

**HIGHLAND PARK PLANNING BOARD  
MINUTES  
SEPTEMBER 13, 2018 @ 7:30 P.M.  
Council Chambers, Borough Hall  
221 South Fifth Ave. Highland Park, NJ**

**Call to Order**

The September 13, 2018 regular meeting of the Highland Park Planning Board was called to order in accordance with the rules for the Open Public Meetings Act by Chairperson Kim Hammond at 7:37 pm; Ms. Hammond indicated the location of the fire exits.

**Roll Call:**

Present	Kim Hammond, Scott Brescher, Rebecca Hand, Alan Kluger, Padraic Millet, Judi Shade Monk, Jeffrey Perlman, Susan Welkovits, Allan Williams
Absent	Paul Lanaris, Stephen Nolan
<u>Board</u>	Roger Thomas, Esq. Board Attorney
<u>Professionals</u>	Chris Cosenza, Board Planner Bruce Koch, Borough Engineer

**Presentation:**

Fair Share Housing Plan/Ordinances by Clarke Caton Hintz

Daniel Hauben, Clarke Caton Heintz, presented the Board with a PowerPoint presentation. (attached)

Mr. Hauben asked that everyone please get any questions or comments to him no later than September 19, 2018.

Ms. Hammond asked everyone to please get any comments or questions to Jennifer by September 19, 2018 and if there are no comments please just let Jennifer know either way so he can be sure she has reached everyone. She indicated that Jennifer would forward everything to Mr. Hauben

**Action on any other business and work session.**

31 River Road – Investigation Designation as an “Area in Need of Redevelopment”  
Chris Cosenza LRK, the Borough Council adopted a resolution 9-18-250 asking the Planning Board to perform a preliminary investigation to determine if the 31 River Road site qualifies for an area in need of redevelopment. Looney Ricks Kiss would do the investigation and would be back in November with the report. The Borough already developed a redevelopment plan and made a great effort to right size development as well inclusionary housing. That plan was developed under the area in need of rehabilitation which was applied to the entire municipality back in December 2016 and that was on the basis that a majority of the water and sanitary sewer lines were at least 50 years and are in need of repair or substantial maintenance with this designation the Borough can essentially take any site and start a redevelopment plan. The area in need of rehabilitation has certain tools to offer, in this particular site there is a really tight window for density, increasing cost of construction and operation to build projects so the governing body has asked the Planning Board to ensure the viability of this project with a very high quality of construction, and are asking that they have all the tools that are offered by the Local Redevelopment housing law available for additional flexibility to ensure that this project happens. They are looking to expand on what they already have available under rehab

designation by using the additional tools that under redevelopment. The Board is being asked by the governing body to preform that preliminary investigation to determine if the site qualifies as a area in need of redevelopment. This situation is a little more nuance then simply relying on area in need of rehabilitation; area in need of redevelopment the site needs to be studied to see if it meets certain criteria specifically eight listed in the local redevelopment housing law. The difference between rehab and redevelopment, the town already has the rehabilitation in place so you can go right into a plan anywhere, redevelopment requires a in-depth study of that particular lot, there are a number of steps involved and the town is currently on step 2. Step one, governing body adopting a resolution to direct Planning Board to do the study; step 2, the Planning Board must prepare and make available a boundaries for the redevelopment area, step 3, Planning Board to do that study in most cases the planning board designated the planner to do the study, step 4, governing body acting on the recommendation of the Planning Board, step 5 would be preparing the plan, step 6, doing the Ordinance to put that plan in place. In this case the plan is already done, if this moves forward there would only be a minor change to the plan stating that the board and the governing body has deemed this site an area in need of redevelopment.

Ms. Monk asked if we had done this in a different, as in waiting for a developer to come to us, what are the cost repercussions to the Borough in terms of us taking the initiative to do this work as opposed to a developer taking it on, and retaining professionals. Mr. Thomas said that when you end up having a site plan, something to react to the developers planner, engineer, traffic expert etc. would come before you a present that plan. The statute ends up saying that the municipality is required to do that however in his experience that cost is usually absorbed as part of the development project and therefore the developer pays.

Ms. Welkovits asked how we could ensure this. Mr. Thomas said that you would have to make that agreement with the developer.

Ms. Monk asked how much we were spending when we make those choices. Mr. Thomas said that there could be estimates with regard to cost and in addition there can be an agreement whereby the developer will end having the responsibility to pay the reasonable costs for this whole process and he expects that would be the case here so it is not that the taxpayers of the Borough are paying for this redevelopment when in fact the developer can benefit ultimately in his opinion and that will be worked out as part of their obligation to pay. He said that he would be more than happy to discuss that with Mr. Schmierer the Borough Attorney.

Mr. Pearlman said his thoughts were the same, who is paying for the investigation, when he sat on the redevelopment agency the developers did pay through their escrow, he asked if there was a conditional redeveloper identified for this project yet. Mr. Cosenza said that he understood there to be someone that is interested and it was his understanding that the developer understands that there is a cost and is usually absorbed after. Mr. Pearlman said as the agency we made the developer a conditional redeveloper, set up escrow, etc.

Mr. Millet asked what specific tools does designating this an area in need of redevelopment bring to the table. Does it make it more acceptable as apart to the Borough Fair Share Housing Plan. Mr. Cosenza said that the difference between the benefits offered by rehabilitation and redevelopment, there are additional financial tools available including, area redevelopment bonds as well as long term pilots.

Ms. Welkovits said that this was not insignificant we are talking about going from a 5 year pilot to a 30 year pilot and that is not insignificant.

Ms. Hammond said to understand the chain of events, there is a developer that is potentially interested but they are not even a conditional developer as this point. She said that she is caught

up in that there is a certain amount of speculation that somehow we are doing this for a particular developer, is the developer asking for this, and we could go through this expense with the exception that down the road someone is going to pick up that bill and this person gets spooked and now they are not the developer and we are found holding the bag and has spent time and money on deeming an area in need of redevelopment when we already went through a whole process to determine the best tool for Highland Park was to make us an area in need of rehabilitation and just feels like there are missing pieces. She asked if this was going to happen with every single project.

Ms. Monk said that study is not being presented until November so that makes it feel like there is a lot of work to do but then it is qualified as oh we are changing a paragraph. Mr. Cosenza said the redevelopment plan is already done which is most of the work, but in order for that plan to take advantage of the redevelopment tools if it goes that far, ultimately the plan does not change other than simply referring to it as an area in need of redevelopment.

Mr. Kluger said that he was surprised to see this coming back to the Board because we were here a year or so ago and Jim sat there and told us that rather than do each available parcel as redevelopment we will designate the entire town as an area in need of rehabilitation and that is the better way to go and we don't need to do, and he asked why are we doing the whole town, let's just deal with the individual parcels as they come up and we did not go down that path and it circled back to us here going back to an area in need of redevelopment again. He asked if it was known which of the criteria it is going to meet. Mr. Cosenza said that he could not answer that until they were authorized to do the investigation. Mr. Kluger said that he wouldn't think we would start the process if we didn't think there was a possibility. Maybe this is a question for the council before we spend the money and be sure it is not the town's money.

Ms. Hammond asked if you do the study and it turns out it does not meet the criteria how does that effect the developers interest in that property and now the work is done and is the developer willing to do the project if it does not meet the criteria or are they going to walk. She asked if this developer was committed or was this just a hand shake.

Mr. Thomas said that it does not sound like this a designated redeveloper so therefore unlike what he has seen in the past you don't have a pot of money that you can pull things out, there is a potential risk, it is a project however that is important project for this community in order to be able to satisfy its affordable housing obligation. Not having been involved in the project but from what he has heard through Jim there is a developer that has spent some time and effort in terms of working through a process over the last several months and maybe longer, that does that guarantee you that this entity is going to stick, no but this is where we are at this point in time.

Ms. Hammond said that she is still going to make the argument we go through this study, it is determined that it is an area in need of redevelopment does it make more appealing to more developers is that a reason to do it in general even if this developers walks away.

Mr. Thomas said because you are dealing with financial incentives the answer would be yes. He said that he does not know what the economic climate is the middle of New Jersey and he couldn't tell whether or not if you did the redevelopment and this project qualified and suddenly there is two or three people interested he cannot predict that. He said that he agreed with Chris that providing certain economic incentives to a developer to be able to move forward with project where rehabilitation does not necessarily provide.

Mr. Pearlman said that when Jim did the redevelopment plan and discussion about density and Jim said that is what makes it economically viable and now we are hearing that he had conversations with other developers that said would not fly and now maybe it won't fly and this

particular developer is now interested did the request come from that developer saying it is not viable unless you give me a redevelopment designation. That is important to know, do we know that developer is really telling the truth, we are just talking someone's word it, if I were a developer I would always want additional incentives. Mr. Pearlman said he thinks this sets a precedence. Mr. Kluger said that he does not disagree with anything said but these were all Council questions and Council is basically asking us to do the study.

Ms. Monk asked if they were going to negotiate down all the fees that we have paid for.

Ms. Welkovits indicated that this did not come up at Council, this was not discussed at the redevelopment meeting. Mr. Kluger asked how could it not. Ms. Welkovits said that they were not told how this would play out, it didn't occur to her that this would go back to Jim's office and they would work on it, all we were asked is for our financial guys to give us some numbers and that is what she asked for on August 21<sup>st</sup>. She thought maybe a subcommittee was being formed. It was upsetting that we have not looked at numbers, we are talking about a 30 year pilot, we talking about more costs to the Borough and where in the process do you name a conditional redeveloper.

Mr. Thomas suggested since all of these questions are absolutely valid questions it would appear to him that Council has issued a resolution seeking to have this Board as part of the statutory process, to authorize the commencement of an investigation/study, that investigation/study has always been done by a professional requires both study and a map, but as a view point as a planning board it is somewhat a perfunctory matter because by statute you are simply being asked to authorize the investigation. If there is a concern that these questions either are very important or should be addressed by the Council in terms of the economic impact I think you should authorize it and then this discussion should be taken back to the Council by your Council representative so that before Chris or Jim or anybody spends anymore time or money then what has already been spent at this point, these questions be investigated and answered.

Mr. Millet asked in general, what is cost of the study for a parcel of this size. Mr. Cosenza said that typically a one acre site for a designation of an area in need of redevelopment varies between 10-15k, this site may be on the lower because it is one acre, and one property. He said that the study will be presented in November due to scheduling, you also need to dually noticed meeting two weeks in advance, so the report needs to be completed at least 2 ½ weeks prior to the Board's meeting.

Mr. Pearlman asked what kind of information might be used to make the determination, site visit has already happened. Mr. Cosenza said conduct an inventory of the fiscal conditions and characteristics and properties within the study area; potential build out based on existing zoning, any historical preservation efforts.

Ms. Monk said all that has already been done and asked how that would be 10-15k. Mr. Cosenza said those costs are on the high end where there is more work to be done, in this case a lot of the work has already been completed and there are meetings that need to be done. He said that a lot of the costs in these cases are absorbed into a redeveloper agreement.

Ms. Monk asked if the fees paid with interest. Mr. Thomas said no, if you look at the municipal landuse law if there is \$5,000 in an interest bearing account, the municipality does not get that interest the developer does. Ms. Monk said that we have sunk money into something that we could have been using elsewhere and generating interest or something. Mr. Thomas said this needs to be balanced against the fact that this is property that is a part of the affordable housing obligation and if you say no we are not doing it what is plan b, well plan b is now the Borough's plan which no one is going to pay for to then come up with a new housing element and fair share

plan which will then potentially delay your compliance hearing which could present some problems. It is not as simple as if you don't do your saving all this time because you are not your creating a problem at the other end that will not have anyone to reimburse you when redo your housing plan.

Ms. Hand asked who brought this to the Council's attention in the first place, what was the motivating factor? Mr. Thomas said that it would be a reasonable assumption to say that it was the developer. Ms. Hand said she is only asking because for anyone who attended during the last few meetings and I am sure they showed up for the council meetings, the neighbors who are going to get notice for this plan to redevelop are going to show up at the next hearing when they get noticed and would like to have a real answer for them of why we are doing this above and beyond everything else that they feel we are imposing upon them.

Ms. Hammond asked what the exact implications of the difference between in being redevelopment and rehabilitation, is it just the tax abatement, the difference between 5 and 30 years. Mr. Cosenza said that is one of the main ones in addition to the issuance of redevelopment bonds or RAPS, the real difference is to offer tools but is still up to the municipality to put them in place in a redevelopment agreement.

Mr. Millet said that when referencing the paragraph change, that would apply to when the public is informed in that the only change in the actual things that impact the public like density, height that has already been determined and this investigation will not change this. This will allow tools to hand to the developer.. Mr. Cosenza said that he does not see the plan changing at all other than the report from designation of area in need of redevelopment.

Mr. Thomas said that it is a fair assumption that if your investigation ended up in some why shape or form it meets the criteria if the density goes from 40 to 50 then suddenly changes the whole character of the plan and then is reported back to the redevelopment agency which is the Borough Council.

Mr. Cosenza said assuming the Planning Board makes a the recommendation that this area qualifies as an area in need of redevelopment and the governing body agrees with that recommendation, when the plan is revised, dually noticed again but will likely just be a statement change but he does not anticipate any change in the development.

Ms. Hammond said in terms of making this clear, we are seeing no impact to the plan, this is a developer requesting this action be taken so they can be deemed an area in need of redevelopment so that they have more tools available to them, financial incentives which is beyond our control. A statement was made that the municipality has control over it and asked how the municipality has control of it when it is area in need of redevelopment then we do now, sounds like this is being done do that they get more incentives outside of these.

Mr. Cosenza said when the redevelopment plan is put together, one has already been prepared, how that is administered and put in place is with a redevelopment agreement with a redeveloper and whatever financial tools that are available based on the designation in place. Under the area need of rehabilitation designation there are certain financial tools such as, the ability to put in a redevelopment plan, issue bonds, acquire property, condemn property, but in an area in need of rehabilitation that is not possible.

Ms. Hammond said she is asking what it does for the developer. Mr. Thomas said that it has already been stated is that they will end up getting greater tax relief, they might end up having access to lower interest bonds which otherwise might not be available, those are the incentives that is really what is going to be the benefit of the redevelopment. Ms. Hammond asked if that

there is no difference to the town or how it collects taxes, percentage that we are getting from this project. Mr. Roger said a PILOT changes that, meaning there is a differential in terms of the tax rate collected on this property and now from what he has been hearing instead of that occurring over a period of 5 years that might occur over a longer period of time.

Mr. Millet said yes but that is something that is not a given, just because it is designated as an area in need of redevelopment does not mean that it automatically initiates an agreement with the developer for a pilot program. It is just to put more options on the table to come up with the best plan and part of that may be that we need for fair share housing and we are going to give a little here to try to avoid the hundreds of thousands of dollars we spent in our various builders remedies lawsuits. He said that based on what Ms. Welkovits indicated if the Council does not know then what is going on.

Mr. Kluger said that we do the study and we agree it meets the criteria it doesn't automatically put the stamp of redevelopment on the property, it goes back to Council and Council and do it or not do it. He said technically the notice on the public hearing on redevelopment study is only required to go to the property owner, it is not a 200' list and said Council needs to think about who they want to notice and who you should be noticing knowing that there were a lot of the Walter Ave neighbors were here and be proactive in noticing them letting them know we are not reopening the redevelopment plan or the 40 units that they have seen.

Mr. Cosenza said that he recommended to Ms. Welkovits to maintain transparency it was recommended to administration to reach out to those neighbors to let them know what is going on.

Ms. Hand asked if there was a choice to say no. Mr. Thomas said no, if the Board feels these are questions that you would like some inquiry about either answers there is no reason why you can't authorize the investigation to occur with the understanding that you would like to get these things settled before the costs start to generate whether those are \$200, \$2,000 or \$10,000.

Ms. Welkovits said lately we have been having problems with the projects and mostly the process of the projects and this back and forth and who gets what at what time and who gets notified and it's not the Planning Board but in general we need to do a better job than this because what was just said and we go ahead and do this without notifying the Walter Ave people they are going to be really upset a whole series of sleepless nights, what we doing behind their backs and so on and we have to do a much better job of this. The Redevelopment Entity needs to better understand what the Board does here and she really did not know what this process was and she asked and was not given the right answers. The discussion about the cost is really important because here we are spending all of our money when there is a perfectly wealthy developer out there, doesn't make sense, is he going to walk away, we need a commitment from him, it would be nice to have something a little more set, she is nervous the developer may walk even if we approve everything.

It was MOVED by MILLET and seconded by WILLIAMS to grant the investigation/study of 31 River road as an area in need of redevelopment with the recommendation that questions and concerns from the Board be addressed prior to costs being generated.

ROLL CALL: Ayes - Brescher, Hand, Kluger, Millet, Monk, Welkovits, Williams,  
Hammond  
Nays - Pearlman

There being nine (9) ayes and one nay, the motion passed.

Mr. Thomas said that he would not be doing a resolution; the minutes will reflect the actions taken. He said that he would work with Jennifer.

Mr. Williams reminded everyone to watch the Stormwater video and send him an e-mail confirming same has been completed.

**Correspondence and reports.**

Zoning/Building Officer report – Scott Brescher

Code Official Brescher said that there was a new house at 20 Cedar, completely conforming, and there is an addition on South 11<sup>th</sup>. There is a restaurant coming into town where Jack's Hardware was.

Rehabilitation Screening Committee report – Kim Hammond/Judi Monk - None

Mt. Laurel status update/Fair Share Housing Obligation report - Jim/Padraic Millet

Mr. Kluger said in the Fair Share Housing Plan there is a whole paragraph about backwoods/JSM and about the overlay zoning of 75 units and wanted to be sure the neighbors there are fully aware of the 75-unit agreement. Ms. Welkovits said that there has been several meetings with them.

Master Plan Prep report – Steve Nolan - None


Sustainable NJ – Judi Monk - None

**Public Comment:**

Ms. Hammond opened the meeting for public discussion and called upon all those wishing to speak to identify themselves. There being no one, Ms. Hammond closed public discussion.

There was a motion to adjourn from Mr. Millet with a second from Mr. Perlman at 9:17 pm the meeting was adjourned.

Respectfully submitted,

  
Jennifer Santiago  
Board Clerk

# Borough of Highland Park 2018 Housing Element and Fair Share Plan

September 13, 2018

Daniel Hauben, PP, AICP

Clarke Caton Hintz

## Historical Context

### 1971 Mount Laurel II

Each municipality has a constitutional obligation to provide affordable housing

### 1986 Mount Laurel III

Required creation of municipal obligations  
Court approves Housing Plans

### 1988 Fair Housing Act

COAH created to administer FHA

### 1986-2014 COAH Rule Making

COAH administered the FHA and promulgated first, second and third round rules

### 2011 Mount Laurel IV

Supreme Court transfers approval of housing plans to Courts



# What is Affordable Housing?

Based on Regional Median Income in  
Hunterdon, Somerset, Middlesex Counties

	Maximum Household Income			
	1 Person	2 Person	3 Person	4 Person
<b>Median</b> <small>(reference)</small>	\$75,530	\$86,320	\$96,110	\$107,900
<b>Moderate (80%)</b>	\$60,424	\$69,056	\$77,688	\$86,320
<b>Low (50%)</b>	\$37,765	\$43,160	\$48,555	\$53,950
<b>Very Low (30%)</b>	\$18,081	\$20,664	\$23,248	\$25,831

# What is Affordable Housing?

## Affordable Home Sales Prices (illustrative)

- One-bedroom: \$63,517 - \$148,205
- Two-bedroom: \$76,220 - \$177,846
- Three-bedroom: \$88,076 - \$205,511

## Affordable Rents (illustrative)

- One-bedroom: \$607 - \$1,214
- Two-bedroom: \$728 - \$1,457
- Three-bedroom: \$842 - \$1,683

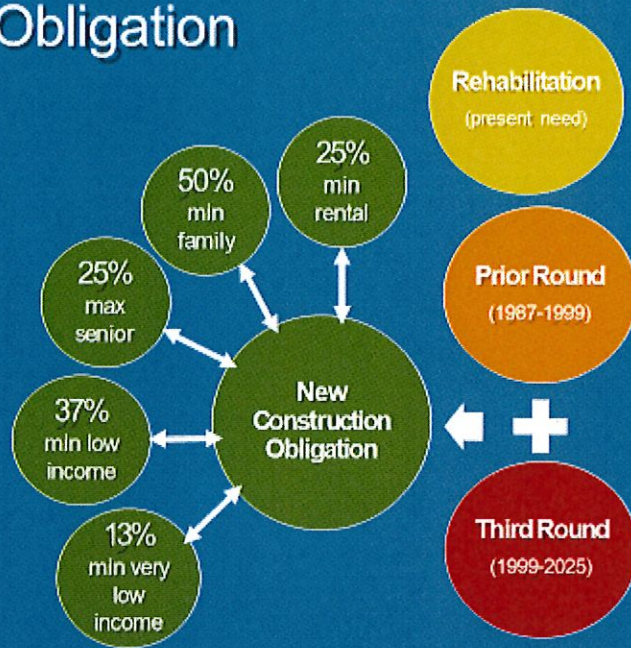
# Affordable Housing History

- Boro received Substantive Certification from COAH for 1<sup>st</sup> and 2<sup>nd</sup> Round rules in 1990 and 1999
- Adopted Third Round HEFSPs in 2005 for COAH's 2004 rules and 2009 for COAH's 2008 rules
- Builder's Remedy suits in 2009 and 2010.
- Adopted 2015 HEFSP in response to March 10, 2015 Mt. Laurel IV decision, as part of DJ Action
- December 22, 2017: Settlement Agreement with FSHC
- May 30, 2018: Fairness Hearing for Settlement Agreement
  - Court orders updated HEFSP to be submitted prior to **Dec 4, 2018** Compliance Hearing
- PB hearing to adopt on **Oct 11**. Council to endorse on **Oct 16**.

# Fair Share Obligation

Obligation	Units
New Construction Obligation	
<i>Prior Round Obligation (1987-1999)</i>	0
<i>Third Round Obligation (1999-2025)</i>	173
Rehabilitation Obligation (2015)	121

# The Obligation



## 2018 Housing Plan: Units Existing and Under Construction

Project—Existing and Under Construction	Type	Affordable Units	Rental Bonuses	Total Credits
AHEPA Senior Rentals	Municipally Sponsored	43	0	43
ARC Group Homes	Special Needs	9	9	18
River Road Crossings – Family Sales	Inclusionary Zoning	5	0	5
Overlook – Family Sales	Inclusionary Zoning	9	0	9
Irayna Court – Refomed Church	Supportive Housing	6	5	11
South 2 <sup>nd</sup> Ave. Family Rental Refomed Church	100% Affordable	1	0	1
Veterans Housing – Refomed Church	Supportive Housing	11	0	11
SERV – 9 Two-Bedroom Apartments	Special Needs	18	0	18
Habitat for Humanity – Family Sale House	100% Affordable	1	0	1
South 2 <sup>nd</sup> Avenue Supportive Housing Refomed Church	Supportive Housing	3	0	3
Merriewood – aka Kaplan “Castle” – Family Rentals	Inclusionary Zoning	30	30	60
Highland Cliffs – Form Y – Family Sales	Inclusionary Zoning	2	0	2
American Properties	Inclusionary Zoning	6	0	6
<b>Total Existing and Under Construction</b>		<b>144</b>	<b>44</b>	<b>188</b>

# 2018 Housing Plan: Approved and Proposed Units

Project—Approved and Proposed	Type	Affordable Units	Rental Bonuses	Total Credits
137-139 Raritan Avenue, Ant Realty, LLC	Inclusionary Zoning	1	0	1
130-134 Raritan Avenue	Inclusionary Zoning	3	0	3
31 River Road Redevelopment	Inclusionary Zoning	6	0	6
Project Highland Park—Reformed Church	100% Affordable	4	0	4
<i>Total Approved and Proposed</i>		<i>14</i>	<i>0</i>	<i>14</i>
<i>PLUS Total Existing and Under Construction</i>		<i>144</i>	<i>44</i>	<i>188</i>
<i>EQUALS Total Units and Bonuses Addressing Obligation</i>		<i>158</i>	<i>44</i>	<i>202</i>

## 31 River Road Redevelopment Area

- Anticipated as rental with up to 40 units including 6 affordable (15% set-aside)

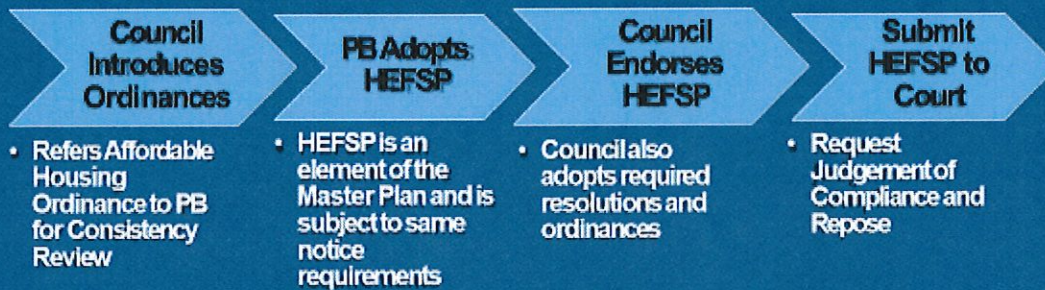


# 130-134 and 137-139 Raritan Avenue

- Two inclusionary developments with ground floor commercial space
- Combined 21 units, including 4 affordable



## Next Steps



# Next Steps, continued

## Compliance Hearing

- Court issues Judgement of Compliance and Repeal

## Plan Implementation

- Facilitate/approve new development in Plan
- Monitoring

# Questions?

Daniel Hauben, PP, AICP

