

Stephen Eisdorfer, Esq.  
Hill Wallack LLP  
202 Carnegie Center  
P.O. Box 5226  
Princeton, NJ 08543  
[seisdorfer@hillwallack.com](mailto:seisdorfer@hillwallack.com)

## Region 3 – Service List

Habitat for Humanity Middlesex County 51 Trinity Lane Woodbridge, NJ 07095	New Jersey Citizen Action 118 W. State Street Trenton, NJ 08608
Latino Action Network PO Box 943 Freehold, NJ 07728	Middlesex County NAACP New Brunswick Area Branch PO Box 235 New Brunswick, NJ 08901-0235
Coming Home of Middlesex County 75 Bayard Street New Brunswick, NJ 08901	Habitat for Humanity of Greater Plainfield 2 Randolph Road Plainfield, NJ 07060
Supportive Housing Association of New Jersey 15 Alden St # 14 Cranford, NJ 07016	Council on Affordable Housing 101 South Broad Street PO Box 813 Trenton, NJ 08625
NJ State Conference of the NAACP 4326 Harbor Beach Blvd. #775 Brigantine, NJ 08203	Dan McGuire Homeless Solutions 540 West Hanover Avenue Ste 100 Morristown, NJ 07960
Central Jersey Housing Resource Center 600 First Avenue, Ste 3 Raritan, NJ 08869	Susan McDonough, Ex. Dir. Friends of the Carpenter c/o Watchung Ave. Presbyterian Church 170 Watchung Ave. North Plainfield, NJ 07060
Jacqui Adam, Housing Coordinator Allies, Inc. 1262 White Horse-Hamilton Square Road Bldg. A Suite 101 Hamilton, NJ 08625	Robin Bynoe Enable, Inc. 13 Roszel Rd., Ste B110 Princeton, NJ 08540
Mary Mae Henley Coopertive Housing Corp. Somerville, NJ 08876	Raritan Valley Habitat for Humanity, Inc. 100 West Main Street Somerville, NJ 08876
NJ Statewide Independent Living Council 390 George St, 2 <sup>nd</sup> Floor New Brunswick, NJ 08901	Faith Fellowship CDC 2707 Main Street Sayreville, NJ 07062
Jewish Renaissance Community Foundation 149 Kearny Avenue Perth Amboy, NJ 08861	Making it Possible to End Homelessness 60 Clif Prescod Lane Edison, NJ 08817
The Intersect Fund 109 Church Street New Brunswick, NJ 08901	

**IN RE: SOUTH BRUNSWICK SERVICE LIST**

Christine A. Nazzaro-Cofone, AICP/PP  
Cofone Consulting Group, LLC  
126 Half Mile Road – Suite 200  
Red Bank, NJ 07701  
732-933-2715  
[ccofone@cofoneconsulting.com](mailto:ccofone@cofoneconsulting.com)  
**Special Master**

Donald J. Sears, Esq.  
Township of South Brunswick  
540 Ridge Road  
P.O. Box 190  
Monmouth Junction, NJ 08852  
732-329-4000 x7311  
[dsears@sbtj.net](mailto:dsears@sbtj.net)  
**Attorney for Township of South Brunswick**

Adam Gordon, Esq.  
Bassam Gergi, Esq.  
Fair Share Housing Center  
510 Park Blvd  
Cherry Hill, NJ 08002  
856-665-5444  
[adamgordon@fairsharehousing.org](mailto:adamgordon@fairsharehousing.org)  
[bassamgergi@fairsharehousing.org](mailto:bassamgergi@fairsharehousing.org)  
**Attorneys for Fair Share Housing Center**

Henry L. Kent-Smith, Esq.  
Irina B. Elgart, Esq.  
Fox Rothschild LLP  
997 Lenox Drive, Bldg 3  
Lawrenceville, NJ 08648-2311  
609-896-3600  
[HKent-Smith@foxrothschild.com](mailto:HKent-Smith@foxrothschild.com)  
[ielgart@foxrothschild.com](mailto:ielgart@foxrothschild.com)  
**Attorneys for Richardson Fresh Ponds,  
Princeton Orchards Associates and  
K Hovnanian Shore Acquisitions**

Richard J. Hoff, Jr., Esq.  
Danielle Novak Kinback, Esq.  
Bisgaier Hoff, LLC  
25 Chestnut Street, Suite 3  
Haddonfield, NJ 08033  
856-795-0150  
[rhoff@bisgaierhoff.com](mailto:rhoff@bisgaierhoff.com)  
[dkinback@bisgaierhoff.com](mailto:dkinback@bisgaierhoff.com)  
**Attorneys for Avalon Bay/Pulte Homes**

Thomas F. Collins, Jr., Esq.  
Thomas J. Molica, Jr., Esq.  
Vogel, Chait, Collins & Schneider, P.C.  
25 Lindsley Drive, Suite 200  
Morristown, NJ 07960-4454  
973-538-3800  
[tcollins@vccslaw.com](mailto:tcollins@vccslaw.com)  
[tmolica@vccslaw.com](mailto:tmolica@vccslaw.com)  
**Attorneys for So Brunswick Planning Board**

Kenneth D. McPherson, Jr., Esq.  
Jessica CM Almeida, Esq.  
Waters, McPherson, McNeill  
300 Lighting Way  
P.O. Box 1560  
Secaucus, NJ 07096  
201-863-4400  
[kmj@lawwmm.com](mailto:kmj@lawwmm.com)  
[jalmeida@lawwmm.com](mailto:jalmeida@lawwmm.com)  
**Attorneys for South Brunswick Center**

Kevin J. Moore, Esq.  
Sills Cummis & Gross  
600 College Road East  
Princeton, NJ 08540  
609-227-4600  
[kmoore@sillscummis.com](mailto:kmoore@sillscummis.com)  
**Attorney for Stanton Girard**

Ronald Shimanowitz, Esq.  
Bryan Plocker, Esq.  
Hutt & Shimanowitz  
459 Amboy Avenue, P.O. Box 648  
Woodbridge, NJ 07095  
732-634-6400  
[rshim@huttshim.com](mailto:rshim@huttshim.com)  
[bplocker@huttshim.com](mailto:bplocker@huttshim.com)  
**Attorneys for Windsor Associates  
and TG Acquisitions**

Robert F. Simon, Esq.  
Herold Law  
25 Independence Blvd.  
Warren, NJ 07059  
908-647-1022  
[rsimon@heroldlaw.com](mailto:rsimon@heroldlaw.com)  
**Attorney for Royal Oaks  
Apartments, LLC**

Brett E. Tanzman, Esq.  
Wilf Law Firm, LLP  
820 Morris Turnpike, Suite 201  
Short Hills, NJ 07078  
973-467-0300  
[brettt@wilf-law.com](mailto:brettt@wilf-law.com)  
**Attorney for Windsor Associates**

Thomas F. Carroll, III, Esq.  
Hill Wallack LLP  
21 Roszel Road, P.O. Box 5226  
Princeton, NJ 08543  
609-924-0808  
[tcarroll@hillwallack.com](mailto:tcarroll@hillwallack.com)  
**Attorney for PPF Industrial –Route 130/  
Exit 8A, LLC**

Linda M. Lee, Esq.  
Giordano, Halleran & Ciesla, P.C.  
125 Half Mile Road, Suite 300  
Red Bank, NJ 07701-6777  
732-741-3900  
[llee@ghclaw.com](mailto:llee@ghclaw.com)  
**Attorney for American Properties**

James F. Clarkin, III, Esq.  
Clarkin & Vignuolo, P.C.  
85 Washington Avenue  
Milltown, NJ 08850  
732-981-0808  
[jfc@clarkinlaw.com](mailto:jfc@clarkinlaw.com)  
**Attorney for Eastern Properties/Jaynar  
Construction**

Steven Firkser, Esq.  
Greenbaum Rowe Smith and Davis  
75 Livingston Avenue  
Roseland, NJ 07068  
732-476-2388  
[sfirkser@greenbaumlaw.com](mailto:sfirkser@greenbaumlaw.com)  
**Attorney for New Village Associates**

Thomas P. Scrivo, Esq.  
Joshua A. Zielinski, Esq.  
O'Toole Scrivo Fernandez Weiner Van Lieu,  
LLC  
14 Village Park Road  
Cedar Grove, NJ 07009  
973-239-5700  
[tscrivo@oslaw.com](mailto:tscrivo@oslaw.com)  
[jzielinski@oslaw.com](mailto:jzielinski@oslaw.com)  
**Attorneys for Ridge Road Properties, LLC**