

Hightstown Planning Board  
 Regular Meeting  
 June 13, 2016, 7:30 p.m.

OPEN SESSION
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Fred Montferrat, Chairman, called the meeting to order at 7:32 p.m. and read the Open Public Meetings Act statement: “Adequate notice of this meeting has been given in accordance with the Open Public Meetings Act, pursuant to Public Law 1975, Chapter 231. Said notice was sent to the Trenton Times and the Windsor-Hights Herald, and is posted in the Borough Clerk’s office.”

Flag Salute

Roll Call

	PRESENT	ABSENT	LATE ARRIVAL
Mr. Montferrat, Chairman	X		
Mr. Mulleavey, Vice Chairman		X	
Mayor Quattrone		X	
Councilman Misiura	X		
Ms. Colavecchio	X		
Mr. Hansen		X	
Mr. Lane	X		
Mr. Musing	X		
Mr. Searing	X		
Mr. Balcewicz, Alt. #1	X		
Mr. Cabot, Alt. #2	X		

Also in attendance: Sandy Belan, Planning Board Secretary, Tamara Lee, Borough Planner and Jolanta Maziarz, Planning Board Attorney. Carmela Roberts, Borough Engineer was not present.

APPROVAL OF AGENDA

Mr. Montferrat asked for a motion to approve the agenda. Mr. Lane made a motion to approve the agenda. Mr. Searing seconded.

Roll Call Vote: Mr. Montferrat, Mr. Misiura, Ms. Colavecchio, Mr. Lane, Mr. Musing, Mr. Searing, Mr. Balcewicz and Mr. Cabot voted yes. Mr. Mulleavey, Mayor Quattrone and Mr. Hansen were absent. **Motion passed 8-0.**

APPROVAL OF MINUTES

Mr. Montferrat asked if there were any corrections or comments to the minutes of the May 9, 2016, Regular Meeting. Mr. Musing noted correction to his name on page 3. Motion made by Mr. Musing to approve the minutes as amended. Mr. Balcewicz seconded.

Roll Call Vote: Mr. Montferrat, Mr. Misiura, Ms. Colavecchio, Mr. Musing, Mr. Searing, Mr. Balcewicz and Mr. Cabot voted yes. Mr. Lane abstained. Mr. Mulleavey, Mayor Quattrone and Mr. Hansen were absent. **Motion passed 7-0, one abstention.**

Mr. Montferrat asked if there were any corrections or comments on the minutes of the May 9, 2016, Executive Session. Mr. Balcewicz made a motion to approve the minutes. Mr. Misiura seconded.

Roll Call Vote: Mr. Montferrat, Mr. Misiura, Ms. Colavecchio, Mr. Musing, Mr. Searing, Mr. Balcewicz and Mr. Cabot voted yes. Mr. Lane abstained. Mr. Mulleavy, Mayor Quattrone and Mr. Hansen were absent. **Motion passed 7-0, one abstention.**

#### PUBLIC COMMENT

Mr. Montferrat opened the floor for any public comments on any items not on the agenda.

There being no comments, Mr. Montferrat closed the public comments.

#### OLD BUSINESS:

- 1) Ordinance 2016-18 – An Ordinance Amending and Supplementing Subsection 28-3-11, Entitled “AA Active Adult Age-Restricted Housing,” of Section 28-3, “Districts Established; Zoning Map,” of Chapter 28,” Zoning,” of the “Revised General Ordinances of the Borough of Hightstown, New Jersey.”

Mr. Musing and Mr. Lane both recused themselves.

Ms. Maziarz - Since this is an ordinance that amends the Zoning Ordinance the Council has requested Planning Board review to determine whether or not this ordinance is not inconsistent with the Master Plan. Borough Council has responded to Enchantment’s previous request concerning the language regarding 55 and older be removed from the ordinance so they can amend their master deed in order to allow 20% of the units to be marketed to people under the age 55 but over the age of 50. Mr. Raffetto has removed that from the ordinance and has also removed paragraphs (2) and (3), which would require Board approval of their deed restrictions. Mr. Raffetto and I spoke about this, and we both believed that if you leave that language in, it leaves the Borough open to challenge.

Discussion – Mr. Balcewicz - Is this consistent with the Master Plan? Ms. Lee - This references the statute. Ms. Maziarz -The Federal law allows discrimination of people under the age of 55, which is just a random number. These developments are permitted to discriminate against people under the age of 55. The language contained in the original ordinance was taken directly from the Federal law. Enchantment would like to market those units to people 50 or older. Federal law preempts any other law in this field.

Ms. Maziarz will write a letter to Borough Council indicating the Planning Board’s action and that the Board found the ordinance is either inconsistent or not inconsistent with the Master Plan.

Motion made by Mr. Cabot that the proposed changes to Ordinance 2016-18 are not inconsistent with the Borough’s Master Plan. Motion seconded by Mr. Balcewicz.

Roll Call Vote: Mr. Montferrat, Mr. Misiura, Ms. Colavecchio, Mr. Searing, Mr. Balcewicz and Mr. Cabot voted yes. Mr. Lane and Mr. Musing abstained. Mr. Mulleavy, Mayor Quattrone and Mr. Hansen were absent. **Motion passed 6-0, two abstentions.**

At this time, Mr. Musing and Mr. Lane returned to the dais.

2) Memorization of Resolution 2016-14 – Yash Auto Services Inc. Extension of Resolution 2014-13

The Board was informed that there are ongoing the property maintenance issues. This is now an enforcement issue. George Chin and Dave Bell will follow up. Mr. Montferrat will send a letter to the attorney, Mr. Coates advising him of this matter.

Mr. Balcewicz noted incomplete sentence in the Resolution, page 3, item #2. Ms. Maziarz noted that this was a draft which the Board received in error. The final version of the resolution will be forwarded to the Planning Board for review and memorization at the next Planning Board meeting.

NEW BUSINESS:

- 1) Ordinance 2016-16 – An Ordinance Amending and Supplementing Chapter 2, Entitled “Administration,” Section 2-45, Entitled “Historic Preservation Commission,” Subsection 2-45.3, Entitled “Establishment of the Historic Preservation Commission” of the “Revised General Ordinances of the Borough of Hightstown, New Jersey” Regarding Membership – Reduce membership from 7 to 5 members due to lack of volunteers. Mr. Musing suggested adding a statement requiring a certain percentage of members reside in the Historic District. Mr. Misiura commented that it is difficult to find volunteers for all of the Board and Commissions, adding an additional restriction could make it more difficult. Ms. Maziarz - Law only requires that board members be either class A or B. Some towns do require that members reside in the Historic District. Ms. Maziarz will send a memo to the Borough Council noting that the Planning Board accepts the proposed changes to the Ordinance.

Motion made by Mr. Lane to approve the proposed changes to Ordinance 2016-16 regarding Historic Preservation Commission membership. Motion seconded by Mr. Cabot.

Roll Call Vote: Mr. Montferrat, Mr. Misiura, Ms. Colavecchio, Mr. Lane, Mr. Musing, Mr. Searing, Mr. Balcewicz and Mr. Cabot voted yes. Mr. Mulleavey, Mayor Quattrone and Mr. Hansen were absent.  
**Motion passed 8-0.**

- 2) Appointment of Liaison to the Historic Preservation Commission – Dodie Colavecchio has volunteered to serve as liaison and Fred Montferrat will be the backup.
- 3) Hightstown Cultural Arts Commission – Public Art Master Plan – Planning Board will review for possible incorporation into the Master Plan. Discussion –Mr. Misiura – one of the tasks specifically in forming the Cultural Arts Commission was to create a master plan, which is part of the guidelines for receiving grant funds. The Chairman of the Cultural Arts Commission will be invited to a Planning Board Meeting to present the Public Art Master Plan.
- 4) Housing Element - Memorandum from Tamara Lee dated May 25, 2016 – Ms. Lee reviewed her memo Housing Element and Fair Share Plan, dated May 25, 2016 (copy attached).

Housing Element contains three parts:

- a) Housing Element – describes the residential characteristics of the Borough
- b) Fair Share Plan – describes the affordable housing efforts
- c) Spending Plan – describes how the costs of the Fair Share Plan will be met

Previous Housing Element was updated using census data which was averaged from 2009 to 2013. The census data currently is updated each year. The census data will be updated when we are closer to the final Housing Element. Once the zoning is in place, you have created a realistic opportunity for affordable housing to exist. The Board reviewed the proposed plan.

Page 5 of the plan represents the recommendation for revising the Fair Share Plan. This Fair Share Plan would generate a realistic opportunity to develop a significant number of affordable housing units. Under these circumstances, it would be difficult for anyone to suggest that the Borough is not doing everything it can to provide affordable housing in town. Nothing in this plan will radically change the character of the Borough or impede redevelopment efforts.

Ms. Lee will make a presentation to the Borough Council on this proposed Housing Element Plan and get their feedback.

#### PROFESSIONAL REPORTS

Ms. Maziarz will be on vacation during the July meeting. Mr. Balcewicz and Mr. Hansen will also be out. The July meeting may be cancelled due to a lack of quorum.

#### BOARD MEMBERS COMMENTS

Mr. Musing – There are still several trucks parked on the Minute Maid Site. If you see anything, please let George Chin or Dave Bell know.

There being no further business Mr. Montferrat asked for a motion to adjourn. Motion made by Mr. Lane and seconded by Mr. Musing. All ayes. Meeting adjourned at 9:45 p.m.

Respectfully submitted,



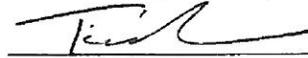
Sandra Belan  
Planning Board Secretary

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**MEMORANDUM**

To: Hightstown Planning Board                      From: Tamara L. Lee, PP, AICP, LLA, ASLA



Re: Housing Element                                      Date: May 25, 2016

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Following up on our discussion at the May Planning Board meeting, the purpose of this memorandum is to summarize the existing Housing Element and Fair Share Plan (HE&FSP) and outline possible revisions for the Planning Board to consider as the Board works to implement an appropriate affordable housing plan for Hightstown.

**Existing Housing Element and Fair Share Plan**

The last draft of the Housing Element and Fair Share Plan (HE&FSP) was created on June 26, 2015. It includes three requisite sections – the Housing Element, the Fair Share Plan and the Spending Plan. The Housing Element describes the residential characteristics of the Borough. The Fair Share Plan describes the affordable housing efforts. And the Spending Plan describes how the costs of the Fair Share Plan will be met.

The Housing Element was updated with the latest census data available at the time – the 2009-2013 American Community Survey (ACS). More recent census data is now available – 2010-2014 ACS. The differences are not significant and should not affect the Borough’s consideration of an affordable housing plan. However, prior to adopting a revised HE&FSP, the census data should be updated. This can be done just before the Planning Board presents the document to the public.

The second component of the document, the Fair Share Plan, described the Borough’s affordable housing proposal, taking into account a prior round obligation left over from Round II. (The Borough’s Round I affordable housing obligation of thirty (30) units was fully satisfied using renovated units at the Hightstown Housing Authority site.) The Borough’s Round II obligation was originally forty-five (45) units. Against that, twenty-five (25) credits had been generated as follows:

- three (3) units at the Hightstown Group Home on Spring Crest Drive
- ten (10) units at the Holly House on Dey Street
- twelve (12) rental bonus credits.

A prior round obligation of twenty (20) units from Round II still remains to be satisfied.

The plan does not specifically acknowledge a definitive affordable housing obligation number for Round III, since no such calculation was available at the time, however, the plan makes reference to previous calculations included in the State's unadopted affordable housing rules. Without having an agreed upon obligation number, the Borough's Fair Share Plan sought to maximize all reasonable opportunities for creating affordable housing within the community without dramatically changing the character of the Borough. The objective was to develop a reasonable plan for providing affordable housing despite the fact that neither the State nor the courts were able to provide a concrete municipal obligation number.

The Fair Share Plan outlined in the current HE&FSP includes the following affordable housing mechanisms:

- South Academy I – one (1) unit by Habitat for Humanity (auctioned lot)
- South Academy II – one (1) unit on the Ordonez lot
- South Academy III – four (4) units by Habitat (two sets of twins)
- Williams Street – six (6) credits, including three (3) apartments on Williams Street and three (3) rental bonus credits
- Hightstown Group Home – three (3) units (extended deed restriction)
- South Academy Overlay Zone – sixteen to eighteen (16-18) units

In total, this plan generated thirty-one (31) to thirty-three (33) possible credits. It made reference to the Hightstown Housing Authority site, noting that it is “a critical piece of the fabric of Hightstown,” but no credit was assumed for the units there.

Assuming twenty (20) units from within the plan are required to meet the Borough's prior round obligation, this plan would have created eleven (11) to thirteen (13) new affordable housing credits for the Borough under Round III, again not including credits from the Housing Authority site.

The last component of the document, the Spending Plan, noted that the Borough has insufficient funds to implement the proposed Fair Share Plan. The Fair Share Plan included thirty-nine (39) rehabilitation units in addition to a new unit obligation. The total cost was calculated to be \$540,000 and, at the time, the Borough only had about \$240,000 available. Accordingly, the HE&FSP notes that the Borough would consider available resources for alternate funding, such as the State's Affordable Housing Fund.

### **Proposed Revisions of the Housing Element and Fair Share Plan**

Moving forward, the Borough should revise the HE&FSP to include the Vacant Land Assessment and some new suggestions for affordable housing mechanisms. Since the Borough has very little money with which to subsidize an affordable housing plan, the best Fair Share Plan for Hightstown will be one that utilizes rezoning as much as possible because that is the only affordable housing mechanism that is not associated with costs or subsidies. Funding an expensive affordable housing plan will always be a challenge for

Hightstown. The Borough's Affordable Housing Trust Fund presently includes approximately \$100,000. The Borough is virtually completely built-out so it is unlikely that new development will generate many development fees. The Trust Fund is not likely to increase substantially. Also, local redevelopment is critical to the future of the Borough and history has demonstrated that placing excessive affordable housing fees or obligations on redevelopment projects will hinder the Borough's ability to attract legitimate interest in redevelopment sites. At the same time, it's important to recognize that a new HE&FSP is only truly defensible if it includes a viable Spending Plan.

### **The Borough's Affordable Housing Obligation**

To date, no credible affordable housing obligation numbers have been generated. However, the Vacant Land Assessment (VLA), as adjusted by the Court Master, represents an accurate affordable housing obligation for the Borough. It indicates that the Borough should be responsible for developing twelve (12) affordable housing units under Round III, plus the twenty (20) outstanding units from prior Round II – totaling thirty-two (32) units.

The difference between the Borough's affordable housing obligation number and the VLA number is known as the unmet need. The unmet need cannot be calculated at this time because there are no realistic numbers representing the Borough's Round III obligation. Ongoing litigation throughout the State may resolve this issue someday but for now, the Borough can only proceed using the VLA calculation. The Planning Board might consider various possible mechanisms for managing some unmet need obligation and be prepared to implement one or more of those mechanisms when the matter is finally resolved. Until then, I recommend that the Borough focus on implementing a plan for satisfying the Borough's new unit obligation and its rehab obligation, to the greatest extent possible.

The Planning Board should also consider a possibility that the ultimate redevelopment of the Rug Mill site may be greater than the VLA anticipates. If so, this site would generate an affordable housing obligation of up to thirty-four (34) units or more, compared to the eleven (11) units that the Court Master suggested. If significant redevelopment occurs on the Rug Mill site, the Borough's VLA might need to be adjusted and Hightstown's affordable housing obligation might increase from thirty-two (32) to as many as fifty-five (55) units (the difference between 34 and 11) or more.

### **Possible Housing Mechanisms**

There are numerous possible housing mechanisms that the Borough might consider to satisfy its obligation. The plan should include at least thirty-two (32) credits and maybe as much as fifty-five (55) or more. The possibilities are summarized in the following chart, with notes about their advantages and disadvantages.

Housing Mechanism	# of Units	Comments
South Academy I (Habitat)	1	Constructed
South Academy II (Ordonez)	1	Could be part of S. Academy Redevt. Plan <i>(included in the estimated Redevt 15)</i>
South Academy III (Habitat)	4	Approved
Williams Street	3	Approved
An Affordable Housing Overlay Zone <i>(option 1)</i>	15	'overlay' debatable but provides more affordable housing
An Affordable Housing Zone <i>(option 2)</i>	(3)	Straight zoning instead of an overlay zone would be more easily defended, but it will generate fewer affordable units
S. Academy Redevelopment Plan <i>(option 3)</i>	(15)	The area has already been identified as an 'area in need of redevelopment'
Affordable Infill Zoning Overlay	6	Make affordable housing permitted use with little or no setbacks, but 'overlay' debatable
New boarding house	3-9	Number of units depends on negotiations
HHA Overlay <i>(option 1)</i>	25-70	'overlay' debatable but provides more affordable housing
HHA Re-zoning <i>(option 2)</i>	(20)	80 market rate, 20 affordable – not debatable but fewer affordable units.
HHA Gut Rehab <i>(option 3)</i>	(7)	35K each unit – not debatable but fewer credits for the investment

A quick note about bonus credits. The whole issue of how bonus credits should be issued is still being debated. The only thing that has been resolved is that Towns cannot 'double dip,' for instance, take both rental and age-restricted credits for the same units. The number of bonus credits that a municipality can take is usually tied to the realistic development potential, or RDP, or a combination of the RDP and the rehabilitation obligation. Either way, the Borough's ability to take advantage of bonus credits will be limited by the VLA, which reduces the RDP to twelve (12). For instance, a town is only entitled to get 2:1 bonus credits for rental units equal to 25% of the RDP. In Hightstown's case, this means the Borough may get a maximum of three (3) rental bonus credits under Round Three. Similarly, at this time, it is not possible to know how many credits the Borough might get for 'very low income' units. Previous regulations suggested the bonus credit (2:1) was only available for very low income units that were created after 1999. There's no way to know if the Borough would get bonus credits for the Borough's existing very low income units, although it should be easier to make a case for 1:1 credit since most of the HHA units are not being given any credit at all. This information is something to be mindful of, but I would not recommend that the Borough's Fair Share Plan stand or fall based on the ability to utilize bonus credits.

## Initial Fair Share Plan Proposal

The following represents my initial recommendation for revising the Fair Share Plan. It is presented here simply as a place to begin the discussion.

Housing Mechanism	# of Units	Comments
South Academy I (Habitat)	1	Constructed
South Academy II (Ordonez)	0	Include property in S. Academy Redevt. Plan
South Academy III (Habitat)	4	Approved
Williams Street	3	Approved
S. Academy Redevelopment Plan	15	Generate a Redevt. Plan, existing uses become pre-existing, non-conforming uses.
Affordable Infill Zoning Overlay	6	Make affordable housing permitted use with little or no setbacks, provide 25K subsidy
New boarding house	3-9	Number of units depends on negotiations
HHA Overlay	25-70	'overlay' debatable but provides more affordable housing, has greatest potential for maximizing the number of affordable units therefore worthy of defense.
<b>Total</b>	<b>57-108</b>	<b>Even the lowest total meets the highest expectation of the Borough's obligation (32-55 or more)</b>

This Fair Share Plan would generate a realistic opportunity to develop a significant number of affordable housing units. Under these circumstances, it would be difficult for anyone to suggest that the Borough is not doing everything it can to provide affordable housing in town. And yet nothing in this plan will radically change the character of the Borough or impede redevelopment efforts.

The proposed overlay zone on the Housing Authority site and proposed South Academy Redevelopment Plan may create an opportunity to collaborate with the Hightstown Housing Authority to redevelop the area and guarantee a future for affordable housing in the neighborhood. Some people may attempt to challenge the Borough's right to utilize the HHA site, but in Hightstown's case, their argument lacks validity.

This proposal is simply a starting point to begin a discussion with the Planning Board. The next step in the process is to thoroughly discuss the advantages and disadvantages of each proposed housing mechanism and finalize a revised Fair Share Plan that includes as many affordable housing credits as practical. Although the Planning Board has sole authority to finalize a new HE&FSP, I would recommend that the Planning Board confer with Borough Council before presenting a plan to the public because it will be important to know whether or not the Governing Body is willing to adopt with corresponding ordinances to implement the Planning Board plan.