

**HIGHLAND PARK PLANNING BOARD  
MINUTES  
November 4, 2021 @ 7:30 P.M.  
Council Chambers, Borough Hall  
221 South Fifth Ave. Highland Park, NJ  
Via Zoom**

**Call to Order**

The meeting was called to order by Vice Chairperson Alan Kluger at 7:30 pm. Annual Notice of this meeting was provided to the Star Ledger on January 29, 2021 and to the Home News Tribune on January 29, 2021. In addition, notice of this meeting via zoom was faxed to the Home News Tribune and emailed to The Star Ledger and the Highland Park Planet on November 2, 2021, and was posted on the Borough website at www.hpboro.com and on the bulletin board and doors at Borough Hall, 221 So. Fifth Avenue, Highland Park, NJ on November 2, 2021, and has remained continuously posted as required by law.

**Roll Call:**

Present	Scott Brescher, Khalidra Hadhazy arrived at 7:35pm, Rebecca Hand, Padraic Millet, Jeffrey Perlman, Allan Williams
Absent	Kim Hammond, Matthew Hale, Paul Lanaris, Steve Nolan, Roger Thomas, Esq.
<u>Board Professionals</u>	William Haggerty, Esq., Bruce Koch, Engineer, Chris Cosenza, Planner

**Minutes:**

October 14, 2021 Regular Meeting

It was MOVED by WILLIAMS and seconded by MILLET that the October 14, 2021 Regular meeting minutes with revisions as distributed be approved and with a voice vote by all present, and an abstention from Mr. Kluger the minutes were approved.

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

Consistency Review	Land Use Ordinance – allowing laboratory use within the commercial, professional office and light industrial zones
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Mr. Kluger said that he was going to have Mr. Cosenza give the Board an overview and some background on this change. Mr. Haggerty, Esq. can explain what the Board’s role is with regards to the ordinance.

Mr. Haggerty, Esq., said that this was a statutory process under the municipal land use law where ordinances are referred back to the Board for what is called the consistency review. The Board’s review is really to comment on whether you determine that the ordinance would be consistent with the Master Plan of the Borough. It also affords an opportunity to make any recommendations or comments in regard to the ordinance, you may offer some comments to amendments or changes that you feel are appropriate. The primary issues of course is it consistent with the Master Plan.

Mr. Cosenza said that he would characterize it as cleaning up the ordinance. We are taking definitions or terms that are not well defined in the ordinance and simplifying it in several zones, making it more consistent with other zones with similar types of uses. This ordinance is split up into four sections, one is the commercial zone which are the areas generally along Upper Raritan and Woodbridge Avenue corridors, laboratories are already permitted except it is defined as medical and radiologic laboratories which that in itself is not defined anywhere but laboratories is. The recommendation there is just simplify it to what is defined by the ordinance and just leave it as laboratories and in the same section provide some sort of parking requirement making it consistent. We determined that a business type of use was appropriate for that which is one space for every 300 square feet of floor area. Section 2 is professional office that is

similar to the light industrial zone in terms of the professional and office uses so we added the laboratory uses there and generally, the professional office uses are on the periphery of the downtown side streets as well as along Cleveland Avenue. Section 3 pertains to light industrial zone, there has been some confusion over the years. He explained years ago they had looked at the light industrial zone when first hearing about the girls school and commented at that time that there is a lot of specific uses for example computer assembly services and rentals, very hyper specific and pragmatically not very usable and from an enforcement point of view it creates a lot of confusion as to why it is that hyper-specific especially when the intent of the zone is to provide for safe enclosed uses that are compatible and given that laboratories were things similar to a professional office user, everything's enclosed and certified and felt that was appropriate to include it in the light industrial zone. Those types of uses are permitted today and it clarifies that. It is more ambiguity, it makes clear what is permitted in light industrial zone. In section 4 it is more of a renaming for whatever reason the Stream Corridor protection overlay zone when it was codifying the ordinance was named as a repeat of the prior section which was senior citizen houses and that just cleans that up in the Stream Corridor protection overlay zone by title and also clarifies that laboratories are prohibited in that zone. In terms of the consistency review, the Master Plan is quite simple, Mr. Haggerty is referring to NJSA 40:56D to determine if the ordinance is not inconsistent with the Master Plan. The goal is to transform outdated commercial corridors specifically to enrich the mix of uses and in many cases, this ordinance really clarifies a couple things, it is not really changing much in the grand scheme of things. With respect to, enriching the mix of uses it specifically mentions Upper Raritan, Woodbridge and Cleveland corridors. Later in the Master Plan it gets more specific with respect to the Land Use recommendations and that is amend the zoning ordinance to incorporate new permitted uses and context sensitive design standards including streetscape improvements and science that reflects the vision of the downtown and other areas. With that in mind and given that the laboratory uses, from his understanding is working as a zoning official for almost a decade, they are very similar to office uses: cleaned, have to be certified generally by a State agency or department, it is generally a clean use and we believe that it sort of cleans up the ordinance and allows for a greater range of flexibility and cleans up the messiness that exists in the ordinance.

Mr. Millet said that in his experience working with building maintenance labs are far different from offices in terms of their requirement and was wondering what specifically, with no objection to labs, but somebody else is going to inspect them. In labs there is usually some sort of fume hood, some type of chemical that has to be exhausted and a certain amount of air exchanges somebody else is going to come in and certify that they are doing that or is that something our inspectors do. He said that he wanted to be sure we are prepared for this type of activity. Mr. Cosenza said in his experience laboratories are generally certified by State agency or department with strict standards. There is also general performance standards in the zoning ordinance specifically prohibited uses in the light industrial zone such as no obnoxious uses of materials, radioactive materials etc. and that already exists in the ordinance but deferred to Mr. Koch or Mr. Brescher. Mr. Brescher said that they would be dealing with the State directly.

Mr. Millet said that it is actually a limited lab use it is not laboratories. Mr. Cosenza said by function of the fact that there are prohibited uses elsewhere in the ordinance and could be construed that as kind of limited already but the purpose of the origin is just keep it clean and straightforward.

Mr. Kluger asked Mr. Brescher what his experience was in other towns using which seems to be a very general and broad term laboratories. It was mentioned that there might be some limitations in other places in our ordinance but at least where it is described as what the permitted use is, do you usually see just the word laboratories or limiting language or specific laboratory uses that is allowed and not allowed. Mr. Brescher said as Mr. Cosenza mentioned it is generally a laboratory heading, not specific.

Mr. Kluger said that when he first read the amended language he thought it was expanding the possible uses for laboratories and without really a specific laboratory use that may have been the impetus for this change

and then literally an hour ago he was listening to the Council meeting from the end of October and documents provided by a member of the public, it seem like the change may have been proposed specifically related to cannabis or testing. He said that they would like to hear more about whether that is what the impetus is for or is it really just a general change to expand the types of uses in these three zones.

Mr. Cosenza said generally speaking for years we have been suggesting we should change the zoning ordinance to simplify permitted uses, really clarify the development procedure and of course the residential form-based code. We went through the Master Plan process first, get the vision statements and analyze the corridors and within the past year or two we have had several redevelopment plans and we are ready to tackle some of these ordinances. We have the garage accessory use ordinance, he has started looking at fences, walls and hedges, and currently working on the form-based code, laboratories were sprung off of the comment of the industrial zone, expand the uses it is kind of wonky the way it is described and from what he understands there is a cannabis laboratory business that express interest, whether that specifically related to pushing this forward more prudently he couldn't comment on. He is just responding to the ordinance, which he thought needed to be cleaned up and clarified so to that point that may have been sort of like the reminder. We are actively looking at several ordinances and draft stages to make various amendments to the ordinance and this is just one of several that you are probably going to see over the next few months.

Mr. Kluger said that he wasn't sure because the Council he guesses had a list of potential cannabis businesses that they could have chosen back in August, and they chose retail and delivery cannabis businesses and they didn't choose to tell the State that we would be interested in doing others, it could have been manufacturing or other types of cannabis related businesses so he does not know if this is something that Council should have chosen or come forward in August when they potentially wanted to do this and is this something that is allowed to be done if they did not tell the State back in August. Mr. Cosenza said relative to laboratories that would not have affected anything in his opinion. That type of business would have been permitted today but this again just clears up the ordinance with respect to the phrase laboratory and would not have changed the procedure. We were considering this before we had the August deadline to work around relative to the classes of the manufacturer and distribution and sale of cannabis but the testing for example of cannabis is completely separate and it is not subject to those classes. Mr. Kluger asked if it fell in the manufacturing, manufacturing was something that Highland Park said that they were not going to do. Mr. Cosenza said no it is not manufacturing.

Mr. Kluger said if we would not have changed the ordinance and we still just had medical and radiological laboratories would the testing lab have qualified. Mr. Cosenza said yes it would qualify.

Mr. Williams said that he has seen an open public records act where from the administrator to the president of an analytical testing lab who would like to build a cannabis-testing laboratory across from Birrn Chocolate factory in what he believes on the third floor of the office building. He said from his point of view is fine if they are essentially quantitating the active ingredients in the cannabis. He said that he has a problem with the term laboratory that you could have a laboratory in the same place where you could be using plutonium or radium or thorium and the previous designation of it where was either commercial medical or radiological would cover that as it is, opening up to laboratory is just too broad. He said he also voiced that at the Council meeting. He said it would be consistent with the Master Plan yes but thinks it is very poor wording, he suggested using the terms medical and analytical laboratory that would cover virtually anything that we would want in the town.

Mr. Perlman said that he agreed with Mr. Williams comments, and asked about the additional parking standards, given we would like to reduce the amount of surface area given to parking, can we get more of a fine tuned ratio for that certainly in the Upper Raritan and other parts of town. Where NJDOT is looking at a road diet, we really need one and three hundred square feet. He said it seems like an industry standard and

can we move away from industry standard things like that which end up requiring too much parking. Mr. Cosenza said that they are definitely thinking about that and will probably wait to get comments from the parking study as well as any other research that we may need but generally speaking in a community like Highland Park, the parking standards are antiquated. He said it would recommend making it more clear where you find the parking requirements right now it is difficult to find but would definitely support really studying and updating the ordinance to really right size to today's market conditions and the community and the nature of shared parking. Residential parking obviously is a different animal since it is regulated by the State but we dealing with that on a case-by-case basis through development planning.

Ms. Hand said Mr. Cosenza indicated that the term lab is defined in the code as opposed to medical and radiological terms and asked where that was located. Mr. Cosenza said it was in Chapter 230, section 3 definitions and it is defined as a structure or rooms equipped for conducting scientific experiments, analysis, examinations, research testing and/or other experimental and technical work. He said when he read that back in June; he thought it was broad enough. In his mind, there are three types of laboratories generally speaking, research, development and testing and the definition defines all three of them so it did not make sense to have a research laboratory when research is already defined in the laboratory definition, testing is already part of the analysis section and so on.

Ms. Hand said that it sounds like the concern is more about expanding it beyond medical and radiological testing development or research and opening up to other kinds of laboratories beyond that, and agreed with Mr. Cosenza that because medical and radiological are not defined in the code it gets a little arbitrary and you could very well believe that other uses such as cannabis research qualifies under medical or maybe radiological and therefore it is already covered but it is not clear so by pulling back those undefined terms we are actually clarifying what's already in the code.

Mr. Kluger opened the floor to the public.

Dr. Karen Ebel Avery, 402 Graham Street, said that she wanted to go on record as being a pediatrician who lives in town, who is affiliated with pediatric group at 317 Cleveland Avenue and considering that is a place that children and families are coming and going, children, babies, newborns, sick kids, kids with asthma, she would like to go on the record to express her displeasure that have a cannabis testing facility would be considered for that location.

Mr. Kluger said that there was a comment at the Council meeting, an attorney had come on the call and questioned whether it was legal to have a cannabis testing facility within a thousand feet of school, and asked Mr. Haggerty if that rang any bells with him. Mr. Haggerty said that it appears that would be contrary to law to have a testing facility where the substance would be, there is significant State oversight and was thinking about the recent opt in and opt out and how this would interface with that. He said that he has a problem with a testing lab for marijuana under that and thinks it would be certainly subject to the regulations in terms of separation from schools.

Ms. Hand wanted to clarify that this amendment would not overrule any of those other laws that a lab would have to comply with, it is just us changing the term to say this laboratory uses are permitted does not undo or overrule restrictions related to school proximity and what occurs in proximity to a school. Our action tonight is not going to create that controversy the laws that overrule and govern distance from school. Mr. Haggerty, Esq., said that was correct.

Mr. Kluger said that he thinks that should be apart of the comments back to Council, if our professional is telling us that it may not be legal under State or federal statute can we still say it is consistent with the

Master Plan. Ms. Hand indicated that the fight between the State and federal government might be a bit above the Highland Park Planning Board.

Mr. Millet asked if it was within a thousand feet of a school. Mr. Cosenza said that his assumption would be that private schools count, and there will be a girls school directly down the street so if that is the case it might be worth the Counsel forwarding a brief memo to the Council to extrapolate that and explain it because it seems like there are questions from the public who want that answer so we should probably do the service and do that research and provide that information to the Borough Council as they adopt the ordinance. Just to clarify that this is not for example approving or authorizing a cannabis testing lab specifically this is mainly to clean up the ordinance with respect to the definition related to the word laboratory.

Mr. Williams said with certain laws they do not want a bar within a thousand feet of a church or synagogue or school but this is not distributing a product of any kind, it is analyzing something and data goes back to some manufactures saying it passes or fails. Mr. Cosenza said that was his understanding as well and in some cases they are destroyed.

Ms. Hadhazy said she thought it would be behoove the Council to educate the public of what marijuana testing labs actually do because if the concern is children with asthma she does not think the testing labs are smoking pot and that needs to be clarified and it would behoove the Council to give the public a bit more education about this. Everyone does their own research but we as the public should know what does a marijuana testing lab do, what does that consist of and that would be helpful to the community as a whole to have all of that information.

Mr. Kluger said that we are almost breaking this role tonight into two, one is the consistency review on the language and then there's commenting back on if the Council's intention is to move forward with a marijuana testing facility in one of these zones, there are things we want to make sure Council is considering and doing.

Mary Botteon, 709 Madison Avenue said she wanted to mention, first to Alan's question in which he said you know has this issue of the laboratory suddenly come up because a weed lab wants to come in, yes that is why and that has nothing to do with the August deadline, the S21 legislation was specifically dealing with only those six classes identified in S21, nothing to do with testing laboratories so they did not have to address that at the time. So if you think the labs are coming up now in an odd way, that is true because there is interest from an individual in Highland Park who wants to get into 317 on the third floor and the town is very aware of that. They made the referral, this is a very less than transparent was of them trying to get a weed lab into 317, you need to be aware of that. The other think is to address the fact that Mr. Rogers was absolutely right on target saying that any marijuana cannot be within a thousand feet that is federal law, so this idea of educating the public on what it is, is fine but that doesn't change federal law. You need to understand that a marijuana-testing lab cannot be within a thousand feet of that proposed girls school and in terms of consistency with a Master Plan there are several instances in which regardless of federal law prohibiting it, this notion of a marijuana lab there is not consistent whatsoever. There was an open house held, online surveys held and in fact, many residents said in those circumstances they did not want any marijuana facilities on Cleveland Avenue and that was all captured in the Master Plan. To ignore all of that is certainly not consistent with asking the public what do they think there was a map set up of the Cleveland Avenue corridor people posed on it, people wrote outline survey no marijuana facilities on the Cleveland corridor. Another issue related specifically to consistency, one of the phrases in our Master Plan reads that appropriate planning response is to comprehensively review and amend regulations that better reflect and protect the Borough's existing and established neighborhoods and character of residential areas in a socially positive way. There are 150 residents who oppose marijuana entities in this town including specifically in

the Cleveland corridor. We do not see that, as a socially positive way of enhancing the character of our residential areas and that needs to be taken seriously, that is part of the language in what is consistent. Another thing is the Master Plan, page 14, says that the Master Plan is supposed to protect the Borough's natural resources overall health and welfare of the community and again marijuana entities including testing laboratories, the whole industry puts in a severe drain on natural resources and you have received information to that effect. It is disastrous on the soil, its disastrous on wildlife, it is disastrous on toxicity to humans that get in the chain, fish, water, and all of this is devastated by the marijuana industry. Let's not be hypocrites here, let's follow the Master Plan's own language and the prohibition of marijuana entities throughout Highland Park. Specifically if we are addressing the Cleveland corridor for a laboratory this is what we are talking about, the other thing is there are in fact environmental problems that can come out from any kind of laboratory, you say noxious fumes, radioactive materials are not allowed first of all I do not know where those things appear if you could tell us the section that would be great. When you are bringing marijuana into and out of a facility there are lots of issues related to environmental problems, hazardous waste management, venting systems are required and this is not to be taken lightly, and just say we are cleaning up the lab language, this is serious and there is a lot at stake here and the Council in fact is trying to take a backdoor way into getting this weed lab above a pediatrician's office within five hundred feet of a proposed girls school which is absolutely not allowed and into a residential use area where we have a lot of property values at stake. She urge you to contact the Attorney that you referenced on that call, she is sure he can be reached he's an expert in these matters and as far as tonight goes there are so many loose ends on this, we would strongly recommend that you vote no it is not consistent with the Master Plan in many ways and the ordinance should specifically exclude any type of marijuana entity within a thousand feet of any type of school, this is federal law. What you are seeing in front of you now in this ordinance is completely insufficient.

Seeing no further public, Mr. Kluger closed public comment.

Mr. Kluger said that he understood the severity of some of the issues that the last member of the public has spoken about but his initial thought is some of those may be beyond our scope and more within Council's domain. Mr. Haggerty said that the Board's domain is a consistency review whether we feel it is not consistent with the Master Plan.

Mr. Kluger said that the one thing he will agree with the member of the public and Mr. Hill who was unable to be present tonight, he is personally disappointed with Council in terms of the lack of openness and transparency about cannabis, the potential for this being for a cannabis business who is looking to come into town, obviously some people knew and some did not, and this sort of came up at the end and if that is really what is driving this but at least is an important part of it, it is something that should have been discussed with us and put forth in front of us to have more open and transparent discussion about it and for the public as well. It may not change the outcome but at least that's just another comment back to Council about the lack of openness and transparency about what is really going on here in terms what Council is aiming to do.

Ms. Hand said that she does not disagree about the transparency issues and the discussions about the marijuana dispensary, it is a hot topic there are people who feel passionately on both sides, and I know we have only heard one side but there are many who actually are very supportive of it and no issue with any of these things. When looking at what I am being asked to look at tonight, it is whether we should clean up our zoning language to match an actual defined section now. She thinks as it is currently written for medical and radiological laboratory researches someone who is truly committed to having a pot lab of some kind is going to find themselves trying to qualify under that language anyway and does not think this consistency review is going to make that determination. Council should have full and open discussions and education to the public about medical marijuana and pot usage and all of that but as far as the discussion tonight when it comes to cleaning up this language from undefined terms to defined terms and does not want to lose sight of

that or be accused of suddenly having a strong position on this one way or the other, in controversy without full facts when I am being asked a very specific thing that is not yes we should allow pot in town, no should not allow pot in town, I am being asked should we clean up this language in a way that is definable and to me that is what I am voting on tonight. I am not voting on whether or not I want a pot dispensary within a thousand feet of the girls' schools and how that affects federal law versus State law.

Mr. Kluger said that he agrees and thinks we said the same thing when we were asked to give our consistency review back in August when Council needed to put into the State that they were interested in two levels of the cannabis business. In this case having watched a Council meeting where they pretty much just read the proposed changes the ordinance into the record with no discussion whatsoever about it.

Mr. Williams suggested redefining the word laboratory in the initial definition. He said it is too broad and you are giving away control that you do not need to give away. Mr. Kluger said that may be one of the comments we have consensus and agreement among. We would like the Council to consider some more limiting language especially given the fact that both in certain areas of the commercial zone, the LI zone and professional office zone are very close to residential uses and educational uses and students, doctor's offices and that is something that Council should take into account in considering some additional language in the ordinance

Mr. Millet said he agreed with Ms. Hand, we should deal with the matter in hand because this may be about marijuana lab most likely, Council is always desperate to get new business, any new and different thing into town so they often bend over backwards to get business into town but we don't know but also agree with Alan that it should be more fine tuned so the laboratories that will be approved would be of a limited scope because by not approving this we prevent another type of lab from moving in that would be good. He said he does not like it when Planning Boards which has happened before knock down a proposal because they don't like the end user moving into town even though the end user is an approved use. We should stick to the task, forget about the marijuana because this is not about marijuana, this is what is before us is the law and either it does or it does not, our job is to look at the law and see whether it is consistent.

Mr. Perlman said tightening the language could be one of the recommendations. Mr. Kluger asked if there was specific language we wanted to see or do we just want Council to consider more limiting language and taking into account where the uses are, what uses are going to be as opposed to redlining their document.

Ms. Hadhazy said that sometimes it is easier to put in the things you do not want to see instead of pigeonholing what they want it used for but either way it is tightening up the language.

Ms. Hand said that she was not educated enough on laboratory types to make that recommendation at this moment but was on board with the concept buyer beware if you are approving this laboratory, you haven't met all the hurdles that you have got coming if this is about having a marijuana laboratory.

Mr. Haggerty, Esq., said that we would remind the governing body that any proposed user must be cautioned about compliance with state and federal regulations, which is always the case but it never hurts to emphasize that.

It was MOVED by PERLMAN and seconded by HAND that the ordinance is not inconsistent with the Master Plan however ensure that the Council is aware of State and federal regulations regarding the ability of certain types of laboratories to be in the proximity of schools or educational uses, Council should also be mindful of proximity to residential and medical uses and the Council should endeavor to a better job of being open and transparent about important issues to members of the town and the Planning Board, the motion be approved.

Mr. Haggerty, Esq. said that he would indicate that the Board recommended that in the future there be improved communications from the Governing Body in terms of updating and keeping the Board advised. Mr. Kluger added educating the public as well on important issues related to that or not related to a proposed ordinance. Mr. Millet said all they would need to do is raise taxes and hire more staff, a lot of it comes down to everyone's stretched really thin, it is difficult to get the down done and communicate at the same time but if anyone has any ideas of how they could improve communication that would be a good thing. Mr. Kluger said that he agreed 100% and would not change jobs with anyone on Council or the Mayor but at the other hand you could pick up a phone, you could text, you can call, could have said a few words at the Council meeting to give people an idea of what's being contemplated and yes it is a proposed transaction, you don't know for sure that it is going to come through but this one was just a little too obvious of what was going on.

ROLL CALL: Ayes - Brescher, Hadhazy, Hand, Kluger, Millet, Perlman, Williams  
Nays - None

There being seven (7) ayes and no nays, motion passes.

Mr. Kluger said there was unanimous vote, the consistency review has been performed, and we will get out facility review memo out to Council as soon as possible, and certainly before their meeting next week if possible.

Mr. Kluger said he wanted to ensure everyone was aware the town tables on South Third and North Fourth were removed basically because the NJDOT rules.

Mr. Cosenza said he spoke to Councilman Hale and he is sorry he could not be here tonight. He indicated that the Borough was pursuing permanent closure of South Third and North Fourth, which involves coordination with the NJDOT, traffic studies which the town is undertaking in hopes that process will lead to both portions being permanently closed. If there were any comments, he would be happy to relay that to the Council. As you know, we were able to temporary close those streets through the Governor's executive order, which expired November 1st, and a lot of communities are grappling with that, Metuchen, New Brunswick, and Princeton with a similar situation where they are seeking a permanent closure, redesigning or seeking redesign of Witherspoon. While that has expired and basically the tables have to be set back a different distance, 50' to 100', that sort of crimps down what you can do within that sort of area footprint. He thinks the reasons the tables were removed all together, Mr. Hale indicated that PSE&G is looking to do some work that had been delayed and it was not clear to him if the tables would be back temporary or a temporary use permit. It is certainly possible they will pursue that but the advice given was that the Borough should focus on a permanent closure, which obviously takes time.

Mr. Kluger said that obviously we knew and had talked about doing studies for South Third but was surprised by the permanent closure of North Fourth. He has enjoyed it, but thought that was going to be more of a covered covet item and the fact that it is only half the street and not the whole street and there is a little bit of a private benefit to Pino's there, he thought that was going to end and we were focusing on South Third as opposed to doing North Fourth permanent as well.

Mr. Perlman asked for a clarification, the Borough was pursuing full closure of South Third where the tables were and partial closure of North Fourth, re-establishing the tables that were along Pino's and the sushi place. Mr. Cosenza said that he did not have the exact answer but could ask and clarify with the Borough. Mr. Perlman said he asks because the communication from the Borough has been only on North, only on South Third it has not mentioned North Fourth at all. He said if a traffic study is including both of



them then one presume then that is part of an application to NJDOT. He said that he is not a transportation planning expert, but would like to bring back to the Council is understanding the request and to NJDOT for a street closure, a local street that plus a state highway has to be done by the Borough and approved by the Commissioner and that is in the access management code of NJDOT. There is nothing else about the process other than a townhouse supply and approval given by the Commissioner opening a driveway has lots of standards to it, has a process, there is no process to this, it sounds like to him the Borough is taking on a black box type of approach where it is completely up to NJDOT officials if they want to do it. Unlike when you get a permit to open up a driveway for a business NJDOT has a process for that and if you fill the steps you get the access, there is no such process exists and so are we left to political imaginations of political influences or do we have a process written down. He said we would like to see a process written down. He wants to separate the two between the 100-foot setbacks, which was codified into public law this year, separate from the temporary closures, which as you said Mr. Cosenza on an ongoing basis. He said he understands that the Borough did not file for a continued closure and so NJDOT said well you did not file for in time for a temporary so now you are not going to get your temporary closure and focus on a permanent closure that is separate from the 100-foot setback. Those are separate things and it needs to be clear about those. He said he wanted to make sure that he did not feel like Alan's point earlier on the cannabis or on the laboratory is that we are not getting clear communication timely and wanted to convey that to the Council as well.

Mr. Brescher asked how do these town tables relate to the Planning Board right now. Mr. Kluger said that it does not. Mr. Brescher asked if we could move on to something else. Mr. Kluger said he understood that but thought it was important for the members of the Board just to hear about something that is important in town and it is something that this venue is a way for us sometimes for us to communicate with Council if Mr. Hale was here we would be communicating with him. Mr. Brescher said there are no facts right now and when we have the facts on how this is going be handled, as Jeff was asking, that he thinks would be the appropriate time. Mr. Kluger said he is entitled to make his communications and we are spending more time about whether we should be talking about it then needs to because I was about to move on, he does feel the Planning Board over the years has felt that we should talk about what's gong on in town and be knowledgeable about what's going on in town so this is something that we are talking about , and also because South Third and North Fourth is something we spent a lot of time talking about as part of redevelopment. He said he also brought it up because the issue of North Fourth being considered for permanent closure is something that we had not heard before, he was not looking for an answer tonight but Mr. Cosenza can go back to the Mayor and Council and report back.

### **Correspondence and reports.**

Zoning/Building Officer report – Scott - None

Rehabilitation Screening Committee report – Kim - none

Mr. Cosenza said that the Redevelopment Entity authorized the preparation of two redevelopment plans, and are in the beginning stages and organizing, one is along North Raritan Avenue between South Tenth crossing over South Eleventh to Meriland on the face fronting on North Raritan as well as the area along Cleveland Avenue, an unbuilt untouched properties other than American Properties, a girls school and the seven lot subdivision that you saw a couple months ago. They are looking at Cleveland Avenue as a whole to sort of deal with what is coming in, what should we do, what is appropriate and we are trying to take the opportunity now to see what development is appropriate there, what zoning is appropriate given there has been so much change over the last five to ten years. He indicated they were going to begin the stage of those redevelopment plans and may be a few months and hopes to get an update before introduction. Mr. Williams asked what the timing was on that. Mr. Cosenza indicated that with a simple redevelopment plan could take up to three or four months.

Ms. Hand asked Mr. Brescher how far away the River road apartments from being ready for tenants. Mr. Brescher said maybe two and half months. Mr. Cosenza said that he spoke to the general contractor and they are on top of the affordable housing requirements.

Mr. Williams asked Mr. Koch how the compliance for 238 Cleveland. Mr. Koch said that he finished it, it is in type, he will proof it, and release it. Menlo has done a pretty good job with the basic details that needed to be addressed via his report as well as the resolution and probably half the report speaks to the environmental issues. He outlined all the documents that were submitted, addressed the issues that he has seen with various documents and created a summary statement which essentially says that there has to be a document created under the signature of one LSRP, all the other documents that they are referring to can be included in it but that it must all be combined into one document, that once approved can be on file at the Clerk's Office so if anyone is buying a home there it is transparent. He said that he has listed the various concerns; spoke with his LSRP about a couple issues.

Mr. Cosenza said that he is a small part of resolution compliance but has more or less blessed the architectural plans and trying to ensure variety to ensure repeat homes and should have a report completed by Monday or Tuesday. A lot of the landscaping will be deferred to as each individual lot comes in as well as getting input from STAC. Mr. Cosenza said that the individual lot surveys of plot plans and finals should show the setback lines that are adjusted as results of the Board this way when new homeowners buy the property they understand what they can and cannot do. Mr. Koch said that the final map is really where it should be shown, nothing wrong with it being on the surveys but the final map is the document that will create the lots, setbacks are shown on it and asked did you look at that and see that the envelope is not larger than what we discussed with it all generally shifting forward.

Mr. Cosenza said with respect to the ordinances, the Planning Board is caught in this role where they are just reviewing for consistency, the Borough Council will introduce an ordinance and the Board only has one bite at the apple, and that is to make comments within 35 days and then it is taken over by Council again. In order to really relate to the comment to improve communication is to and be transparent is relative to the residential formats case as I spoke last time. The intention is to make a presentation to this body to sort of discuss what our plan is before we get to an introduction and thinks this is something we should consider doing going forward. It might be proactive for the Board to understand what we are planning to do before the governing body takes action to introduce. Mr. Kluger said that was a good idea as long as it was allowed under the law, it would give the Board another bite at the apple and not just consistency review mode. He said it would delay the process generally but thinks it is worth it on this one.

Mr. Cosenza said to answer Ms. Botteon question, the prohibited uses with the light industrial zone, Chapter 230, section 143 subsection f, would not apply to commercial or the PO. He said that he would do further research it there's other prohibited uses and relay that back to Jennifer who can then share with Ms. Botteon.

Mr. Kluger said that may be something we want to relay back to Council as well, whatever limitation may apply in light industrial, the laboratory, should apply in others as well, maybe something to add to our comments back to Council.

#### **Public comment on any item not on the agenda.**

Mr. Kluger opened the meeting to the public,

Mary Botteon asked Mr. Cosenza to repeat where the prohibition appears and given again that you acknowledge there is so much confusion and this is not straightforward, there is a lot of back and forth that really should take place with Council. The fact that you only have it once really is not a good system. She

suggested Council, there is no requirement that on November 9<sup>th</sup> that they bring this ordinance up again, they have plenty of time that they can go and make the appropriate changes. There is no rush between now and Tuesday that is just because they happen to put it on their agenda for that day, they are trying to rush it through, if the Board has 35 days, the Council does not, they can bring this up again whenever they want. She said she thinks that is also important to know. Mr. Kluger said that they are aware and that has happened in the past when we have sent back communication and they did not move forward right away with the adoption, so they are aware. Mr. Cosenza repeated section 230, subsection 143, and subsection f.

Ms. Botteon indicated that it was really important to realize right, if it is just saying the light industrial zone that really does need to be addressed, what about all the other zones. Mr. Kluger said they would definitely be looking at that.

There being no one further public comment was closed.

### **Adjournment**

There was a motion to adjourn from MILLET and a second by HADHAZY at 8:46 pm the meeting was adjourned.

Respectfully submitted,

Jennifer Santiago  
Board Clerk