

OPEN SESSION

Chairman Steven Misiura called the meeting to order at 7:00 p.m. and read the Open Public Meetings Act statement which stated that adequate notice and posting of the meeting had taken place in accordance with the requirements of P.L. 1975, Chapter 231.

The flag salute.

ROLL CALL

	PRESENT	ABSENT
<i>Mayor Patten</i>	✓	
<i>Mr. Searing</i>	✓	
<i>Mr. Sikorski</i>		✓
<i>Ms. Laudenberger</i>	✓	
<i>Mr. Montferrat</i>	✓	
<i>Mr. Pratt</i>	✓	
<i>Mr. Misiura</i>	✓	
<i>Mr. Emigholz</i>	✓	
<i>Ms. Hutchinson</i>		✓
<i>Mr. Olsen</i>	✓ 7:35PM	
<i>Mr. Byrne</i>	✓	

Also in attendance: Leona Baylor, Planning Board Secretary; Tamara Lee, Borough Planner; Gary Rosensweig, Esq., Planning Board Attorney; Gail Pfister, Housing Administrator and Liaison; Christian Kirkpatrick, Chairperson Historic Preservation Commission; and Isabel McGinty, Council-Elect.

APPROVAL OF AGENDA

The agenda was moved by Mr. Montferrat, seconded by Mr. Pratt and approved by all.

PUBLIC COMMENT

None.

RESOLUTION 2008-16, METROPCS PENNSYLVANIA, ANTENNAS FOR THE FIRST AVENUE WATER TOWER

The resolution was moved by Mr. Montferrat and seconded by Mr. Emigholtz.

Roll Call: Mr. Misura, Ms. Laudenberger, Mr. Montferrat, Mr. Pratt, Mr. Emigholtz, Mr. Byrne and Mr. Searing voted yes. Mr. Olsen and Mayor Patten abstained; Ms. Hutchinson and Mr. Sikorski were absent.

Resolution approved 7-0.

RESOLUTION 2008-16

METRO PCS PENNSYLVANIA, LLC, 150 FIRST AVENUE, BLOCK 46, LOT 13

WHEREAS, Metro PCS Pennsylvania, LLC ("Metro PCS"), as Lessee, has submitted an application for Use Variance, Preliminary and Final Site Plan approval and necessary waivers in order to install up to six (6) wireless communication antennas and three (3) equipment cabinets on the Borough of Hightstown's First Avenue Water Tank, located at ground level in the R4 Zoning District; and

WHEREAS, a public hearing was held on November 10, 2008 at which time the applicant and all interested parties had an opportunity to present testimony; and

WHEREAS, the Planning Board has determined as follows:

1. Metro PCS has entered into a five (5) year renewable lease with the Borough of Hightstown regarding installation of the antennas and equipment on the Borough property.
2. Metro PCS has demonstrated that the proposed antennas are required in order to properly serve Hightstown and surrounding areas.
3. Metro PCS presented expert testimony in support of its position that special reasons have been demonstrated in support of the use variance and that approval will not substantially impair the Borough's Zone Plan or the public good.

NOW, THEREFORE, BE IT RESOLVED, that a use variance, preliminary and final site plan approval and all waivers requested, as recommended by the Borough Engineer, are approved subject to the following:

1. Compliance with all other applicable laws, local, State and Federal;
2. Payment of all fees, escrows, including inspection escrow, and other charges required by Borough Ordinances;
3. Compliance with terms of the Borough Resolution 2008-236 and the Borough/Metro PCS lease agreement. The term of this approval shall run concurrently with the term of the lease agreement.
4. Compliance with the Borough Engineer's memo dated October 28, 2008 and all other directives;
5. Approval of the Borough's Director of Public Works with regard to the method of any attachment to the tank and colors, and the installation of and use of a generator;
6. Publication of a notice of this decision in a Borough official newspaper;
7. A letter from Metro PCS acknowledging that installation of any additional antennas or equipment at this site requires a use variance, preliminary and final site plan approval and such other variances and waivers as may be necessary; and
8. Approval of Mercer County Planning Board, if required.
9. The Applicant shall be bound by all representation made at the public hearing or contained in the subject application and related materials.
10. Payment to the Borough of a non-residential development fee of 2.5% prior to issuance of a Certificate of Occupancy pursuant to the Statewide Non-Residential Development Fee Act (C.46, P.L. 2008).

IT IS FURTHER RESOLVED that upon satisfaction of all conditions of this Resolution, the Chairman and Secretary are authorized to sign the approved site plan and that the Borough Construction/Zoning Official shall then be authorized to issue such permits as are necessary.

This Resolution was adopted at a regularly scheduled meeting of the Planning Board of the Borough of Hightstown held on December 8, 2008 memorializing the action taken by the Planning Board of the Borough of Hightstown at its regular meeting of November 10, 2008.

BOROUGH ORDINANCE 2008-22, "AN ORDINANCE OF THE BOROUGH OF HIGHTSTOWN DESIGNATING "STOCKTON STREET HISTORIC DISTRICT" AS A LOCAL HISTORIC DISTRICT, AND AMENDING AND SUPPLEMENTING THE OFFICIAL ZONING MAP AND ORDINANCES OF THE BOROUGH OF HIGHTSTOWN ACCORDINGLY" ORDINANCE PRESENTED TO THE PLANNING BOARD FOR REVIEW PRIOR TO ADOPTION

Paul Byrne and Rick Pratt recused themselves.

This ordinance was referred to the Board for recommendation; this ordinance would amend the zoning map to show the Historic District. The Council has expressed concern over the subdivided lots within the District, specifically the lots on Academy and Grant Streets.

The Board discussed the subdivided lots, the lots facing Stockton Street were included in the District but the adjacent lots are not in the district and there was a question if they should be included in the District. Mr. Montferrat then questioned what the status of other lots, that have not been subdivided, should be.

Christian Kirkpatrick the Historic Preservation Chairperson, stated that the Commission had discussed the adjacent lots created by subdivisions and generally agreed that the lots created by subdivision and not facing Stockton Street should not be included in the Historic District. They also were in favor of leaving the existing Historic District Map intact with the original boundaries.

Mr. Rosensweig suggested that the Commission clarify the language that the lots that front on Stockton Street are the only ones included. Ms. Kirkpatrick admitted that the Commission only discussed the issued but did not come up with language to clarify the intent and there also were concerns on how to handle the subdivide lots not facing Stockton Street. Mr. Misura agreed that the map as current drawn, accurately shows the intent of the ordinance and as this ordinance has no regulatory impact the actual language can be created and incorporated into the regulations at a later date. Mayor Patten agreed that the Board should follow the existing map already approved by the State and Federal governments and regulations would follow at a later date. Mr. Rosensweig stated that any regulatory recommendations the Board would make would be advisory only and as there may be changes in the future it is too early to make decisions to include or exclude the lots.

After further discussion it was agreed that of the current subdivided lots only one can be seen from Stockton Street and the questions of continuity were addressed in the resolution creating that subdivision. Ms. Laudenberger reminded the Board that the State recommended that the lots surrounding the District should not be copies of the homes but a compliment to them. The Board continued discussing the merits of including or excluding lots and it was agreed that as the Historic Preservation Commission has not presented a strong case either for the inclusion or exclusion of the subdivided lots and as the District has already been approve by the State and Federal governments it would be in the best interest of the District to continue with that continuity to avoid questions later on why the District boundaries were changed.

Ms. Laudenberger made a motion recommending the ordinance, as written, be approved and the motion was seconded by Mr. Emigholtz.

Roll Call: Mr. Misura, Ms. Laudenberger, Mr. Montferrat, Mr. Emigholtz, Mr. Olsen, Mr. Searing and Mayor Patten voted yes. Mr. Pratt and Mr. Byrne abstained and Ms. Hutchinson and Mr. Sikorski were absent.

Motion carried 7-0.

PUBLIC HEARING: FARE SHARE HOUSING PLAN – COAH

Tamara Lee, Borough Planner was sworn in.

Mr. Rosensweig noted for the record that a notice for this hearing was published as required and notices were sent.

Ms. Lee stated that the report was last updated December 2005 at the last revision of New Rules by COAH and the current plan does not work under the current New Rules. After reviewing the Borough obligations, COAH allows for the Borough to accept their calculations or the Borough may make their own, and the Borough has opted to use their own calculations.

By the Borough's calculations the obligations under the new plan are 50 units total, 30 units for Round III and 20 units from prior rounds. The Borough currently has 9 units:

S. Academy Street	2 units – 1 affordable
Williams Street	11 units – 3 affordable
S. Academy Street	2 units – 1 affordable
<i>(site pending)</i>	
Springcrest Drive	3 units – all affordable
<i>(current obligation expired will look to extend)</i>	

For the balance of the units the Borough is looking to work with the Housing Authority for use of some units as gut rehabs. 13 units would be for Round III and 10 units for Round II, for a total of 23 units. There also will be the credit for the rental units which would total 19, giving a total of 51 units. The State Housing Act states that no tax money has to be used, but the Borough housing fund is not enough for funding these projects. COAH says that the Borough must subsidize of the funding but the Borough will be forced to look for outside funding, starting with the State Housing Fund created by the State.

Mr. Misura asked if the plans were ready for submission, Ms. Lee answered they were she just needs copies of signed resolutions from both the Board and the Council. She did say that the plan is not a complete submission and the Borough will receive a letter of incomplete. Currently there is an extension pending but she was not sure what that extension would be. She assured the Board that the Plan is well written, easy to read and will be submitted within the time frame.

Mr. Misura asked what was included in the vacant land adjustment. Ms. Lee responded that everything is included, yards, cemeteries, even parks and preserved open space. The Borough can provide its own land adjustment it is very time consuming and must be done lot by lot. Mr. Misura questioned if we have the ability to voice our disagreement with their land numbers, she stated yes but before doing so you should have a vacant land adjustment done because they will ask to see our numbers.

Mayor Patten added that this is one of the many points currently being challenged by the League of Municipalities in their court case. Mr. Rosensweig agreed that a vacant land adjustment is very costly because of the field work. Ms. Pfister advised that these changes can be made later and the League's position is correct on this point. She also stated that she felt that COAH would be receptive of what we present we just need to do due diligence.

It was suggested that Ms. Lee stress more on the age of the Housing Authority to help with the Borough view point and Ms. Lee agreed that it may help.

Mr. Rosensweig read resolution 2008-18 aloud. Ms. Laudenberger moved to accept, seconded by Mr. Emigholtz.

Roll Call: Mr. Misura, Ms. Laudenberger, Mr. Montferrat, Mr. Pratt, Mr. Emigholtz, Mr. Olsen, Mr. Byrne, Mr. Searing, Mayor Patten voted yes. Ms. Hutchinson and Mr. Sikorski were absent.

Resolution adopted 9-0.

RESOLUTION 2008-18 ADOPTING THE HOUSING ELEMENT AND FAIR SHARE PLAN

WHEREAS, the Planning Board of Hightstown Borough, State of New Jersey, adopted its current Master Plan pursuant to N.J.S.A. 40:55D-28 on October 13, 1998, and

WHEREAS, the Planning Board of Hightstown Borough, State of New Jersey, adopted its current Re-Examination Report pursuant to N.J.S.A. 40:55D-89 on April 11, 2005; and

WHEREAS, the Master Plan includes a Housing Element pursuant to N.J.S.A. 40:55D-28b(3); and

WHEREAS, N.J.A.C. 5:97-2.1(a) requires the adoption of the Housing Element by the Planning Board and endorsement by the Governing Body; and

WHEREAS, N.J.A.C. 5:94-3.1(a) requires the preparation of a Fair Share Plan to address the total 1987-2018 fair share obligation of the Borough of Hightstown; and

WHEREAS, N.J.A.C. 5:97-3.1(b) requires the adoption of the Fair Share Plan by the Planning Board and endorsement by the Governing Body; and

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Planning Board of Hightstown Borough held a public hearing(s) on the Housing Element and Fair Share Plan on December 8, 2008; and

WHEREAS, the Planning Board has determined that the Housing Element and Fair Share Plan are consistent with the goals and objectives of the Hightstown's 1998 Master Plan and 2005 Re-Examination Report and that adoption and implementation of the Housing Element and Fair Share Plan are in the public interest and protects public health and safety and promotes the general welfare.

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Mercer County, State of New Jersey, that the Planning Board hereby adopts the November 19, 2008 Housing Element and Fair Share Plan on December 8, 2008 with minor non-substantive revisions as specified on the record which shall be included in the Housing Element Fair Share Plan.

Prior to the close of the meeting it was suggested that for the up coming year the Board should look at the zoning officer's request for a change in the ordinance regarding awnings. The ordinance currently does not address awnings at all and some awnings protrude into the right of way and also have commercial grade lighting associated with them.

Ms. Laudenberger moved to adjourn the meeting, second by Mayor Patten, meeting adjourned at 9:15pm

Respectfully submitted,

Leona Baylor
Planning Board Secretary