



Ralph Johnson; Zoe Scotto; Kamuela Tillman; Staci Berger, individually and o/b/o the Piscataway Progressive Democratic Organization; Piscataway Families for Clean Air ("PFCA"); and, the Piscataway Youth Progressive Organization, residing or operating in the Township of Piscataway, County of Middlesex and State of New Jersey, by way of Complaint in Lieu of Prerogative Writs against the Defendants, allege as follows:

#### **NATURE OF THE ACTION**

1. This is an action in lieu of prerogative writs challenging the validity of Ordinance No. 2021-38 ("Ordinance"), which was adopted by the Township Council of Piscataway Township on December 14, 2021 and rezoned the 24.549-acre forested and unimproved parcel located at 1690 South Washington Avenue, designated on the Piscataway Township Tax Map as Block 5701, Lot 2 ("Property"), from Rural Residential (RR-1) to industrial (M-2).

2. This action is undergirded by a long history of attempted development. Beginning in 2016, a prominent developer made three separate development applications, and filed one lawsuit, each time seeking land use approvals to intensify the use of this rural residential Property.

3. The first application was for a mixed-use project with nearly 300 condominiums and 100,000 square feet of retail. This application was denied.

4. After the developer sued to overturn the denial, the parties agreed to a settlement allowing a similar mixed-use project, which was approved in a Whispering Woods hearing. However, the developer later abandoned this approval having deemed it too costly to extend sewer service to the rural residential Property.

5. The developer then applied for and received variances to build a large-scale warehouse project on the Property. That approval was challenged by action in lieu of prerogative writ filed by many of the same plaintiffs in this action. The case is still pending.

6. Now, without waiting for the court's decision in the prior action, the Township Council of Piscataway has re-zoned the 25-acre Property to expedite the warehouse project. This re-zoning is not consistent with the Township's Master Plan.

7. In derogation of their statutory obligations, both the Township Council and the Planning Board of the Township of Piscataway failed to identify and acknowledge the new M-2 Zone's inconsistencies with the Township's Master Plan.

8. The M-2 Zone was created solely for the benefit of the developer and is spot-zoning.

9. The principle that planning is a prerequisite to zoning is firmly embedded in the Municipal Land Use Law. The statutory, procedural requirements that apply to inconsistent zoning amendments alert the public to potential impacts on land use and make their significance explicit. The statutory requirements are to be rigorously followed.

10. In its haste to expedite the warehouse project and gloss over inconsistencies, the Township Council and the Planning Board dispensed with the MLUL's statutory requirements.

11. Essentially, this is a case where over many years the Township and its land use boards have repeatedly accommodated a prominent developer at the public's expense: first by failing to defend the decision to deny a variance; then by entering into a settlement agreement for a similar project; then by approving a large-scale warehouse project under a use variance; and now by jettisoning its own Master Plan to re-zone the Property for the benefit of the developer without meeting statutory requirements. The Township has repeatedly capitulated to the developer and has ignored the public.

12. For failure to comply with statutory requirements for inconsistent zoning amendments, and for reasons stated in the counts below, the M-2 Zone should be declared void *ab initio*.

**PARTIES**

13. Plaintiff Sazha Alexandra Ramos is a long-time resident of Piscataway. She is a United States Navy veteran and social worker who has served at high government levels including the Pentagon, the Veterans Administration and US House of Representatives. She attended Randolphville Elementary School and is deeply concerned about the health and well-being of the children who will attend Randolphville in the future.

14. Plaintiff Shantell Cherry has been Piscataway homeowner since 1994 and is the mother of six children currently enrolled in Piscataway's public schools. Although Cherry is a member of the Piscataway Board of Education, Cherry's action is being taken in her capacity as a private citizen, and not as a member of the Piscataway Board of Education, nor is Cherry authorized to speak or act on behalf of the Board.

15. Plaintiff Pratik Patel is a Piscataway resident and parent of a child who is a student at the Randolphville Elementary school, which adjoins the site of the proposed development project.

16. Plaintiffs Daniel Jackson and Sarah Jackson are residents and homeowners in the Township of Piscataway living in close proximity to proposed development project that is the subject of this Complaint.

17. Plaintiff Matthew Knoblauch is a life-long Piscataway resident and current Piscataway homeowner, decade-long Piscataway

volunteer firefighter and a father to an infant, who is concerned about air quality, traffic safety, and the public health implications of the proposed development project that is the subject of this Complaint.

18. Plaintiff Ralph Johnson has lived in Piscataway since 2001 and is the father of four children, two of whom attend public school in the Piscataway. He recently retired from a career in law enforcement in Newark, having served honorably for the past 20 years. Johnson is also the founder of Take Me Away foundation, a children's charity. Although Johnson is a member of the Piscataway Board of Education, Johnson's action is being taken in his capacity as a private citizen, and not as a member of the Piscataway Board of Education, nor is Johnson authorized to speak or act on behalf of the Board.

19. Plaintiff Zoe Scotto is a Piscataway resident, Rutgers University student and a graduate of Piscataway High School Class of 2020 who served as the Student Representative to the Piscataway Board of Education from 2018-2020. She also attended Randolphville Elementary School, which is next to the site of the proposed development project. Although Scotto is a member of the Piscataway Board of Education, Scotto's action is being taken in her capacity as a private citizen, and not as a member of the Piscataway Board of Education, nor is Scotto authorized to speak or act on behalf of the Board.

20. Plaintiff Kamuela Tillman is a long-time Piscataway resident, single mother and a Special Education English teacher. She is a community leader and serves as a volunteer Neighborhood Aid Network coordinator, recently helping to provide food, shelter and other resources to scores of Piscataway residents displaced by Hurricane Ida. Kamuela is also a highly sought-after vocal artist and an active member of her church.

21. Plaintiff Staci Berger has been a Piscataway resident and homeowner since 1999 who has worked professionally and personally to advance social, political and economic justice for working families and seniors. Her eldest son attended and graduated from Piscataway public schools in 2020 and her younger son is currently a public-school student. Berger is also a Democratic Committee member for her neighborhood.

22. Plaintiff Piscataway Progressive Democratic Organization is a political organization working to make Piscataway a better place to live, work and thrive by promoting transparency, accountability & inclusion.

23. Plaintiff Piscataway Families for Clean Air ("PFCA"), is an unincorporated, voluntary association comprised of Piscataway residents and homeowners who are concerned about the impact of warehouse sprawl and unrestrained development on the health and well-being of Piscataway residents. PFCA has Facebook page with over 550 followers and was originally launched in 2017 as a

clearinghouse for community organizing to prevent the redevelopment of an office facility into a 72-bay truck warehouse on the edge of a residential neighborhood. PFCA is co-chaired by Rachel Sy and Nancy Salgado-Cowan. Co-chair Rachel Sy is a parent of two young children and has been a Piscataway homeowner for the past seven years. Co-Chair Salgado-Cowan, a Piscataway parent of two (one graduate, one middle schooler), is former PTO president and former member of the Piscataway PTO Presidents' Council. Salgado-Cowan is a certified pediatric nurse practitioner with 25 years of experience caring for kids and their families, and has lived in Piscataway as a homeowner for 17 years

24. Piscataway Youth Progressive Organization is a youth organization, with a mission of uplifting and amplifying the voices of Piscataway youth and students.

25. The defendant, the Township Council of Piscataway Township ("Council"), is the governing body of Piscataway Township, Middlesex County, New Jersey as described in N.J.S.A. 40:55D-4, and has its principal offices at 455 Hoes Lane, Piscataway, New Jersey. The Council is responsible for the adoption of land use ordinances pursuant to N.J.S.A. 40:55D-62 and also responsible for providing public notice of the passage of ordinances pursuant to N.J.S.A. 40:49-2 and N.J.S.A. 40:49-2.1.

26. Defendant Planning Board of Piscataway Township ("Planning Board") is a duly constituted planning board of the

Township of Piscataway, per the Municipal Land Use Law, N.J.S.A. 40:55-D-1 et seq. (the "MLUL") and is vested with the responsibility to review any proposed zoning ordinance or amendment thereto pursuant to N.J.S.A. 40:55D-64 and N.J.S.A. 40:55D-26.

27. Plaintiffs are unaware of the true names and/or capacities of Defendants Does 1 through 10 and XYZ Corps. 1 through 10, and, therefore, sues such Defendants by fictitious names. Plaintiffs hereby reserve their right to amend the Complaint as a result of such pleading of such fictitious parties, and will seek leave of this Court to insert true names and capacities once they are ascertained.

**Description of the Property  
and Prior Development Approvals**

28. The Property is located in the RR-1 Zone. Permitted principal uses in the RR-1 zone are public parks, farms and single-family dwellings at 1 dwelling per acre. Piscataway Code 21-501.2, 21-1001.1.

29. The Property is across South Washington Avenue from existing sections of the Middlesex County Ambrose and Doty's Brook Park system - specifically Block 5601, Lot 4.09 - as well as additional preserved open space. Further, the Property is approximately 400 yards from the Doty's Brook and 500 yards from the Ambrose Brook, and serves as the headwaters for both streams.

30. The Property was identified as a farm tract in the 2005 Master Plan, which recommended that it be used for conservation, open space or recreation.

31. Upon information and belief, the Property is under contract to be purchased by a development entity, M&M Realty Partners at Piscataway, LLC ("M&M").

32. In 2016, M&M applied to the Township's Zoning Board of Adjustment for variance approval to develop the Property into mixed commercial and residential use, which the Zoning Board denied.

33. M&M challenged the denial in a prerogative writ action, Docket No. MON-L-1291-17. In 2018, the parties settled and after a Whispering Woods hearing the zoning board granted a variance to develop the Property with mixed commercial and residential use.

34. Thereafter, M&M abandoned its approval, and instead sought another variance approval for a warehouse project collectively disturbing 896,750 square feet of forest and wetlands. On March 5, 2021, the Board approved a variance for the proposed warehouse project, which has been challenged in a currently pending prerogative writ action, Docket No. MID-L-3271-21.

**The M-2 Zoning Amendment**

35. On November 4, 2021, the Township Council adopted on first reading an ordinance to create a new M-2 industrial zone.

36. At the same meeting, the Council adopted resolution #21-390, referring the zoning amendments to the Planning Board for review and recommendation.

37. On November 9, 2021 newspaper notice of the adoption on first reading was published. The newspaper notice also advised that a second reading and public hearing would be held December 14, 2021.

38. At its meeting on December 8, 2021, the Planning Board reviewed the proposed amendments and found them to be consistent with the recently adopted Master Plan Reexamination.

39. By resolution adopted December 8, 2021, the Planning Board recommended adoption of the proposed zoning amendments.

40. At a telephonic meeting held December 14, 2021, the Council adopted Ordinance 2021-38 on second reading creating the M-2 Industrial District.

41. On December 17, 2021, newspaper notice of the adoption of Ordinance No. 2021-38 was published.

42. On December 18, 2021, newspaper notice of the Planning Board recommendation was published.

43. The proposed M-2 zone would be comprised of three separate lots, the 25-acre Property in the RR-1 Zone (Block 5701,

Lot 2) and two additional lots to the north (Block 5701, Lots 1.04 and 1.05) now in the LI-5 Light Industrial Zone District.

44. The two additional lots to the north in the LI-5 Zone would be removed from the much larger LI-5 Zone and placed in the new M-2 Zone, thereby creating a new boundary between the new M-2 Zone and the existing LI-5 Zone.

45. There are already two existing warehouse developments on the northern lots in the LI-5 Zone and did not require re-zoning.

**COUNT I**

**ORDINANCE 2021-38 IS INCONSISTENT WITH THE 2005 MASTER PLAN AND THE 2020 REEXAMINATION REPORT**

46. Plaintiffs repeat and restate the statements contained in paragraphs 1-45 as if set forth verbatim and at length herein.

47. N.J.S.A. 40:55D-62a requires that all zoning ordinances and zoning ordinance amendments be substantially consistent with the Land Use Element of the Master Plan or designed to effectuate such Plan elements.

48. The "governing body may adopt a zoning ordinance or amendment or revision thereto which in whole or part is inconsistent with or not designed to effectuate the land use plan element . . . but only by affirmative vote of a majority of the full authorized membership of the governing body, with the reasons of the governing body for so acting set forth in a resolution and

recorded in its minutes when adopting such a zoning ordinance.”

49. Piscataway Township’s Planning Board adopted the Township’s Master Plan Revision December 14, 2005 (“2005 Master Plan”).

50. The Land Use Element of the 2005 Master Plan recommends that the Property be used as conserved open space. It proposed that Property be categorized as “Parks, Recreation, Open Space and Conservation Areas.”

51. More specifically, the 2005 Master Plan listed the Property as “Proposed Open Space.”

52. The 2005 Master Plan went on to describe its open space proposal and stated that it “will complement the proposed Middlesex County Ambrose and Doty’s Brook Park, which is located directly adjacent to this area.”

53. In December 2020, Piscataway Township prepared a Reexamination Report of the Master Plan (“2020 Reexamination Report”) pursuant to N.J.S.A. 40:55D-89, which reviewed and analyzed the 2005 Master Plan.

54. The 2020 Reexamination Report does not propose any changes to the Land Uses of the Property. It stated that “[t]wo open space/recreation areas are proposed along both side [sic] of South Washington Avenue, north of the Metlars Lane intersection. The area along the west side of South Washington Avenue includes two parcels and has not yet been developed. The Township now owns

both lots.”

55. The Reexamination Report also noted that the “proposed Middlesex County Ambrose and Doty’s Brook Park system[] will provide more active and passive recreation opportunities” and that “[t]he Township is exploring funding options in order to purchase additional private land to supplement this Middlesex County Park facility and create further opportunities for active and passive recreational activities.”

56. In its Open Space & Conservation Recommendations, the Reexamination Report encouraged “[p]assive open space/recreational opportunit[ies]” and “recommended that the Township continue to explore opportunities to provide recreational space and facilities to serve residents of the Township[.]” The Reexamination Report went on to recommend “that the Township consider future acquisition of private, environmentally sensitive properties adjacent to County parkland to supplement the Middlesex County Ambrose and Doty’s Brook parkland system.”

57. In contrast to the RR-1 zone that only permits largely open space that the 2005 Master Plan and 2020 Reexamination Report both explicitly proposed for the Property, the M-2 zone permits “all types of industrial uses” except those expressly prohibited and permits up to 50% lot coverage with structures, not including parking lots and other impermeable surfaces.

58. Despite clear inconsistencies, on December 8, 2021, the

Planning Board found that the proposed amended ordinances were consistent with the 2020 Master Plan Reexamination and recommended the adoption of the proposed ordinances.

59. On December 14, 2021, the Council adopted the Ordinance after second reading at a public hearing where there was unanimous opposition from 50 members of the public.

60. The Council did not make a finding as to the Ordinance's consistency/inconsistency with the Reexamination Report or 2005 Master Plan.

WHEREFORE, Plaintiffs demand judgment as follows:

A: Declaring Ordinance 2021-38 inconsistent with the 2005 Master Plan and 2020 Reexamination Report;

B: Finding that the Council failed to justify inconsistencies as required by law and thus declaring Ordinance 2021-38 void *ab initio* with no legal effect;

C: Such other relief as the Court may deem just and equitable.

**COUNT II**

**ORDINANCE 2021-38 IS INVALID BECAUSE IT IS SPOT ZONING**

61. Plaintiffs repeat and re-state the statements contained in paragraphs 1-60 as if set forth verbatim and at length herein.

62. The MLUL provides the purposes of zoning at N.J.S.A. 40:55D-2 and specifies that zoning ordinances "shall be drawn with reasonable consideration to the character of each district and its peculiar suitability for particular uses and to encourage the most appropriate use of land." N.J.S.A. 40:55D-62a.

63. Ordinance 2021-38 is not drawn with reasonable consideration to the character of the district in that it does not advance a legitimate purpose of zoning and explicitly contravenes the stated purpose of the Land Use Element of 2005 Master Plan and the 2020 Reexamination Report. Specifically, the provisions in the Land Use and Conservation and Open Space elements of both the Reexamination Report and 2005 Master Plan provide that the Property should be utilized for "Parks, Recreation, Open Space and Conservation Areas," not industrial uses such as warehousing.

64. Ordinance 2021-38 is contrary to the purposes of the MLUL and inconsistent with sound planning principles because it has no discernible planning reason other than to accommodate the economic interests of specific corporate and/or commercial

property speculators of unimproved land within the zone.

65. Ordinance 2021-38 is spot zoning effectuated on behalf of certain corporate and/or commercial property speculators and is not in accordance with a comprehensive plan.

66. The adoption of Ordinance 2021-38 by the Township Council exceeds the discretion of the governing body because it is an improper object of zoning, and is thus arbitrary, capricious, and unreasonable.

WHEREFORE, Plaintiffs demand judgment as follows:

A: Declaring Ordinance 2021-38 arbitrary, capricious, and unreasonable;

B: Declaring Ordinance 2021-38 void *ab initio* with no legal effect;

C: Such other relief as the Court may deem just and equitable.

COUNT III

ORDINANCE 2021-38 IS INVALID BECAUSE IT IS FISCAL ZONING

67. Plaintiffs repeat and re-state the statements contained in paragraphs 1-66 as if set forth verbatim and at length herein.

68. At the December 14, 2021 public hearing of the Ordinance before the Council, members of the Council asserted that their decision to adopt the Ordinance was based on their desire to stabilize the tax rate and prevent population growth and school overcrowding.

69. Ordinance 2021-38 is fiscal zoning.

70. The adoption of Ordinance 2021-38 by the Township Council exceeds the discretion of the governing body because it is an improper object of zoning, and is thus arbitrary, capricious, and unreasonable.

WHEREFORE, Plaintiffs demand judgment as follows:

A: Declaring Ordinance 2021-38 arbitrary, capricious, and unreasonable;

B: Declaring Ordinance 2021-38 void *ab initio* with no legal effect;

C: Such other relief as the Court may deem just and equitable.

COUNT IV

ORDINANCE 2021-38 IS INVALID BECAUSE THE COUNCIL'S FINDINGS  
ARE FACTUALLY UNSUPPORTED

71. Plaintiffs repeat and re-state the statements contained in paragraphs 1-70 as if set forth verbatim and at length herein.

72. At the December 14, 2021 public hearing of the Ordinance before the Council, members of the Council made findings of fact where they asserted that they were forced to choose between high density residential housing and warehousing, with no alternative. Members of the Council relied on those findings of fact to adopt the Ordinance.

73. Those facts are not supported by any evidence in the record, and the Council's reliance on unsupported factual findings is arbitrary, capricious, and unreasonable.

WHEREFORE, Plaintiffs demand judgment as follows:

- A: Declaring Ordinance 2021-38 arbitrary, capricious, and unreasonable;
- B: Declaring Ordinance 2021-38 void *ab initio* with no legal effect;
- C: Such other relief as the Court may deem just and equitable.

COUNT V

ORDINANCE 2021-38 IS INVALID DUE TO THE FAILURE  
TO PROVIDE NOTICE TO AFFECTED PROPERTY OWNERS  
PURSUANT TO N.J.S.A. 40:55D-62.1

74. Plaintiffs repeat and re-state the statements contained in paragraphs 1-73 as if set forth verbatim and at length herein.

75. N.J.S.A. 40:55D-62.1 requires personal notice to affected property owners at least ten days prior to hearing when a change in zone classification or boundary is not implementing recommendations in the periodic master plan reexamination.

76. The M-2 zoning amendment did not implement recommendations from the 2020 Master Plan Reexamination.

77. Upon information and belief, no personal notices were given to affected property owners.

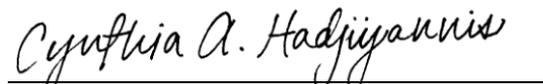
78. Due to the failure to comply with the person notice requirements of N.J.S.A. 40:55D-62.1, the M-2 zoning amendments are invalid.

WHEREFORE, Plaintiffs demand judgment as follows:

A: Invalidating Ordinance 2021-38 *ab initio* for failure to provide proper public notice pursuant to N.J.S.A. 40:55D-62.1;

B: Such other relief as the Court may deem just and equitable.

Dated: 1/28/2022

  
\_\_\_\_\_  
Cynthia A. Hadjiyannis, Esq.

and

NEW JERSEY APPLESEED  
PUBLIC INTEREST LAW CENTER

Dated: 1/28/2022

/s/Renée Steinhagen  
Renée Steinhagen

DESIGNATION OF TRIAL COUNSEL

Pursuant to the provisions of Rule 4:25-4, the Court is hereby advised that Cynthia A. Hadjiyannis and Renée Steinhagen, Esq. have been designated Trial Counsel in this matter

Dated: 1/28/2022

*Cynthia A. Hadjiyannis*

\_\_\_\_\_  
Cynthia A. Hadjiyannis, Esq.

RULE 4:5-1(b)(2) CERTIFICATION

I hereby certify the matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding; that no other or action or arbitration proceeding is contemplated; and, that all necessary and indispensable parties have been made parties to this suit.

I certify that the statements herein set forth are true. I am aware that if any statements set forth herein are willfully false, I am subject to punishment.

Dated: 1/28/2022

*Cynthia A. Hadjiyannis*

\_\_\_\_\_  
Cynthia A. Hadjiyannis, Esq.

RULE 4:69-4 CERTIFICATION

I hereby certify that an audio file of the proceedings before the Board has been ordered from the Clerk of the Township of Piscataway and that an official transcript of such file shall be prepared.

Dated: 1/28/2022

*Cynthia A. Hadjiyannis*

\_\_\_\_\_  
Cynthia A. Hadjiyannis, Esq.

# Civil Case Information Statement

## Case Details: MIDDLESEX | Civil Part Docket# L-000519-22

**Case Caption:** RAMOS SAZHA VS TOWNSHIP COUNCIL OF PISCATAWA

**Case Initiation Date:** 01/28/2022

**Attorney Name:** CYNTHIA AMELIA HADJIYANNIS

**Firm Name:** CYNTHIA A. HADJIYANNIS

**Address:** 25 ZABRISKIE STREET

JERSEY CITY NJ 073072903

**Phone:** 2018766568

**Name of Party:** PLAINTIFF : RAMOS, SAZHA, A

**Name of Defendant's Primary Insurance Company**  
(if known): Unknown

**Case Type:** ACTIONS IN LIEU OF PREROGATIVE WRITS

**Document Type:** Complaint

**Jury Demand:** NONE

**Is this a professional malpractice case?** NO

**Related cases pending:** YES

**If yes, list docket numbers:** MID-L-003271-21

**Do you anticipate adding any parties (arising out of same transaction or occurrence)?** NO

**Are sexual abuse claims alleged by: SAZHA A RAMOS?** NO

**Are sexual abuse claims alleged by: SHANTELL CHERRY?** NO

**Are sexual abuse claims alleged by: PRATIK PATEL?** NO

**Are sexual abuse claims alleged by: DANIEL JACKSON?** NO

**Are sexual abuse claims alleged by: SARAH JACKSON?** NO

**Are sexual abuse claims alleged by: MATTHEW KNOBLAUCH?** NO

**Are sexual abuse claims alleged by: RALPH JOHNSON?** NO

**Are sexual abuse claims alleged by: ZOE SCOTTO?** NO

**Are sexual abuse claims alleged by: KAMUELA TILLMAN?** NO

**Are sexual abuse claims alleged by: STACI BERGER?** NO

**Are sexual abuse claims alleged by: PISCATAWAY PROGRESSIVE DEMOCRA?** NO

**Are sexual abuse claims alleged by: PISCATAWAY FAMILIES FOR CLEAN?** NO

**Are sexual abuse claims alleged by: PISCATAWAY YOUTH PROGRESSIVE?** NO

**THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE**

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO Title 59? NO Consumer Fraud? NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

01/28/2022  
Dated

/s/ CYNTHIA AMELIA HADJIYANNIS  
Signed